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Michigan. Laws, Statutes, etc.

MICHIGAN COMPILED LAWS 1970

COMPILED AND ARRANGED UNDER AUTHORITY OF PUBLIC ACT 193 OF 1970

STATE OF MICHIGAN



VOLUME III

COMPILED AND PUBLISHED BY THE
MICHIGAN LEGISLATIVE COUNCIL

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CERTIFICATE OF THE LEGISLATIVE COUNCIL

We, the undersigned members of the Legislative Council directed by law to provide for the compilation without alteration of all the general laws in force in this state, hereby certify that the Council caused to be compiled the general laws of the state of Michigan enacted through December 31, 1970 and upon having examined and compared the compilation, further certify that the following, consisting of 6 volumes including index, meets the requirements of Act 193 of the Public Acts of 1970.

Dated: December 15, 1971

Lansing, Michigan

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ABBREVIATIONS

Add.	— Added.
Am.	— Amended.
Art.	— Article.
C.L.	— Compiled Laws.
C.R.	— Concurrent Resolution.
Ch. or Chap.	— Chapter.
Const.	— Constitution of 1963.
Eff.	— Effective.
How.	— Howells' Annotated Statutes (1882, 1890).
Imd. Eff.	— Immediate Effect.
J.R.	— Joint Resolution.
P.	— Page.
P.A.	— Public Act.
Pt.	— Part.
Renum.	— Renumbered.
Rep.	— Repealed.
R.S.	— Revised Statutes.
Sec.	— Act section number.
Stat.	— United States Statutes at large.
Subd.	— Subdivision.
Sup.	— Superseded.
§	— Compilers section symbol.

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Act 26, 1935, p. 37; Imd. Eff. Apr. 19.

AN ACT to revise and consolidate the law relative to the suppression of contagious diseases among bees in the state of Michigan; placing the enforcement in the hands of the department of agriculture; imposing certain powers and duties on the commission of agriculture; to fix penalties, to allow boards of supervisors of the several counties to appropriate money for the purpose herein stated, and to provide for registration and regulation of apiaries for the purposes of this act within the state of Michigan, and to repeal certain acts or parts of acts. Am. 1947, p. 442, Act 276, Eff. Oct. 11.

The People of the State of Michigan enact:

286.1 Suppression of contagious diseases among bees; definitions.

Sec. 1. That when used in this act:

(a) The term "apiary" shall mean any place where 1 or more colonies of bees are kept, and shall include hives, bees and bee equipment associated therewith.

(b) The term "appliances" shall mean any apparatus, tools, machine, or other device, used in the handling and manipulating of bees, honey, wax, and hives. It shall also include any container of honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies.

(c) The term "bees" shall mean any stage of the common honey bee, *Apis mellifera* L.

(d) The term "bee diseases" shall mean American or European foul brood, sac brood, bee paralysis, or any other disease or abnormal condition of egg, larval, pupal, or adult stages of bees.

(e) The term "bee equipment" shall mean hives, supers, frames, veils, gloves, or any other appliances or equipment.

(f) The term "colony" shall mean the hives and its appliances, including bees, comb, honey and equipment.

(g) The term "hive" shall mean frame hive, box hive, box, barrel, log gum, skep or any other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees.

(h) The term "persons" shall mean individuals, associations, partnerships and corporations.

(i) The term "queen apiary" shall mean any apiary or premises in which queen bees are reared or kept for sale or gift.

Words used in this act shall be construed to import either the plural or singular, as the case demands.

HISTORY: Am. 1943, p. 138, Act 101, Eff. July 30;—CL 1948, 286.1.

FORMER ACTS: Act 200, 1913, being CL 1915, 7353-7365; Act 265, 1923; Act 60, 1927, being CL 1929, 5047-5080.

286.2 Apiary inspection and control of bee diseases; commissioner of agriculture.

Sec. 2. The commissioner of agriculture is hereby authorized to establish apiary inspection and to have charge of the inspection of apiaries as hereinafter provided. Said commissioner shall investigate or cause to be investigated outbreaks of bee diseases, and cause suitable measures to be taken for their eradication or control.

HISTORY: CL 1948, 286.2.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

286.3 Inspection of apiary; detection of disease; appropriate measures.

Sec. 3. The director of agriculture or his deputies shall have authority to enter upon any private or public premises, and shall have access, ingress and egress to and from all apiaries or places where hives, bees, combs, or apiary equipment and appliances are kept, for the purpose of ascertaining the existence of infectious or contagious bee diseases and enforcing the provisions of this act. Should any of the said bee diseases exist, other than American foul brood, in such apiaries or on such premises, the director of agriculture or his deputies may take, or cause to be taken, suitable measures for their eradication or control. If the disease found to exist in such apiaries or on such premises be the disease known as American foul brood, it shall be the duty of the director or his deputies to destroy said American foul brood colonies, or equipment by killing the bees in the infected hives, burning in a pit the diseased colonies, including the bees, combs, frames and honey and burying the ashes below the surface of the ground, burning or disinfecting the hive bodies, bottom boards, covers, supers or other equipment associated therewith, without recompense to the owner, lessee or caretaker of said bees or equipment. The director of agriculture or his deputies may destroy or cause to be disinfected immediately, any or all used beekeeping equipment situated in

diseased areas: Provided, That when, in the judgment of the representative of the commission of agriculture, such diseased American foul brood colonies and/or equipment may be controlled by the use of heat or other treatment methods, such treatment may be applied in lieu of burning: Provided, however, The owner of any apiary in which the deputies of the director of agriculture shall have ascertained the existence of disease may appeal therefrom to the director of agriculture for his determination of the existence of American foul brood, or any of the diseases herein referred to, whose determination shall be final unless otherwise determined by a court of proper jurisdiction; such request of appeal must be served on the deputy at the time the owner is notified by him of the existence of American foul brood or any diseased condition of the apiary and the intended destruction of the diseased condition: Provided further, That if notice cannot be given the owner at the time of inspection, a written notice shall be posted at such diseased apiary and a copy thereof shall be mailed by registered letter to the last known address of the owner, and in cases where such posting and mailing notices are given, the director of agriculture or his deputies shall not proceed to destroy such diseased colonies, together with all honey and equipment until the fifteenth day after such posting and mailing. During the period of notice and during the time necessary for appealing to the director of agriculture, any diseased apiary or apiaries may be placed under quarantine which quarantine shall be in force until the diseased condition is eliminated in a lawful manner. It shall be unlawful for any owner, his employees or agents to remove bees, hives, honey, equipment or appliances while said apiary, apiaries, or parts thereof, are under quarantine.

HISTORY: Am. 1943, p. 139, Act 101, Eff. July 30;—Am. 1947, p. 442, Act 276, Eff. Oct. 11;—CL 1948, 286.3.

286.4 Beekeepers; registration; application; fees.

Sec. 4. Every person, firm or corporation owning or possessing bees on or before June 1 of each year, shall register with the department of agriculture by filing with the department an application for registration, which application shall set forth the exact location of his apiaries, the number of colonies of bees in each apiary owned by him or in his possession or under his control, together with such other information as may be required by the director, and such person, firm or corporation shall pay the department by draft or money order made payable to the state at the time of registration, the sum of \$1.50 per apiary of 10 colonies or more, or the sum of \$1.00 per apiary for each apiary containing less than 10 colonies. The department shall issue and deliver to such applicant a certificate declaring that the holder thereof is duly registered and has paid the fees required by law.

HISTORY: CL 1948, 286.4;—Am. 1969, p. 185, Act 97, Eff. Mar. 20, 1970.

Sec. 5.

HISTORY: Rep. 1943, p. 140, Act 101, Eff. July 30.

NOTE: This section provided for disposition of diseased bees and equipment.

286.6 Transportation of bees and equipment, limitations.

Sec. 6. The commissioner of agriculture shall have authority by general proclamation to forbid the transportation of bees, honey, wax, combs, hives, or other used beekeeping apparatus from any township, city, village or county, or from any part thereof. Notice of such proclamation shall be given by posting copies thereof in not less than 5 public places within the territory described in said proclamation, and by publishing in at least 1 newspaper circulating in such territory. Such proclamation shall suitably describe the territory affected sufficiently to properly identify it, and shall state the period during which the order of the commissioner of agriculture shall be effective. It shall be the duty of the commissioner of agriculture or his deputies to post the same forthwith and make a return in writing as to the fulfillment of this duty. During the time prescribed by such proclamation it shall be unlawful for any person, firm or corporation to bring into or remove from the territory described in said proclamation any

bees or combs, honey, beeswax, hives, or other supplies which have been used without first having received a permit so to do from the commissioner of agriculture, which permit shall be attached to the package containing the bees or goods to be transported: Provided, however, That common carriers may transport bees, honey, wax or supplies through the area described in said proclamation if the shipment originated outside of said area and is destined for some point outside of it. The quarantine now in force under the provisions of Act No. 60, Public Acts of 1927, is hereby declared to be in full force and effect until the further order of the commissioner of agriculture.

HISTORY: CL 1948, 286.6.

NOTE: Act 60, 1927, above referred to, was repealed and superseded by this act.

286.7 False information or resistance.

Sec. 7. It shall be unlawful for any person to give false information in any matter pertaining to this act, or to resist, impede, or hinder said commissioner or his deputies in the discharge of his or their duties.

HISTORY: CL 1948, 286.7.

286.8 Spread of disease by inspectors; prevention.

Sec. 8. After inspection of infected bees or fixtures or handling diseased bees, the commissioner or his deputies shall, before leaving the premises, or proceeding to any other apiary, take such measures as shall prevent the spread of the disease by infected material adhering to his person or clothing or to any tools or appliances used by him, which have come in contact with infected materials.

HISTORY: CL 1948, 286.8.

286.9 Queen bees; candy for mailing-cages, inspection.

Sec. 9. It shall be the duty of any person in the state of Michigan engaged in rearing of queen bees for sale, to use honey in the making of candy for the use in mailing-cages, which has been boiled for at least 30 minutes, unless candy which contains no honey at all is used. Any such person engaged in the rearing of queen bees shall have his or her queen rearing and queen mating apiary or apiaries inspected at least once during each summer season by the commissioner of agriculture or his deputies and on the discovery of the existence of any disease which is infectious or contagious in its nature and injurious to bees in their egg, larval, pupal or adult stages, said person, upon the order of the commissioner or his deputies, shall at once cease to ship queen bees from such diseased apiary until the commissioner of agriculture shall declare the said apiary free from disease.

HISTORY: Am. 1943, p. 140, Act 101, Eff. July 30;—CL 1948, 286.9.

286.10 Movable frames; inspection.

Sec. 10. It shall be the duty of all persons engaged in beekeeping to provide movable frames in all hives used by them to contain bees, and to make provisions so the bees in such hives will construct brood combs in the frames so that any of said frames may be removed from the hives for inspection without injuring other combs in such hives. The commissioner or his deputies shall order the owner or person in charge of bees, kept in box or other immovable or stationary comb hives, to transfer such bees to movable frame hives within a reasonable time, to be specified in such order, and failure to comply with such order shall be punishable as provided in this act.

HISTORY: Am. 1943, p. 140, Act 101, Eff. July 30;—CL 1948, 286.10.

286.11 Exposing infected bees or other apiary equipment; unlawful.

Sec. 11. Anyone exposing combs, honey, bee equipment or other material that is a source of infection of American foul brood, shall, upon conviction thereof, be punished as provided in this act.

HISTORY: Am. 1943, p. 140, Act 101, Eff. July 30;—CL 1948, 286.11.

286.12 Bees from out of state; certificate of health.

Sec. 12. All bees in combless packages which may be brought into this state from other states or other countries must be accompanied by a certificate of health issued by the official inspector of the place from whence they came. The transportation of bees into this state without said certificate of health by a person or persons or common carrier is expressly prohibited.

HISTORY: CL 1948, 286.12.

286.13 Transportation of bees from out of state prohibited; exception.

Sec. 13. It shall be unlawful for any person, firm, corporation or transportation company to bring into this state any bees on combs, used hives or other used apiary appliances from any other states or other countries: Provided, however, That common carriers may transport bees and apiary appliances through this state if the shipment originated outside of this state and is destined for some point outside of it.

HISTORY: Am. 1937, p. 118, Act 86, Imd. Eff. June 17;—CL 1948, 286.13.

286.14 Sale of bees and equipment; inspection and permit.

Sec. 14. No combs or used beekeepers' supplies or bees except in combless packages and with food not made with honey, shall be sold or offered for sale or removed from the premises without being inspected by the commissioner of agriculture or his deputies and a permit issued by him.

HISTORY: CL 1948, 286.14.

286.15 County appropriations for apiary inspection.

Sec. 15. Boards of supervisors of the several counties shall have and are hereby given authority to appropriate such funds as they may deem sufficient for the inspection of apiaries in their counties.

HISTORY: CL 1948, 286.15.

286.16 Commissioner of agriculture; assistants and employees.

Sec. 16. The commissioner of agriculture is hereby empowered to appoint such assistants and employees as may be necessary to perform the duties hereby imposed, the number of such assistants and employees, and the compensation payable to all persons so appointed and employed, being subject to the approval of the state administrative board.

HISTORY: CL 1948, 286.16.

286.17 Unsanitary conditions; failure to obey warning, misdemeanor.

Sec. 17. Whenever it is determined by the commissioner of agriculture or his deputies, that unsanitary conditions exist or are permitted to exist in the operation of any honey houses or building or portion of a building in which honey is stored, graded or processed, the operator or owner of said honey house or building shall be first notified and warned by the commissioner or his deputy to place such honey house or building in a sanitary condition within a reasonable length of time; and any operator or owner of such honey house or building, failing to obey such notice and warning, shall be guilty of a misdemeanor and shall be punished as provided in this act.

HISTORY: CL 1948, 286.17.

286.18 Violation of act; penalty; apiary appliances confiscated and destroyed.

Sec. 18. Any person violating any of the provisions of this act shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

In addition to the penalties hereinbefore provided, bees on combs, used hives or other used apiary appliances brought into this state in violation of the provisions of this act shall be confiscated and destroyed.

HISTORY: Am. 1937, p. 118, Act 86, Imd. Eff. June 17;—Am. 1945, p. 11, Act 12, Eff. Sept. 6;—CL 1948, 286.18.

Sec. 19. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 20. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 60, 1927, CL 1929, 5047-5060.

286.21 Inspection of bees and equipment to be shipped out of state; application, expenses of inspection, certificate.

Sec. 21. Any owner of bees or beekeeping equipment which he wishes to ship into another state or country may apply to the director of agriculture for an inspection of the same for the presence of any infectious or contagious bee diseases likely to prevent the acceptance of such bees or beekeeping equipment in such state or country, agreeing in his application to pay full expenses of the inspection, and upon receipt of such application and agreement or as soon thereafter as may be conveniently practicable the director shall comply with such request, and upon the receipt of the payment covering expenses of the inspection he shall issue to the applicant, for each apiary, a certificate to the facts disclosed.

HISTORY: Add. 1947, p. 443, Act 276, Eff. Oct. 11;—CL 1948, 286.21.

286.22 Special inspection of bees and equipment; application, expense.

Sec. 22. Any person owning bees or beekeeping equipment who wishes special inspection service covering inspection of his bees and equipment prior to or after the regular inspection work in his locality may apply to the director of agriculture for such service, agreeing in his application to pay full expenses for such special service rendered.

HISTORY: Add. 1947, p. 443, Act 276, Eff. Oct. 11;—CL 1948, 286.22.

Act 26, 1885, p. 20; Eff. Sep. 19.

AN ACT to provide for the inspection of commercial fertilizers; to regulate the sale thereof; and to prescribe penalties for violations of the provisions of this act. Am. 1954, p. 127, Act 103, Imd. Eff. Apr. 14.

The People of the State of Michigan enact:

286.31 Commercial fertilizers; definition; name of product; marking of containers.

Sec. 1. (1) The term "commercial fertilizer" shall include any and every substance imported, mined or manufactured, that is prepared or sold in dry, liquid or gaseous form to supply plant food, or to modify soil conditions for improving plant growth, except unmanipulated animal manures and limestone or lime products. Every lot or parcel of commercial fertilizer sold, offered or exposed for sale, or distributed within this state, shall have on each bag, sack, carton or container, in a conspicuous place on the outside, a legible and plainly printed statement in the English language or, if distributed and sold in bulk, a written or printed certificate shall accompany each lot, and be supplied the purchaser, clearly and truly certifying:

(a) The net weight of the contents of the package, lot, bag, sack, carton or container, except that peat or peat moss may be designated by dry measure or volume.

(b) The exact, complete name of the individual product.

(c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

(d) The minimum percentage of total nitrogen.

(e) The minimum percentage of available phosphoric acid P_2O_5 , except in the case of organic fertilizers the minimum percentage of total phosphoric acid P_2O_5 , rather than the minimum percentage of available phosphoric acid P_2O_5 , shall be declared.

(f) The minimum percentage of soluble potash, K_2O .

(g) The minimum percentage of additional plant food elements, determinable by chemical methods, may be guaranteed only by permission of the director of agriculture by and with the advice of the director of the Michigan agricultural experimental station and no statements about other plant food chemical compounds or elements in the fertilizer may be shown.

Inapplicability of certain subsections to peat or peat moss.

(2) Subsections (d), (e), (f) and (g) shall not apply to peat or peat moss sold as a soil conditioner.

Soil conditioners, application for license.

(3) Material sold primarily as soil conditioners or as sources of trace elements may likewise be permitted, provided that application for license be accompanied by authentic experimental evidence substantiating the claims made for the product and provided that such materials shall be acceptable to the director of agriculture, by and with the advice of the director of the Michigan agricultural experimental station.

HISTORY: How. 1549a;—CL 1897, 4905;—Am. 1913, p. 330, Act 174, Eff. Aug. 14;—CL 1915, 6299;—CL 1929, 5061;—CL 1948, 286.31;—Am. 1954, p. 127, Act 103, Imd. Eff. Apr. 14;—Am. 1956, p. 360, Act 189, Eff. Aug. 11;—Am. 1962, p. 38, Act 45, Eff. Mar. 28, 1963;—Am. 1965, p. 699, Act 355, Eff. Mar. 31, 1966.

286.32 Commercial fertilizer sample; analysis before sale; certificate of analysis, filing; sealed package, affidavit, filing.

Sec. 2. Before any commercial fertilizer is sold or offered for sale, the manufacturer, importer or party who causes it to be sold or offered for sale within this state, shall file with the director of agriculture a certified copy of the analysis and certificate referred to in section 1. The certified copy of analysis shall be accompanied, when the director of agriculture so requests, by a sealed package containing not less than 2 pounds of such fertilizer, with an affidavit that it is a representative sample of the fertilizer thus to be sold or offered for sale.

HISTORY: How. 1549b;—CL 1897, 4906;—CL 1915, 6300;—CL 1929, 5062;—CL 1948, 286.32;—Am. 1965, p. 700, Act 355, Eff. Mar. 31, 1966.

286.33 Commercial fertilizer; license fee; shipping documents; custom blending, invoice, contents; fees.

Sec. 3. (1) The manufacturer, importer or agent of any commercial fertilizer shall pay annually to the director of agriculture on or before December 31 a license fee of \$20.00 for each commercial fertilizer he offers for sale in this state. Whenever the manufacturer or importer shall have paid this license fee his agents shall not be required to do so. All vendors of commercial fertilizers shall keep on file subject to inspection by any authorized agent of the director of agriculture for a period of 1 year all invoices, freight bills, truckers' receipts, way bills and similar shipping data pertaining to commercial fertilizers that would establish date and origin of the shipment.

(2) Custom-blended fertilizer individually compounded to a buyer's specifications and manufactured, sold and delivered on the premises where manufactured direct to the consumer is exempt from the licensing requirements of this section. This exemption does not apply to custom-blended fertilizer containing pesticides. In lieu of the labeling requirements specified in section 1, each package or lot of custom-blended fertilizer shall bear a tag or invoice, or if sold in bulk, each lot shall be accompanied by an invoice, bill of lading or delivery receipt clearly certifying:

- (a) The composition of the custom-blended fertilizer by weight of materials used and the percent of plant nutrient in each material.
- (b) The calculated minimum guarantee for primary plant nutrients in terms of whole numbers.
- (c) The net weight of the contents of the package, or of the lot if sold in bulk.
- (d) The name and address of the manufacturer and the address of the plant at which manufactured.
- (3) A copy of tag or invoice accompanying the lot of the custom-blended fertilizer shall be retained by the manufacturer for 6 months from date of delivery for inspection purposes by any authorized agent of the director of agriculture.
- (4) Materials used in the manufacture of a custom-blended fertilizer are subject to the payment of inspection fees and the licensing requirement.
- (5) Each manufacturing plant engaged in the custom-blending of fertilizer shall be licensed at a fee of \$20.00 per plant or mixing facility on a calendar year basis.

HISTORY: How. 1549c;—CL 1897, 4967;—CL 1915, 6301;—Am. 1923, p. 402, Act 254, Eff. Aug. 30;—CL 1929, 5063;—CL 1948, 286.33;—Am. 1965, p. 700, Act 355, Eff. Mar. 31, 1966;—Am. 1966, p. 209, Act 146, Eff. Sep. 1.

286.33a Commercial fertilizer; manufacturers, importers or agents' semi-annual statement, contents; inspection fee; verification; confidential information; exemption.

Sec. 3a. All manufacturers, importers or agents licensed under the provisions of this act shall file semiannually, within 30 days following June 30, and within 30 days following December 31 of each calendar year, with the director of agriculture, a statement under oath which shall set forth the number of net tons of commercial fertilizer by type and analysis or in the case of peat or peat moss the number of cubic yards sold by the licensee for consumption in this state during the preceding 6 months' period ending June 30 or December 31. Upon filing such statement, each licensee shall pay to the director of agriculture an inspection fee in the sum of 8 cents per ton of 2,000 pounds avoirdupois except that in the case of peat or peat moss the licensee shall pay an inspection fee of 2 cents per cubic yard for each cubic yard reported. Payments due of less than \$1.00 or refunds resulting from overpayment of less than \$1.00 shall be waived. By filing the volume sales tonnage or cubic yardage statement, each applicant consents and grants to the director of agriculture or his duly authorized agent permission to verify from the applicant's records any statement of tonnage or cubic yardage filed. No employee of the state shall divulge information included in the statement of the number of tons of fertilizer or cubic yardage of peat or peat moss sold by any individual licensee. The payment of such license fee and the payment of such 8 cents per ton or 2 cents per cubic yard on peat or peat moss inspection fee by a person, firm, partnership, association or corporation shall exempt an agent thereof or a dealer in the products thereof from the requirements.

HISTORY: Add. 1954, p. 127, Act 103, Imd. Eff. Apr. 14;—Am. 1956, p. 361, Act 189, Eff. Aug. 11;—Am. 1965, p. 701, Act 355, Eff. Mar. 31, 1966.

286.34 Commercial fertilizers; analysis.

Sec. 4. All such analyses of commercial fertilizers required by this act shall be made under the direction of the director of agriculture and paid for out of the funds arising from the license fees and inspection fees provided for in sections 3 and 3a. At least 1 analysis of each fertilizer shall be made annually.

HISTORY: How. 1549d;—CL 1897, 4968;—CL 1915, 6302;—CL 1929, 5064;—CL 1948, 286.34;—Am. 1954, p. 128, Act 103, Imd. Eff. Apr. 14;—Am. 1965, p. 701, Act 355, Eff. Mar. 31, 1966.

286.35 Commercial fertilizer; statement of analyses and fees in annual report; surplus fee.

Sec. 5. The director of agriculture shall publish in his annual report a correct statement of all analyses made and certificates filed in his office, together with a statement

of all moneys received for license fees and inspection fees, and expended for analysis. Any surplus from license fees and inspection fees remaining on hand at the close of the fiscal year shall be placed to the credit of the laboratory fund of the department of agriculture, to be used to establish and maintain a control laboratory.

HISTORY: How. 1549c;—CL 1897, 4960;—CL 1915, 6303;—CL 1929, 5065;—CL 1948, 286.35;—Am. 1960, Ex. Ses., p. 14, Act 13, Eff. Mar. 31, 1961;—Am. 1964, p. 128, Act 103, Imd. Eff. Apr. 14;—Am. 1965, p. 701, Act 355, Eff. Mar. 31, 1966.

286.36 Violations; definition; penalty; civil damages.

Sec. 6. Any person or persons who shall sell or offer for sale any commercial fertilizer in this state without first complying with the provisions of sections 1, 2 and 3 of this act, or fails to comply with the requirements of section 3a, or who shall attach or cause to be attached to any such package of fertilizer an analysis stating that it contains a larger percentage of any one or more of the constituents or ingredients named in section 1 of this act than it really does contain, shall upon conviction be guilty of a misdemeanor, and the offender shall also be liable for all damages sustained by the purchaser of such fertilizer on account of such misrepresentation.

HISTORY: How. 1549f;—CL 1897, 4970;—CL 1915, 6304;—CL 1929, 5066;—CL 1948, 286.36;—Am. 1965, p. 701, Act 355, Eff. Mar. 31, 1966.

286.37 Sample; selection, analysis; right of access; seizure of nonconforming goods.

Sec. 7. The director of agriculture by any duly authorized agent is hereby authorized to select from any package of commercial fertilizer exposed for sale in this state, a quantity, not exceeding 2 pounds, for a sample to be used for the purposes of an official analysis and for comparison with the certificate filed with the director of agriculture and with the certificate affixed to the package on sale. The director of agriculture, his deputy or any authorized agent of the director, shall have free access during reasonable business hours to all premises where commercial fertilizers are manufactured, sold or stored, and all trucks or other vehicles, and vessels used in the transportation of any commercial fertilizers; and is authorized at all times to seize or stop-sale any and all commercial fertilizers that are unlicensed, misbranded, fail to meet guarantee or otherwise fail to comply with the provisions of this act.

HISTORY: How. 1549g;—CL 1897, 4971;—CL 1915, 6305;—CL 1929, 5067;—CL 1948, 286.37;—Am. 1965, p. 701, Act 355, Eff. Mar. 31, 1966.

286.38 Recovery of fines.

Sec. 8. All suits for the recovery of fines under the provisions of this act shall be brought under the direction of the director of agriculture.

HISTORY: How. 1549h;—CL 1897, 4972;—CL 1915, 6306;—CL 1929, 5068;—CL 1948, 286.38;—Am. 1965, p. 702, Act 355, Eff. Mar. 31, 1966.

286.39 Enforcement of act.

Sec. 9. The director of agriculture shall enforce the provisions of this act and prescribe and enforce such rules and regulations relating to the sale of commercial fertilizers as may be deemed necessary to carry into effect the full intent and meaning of this act.

HISTORY: Add. 1923, p. 402, Act 254, Eff. Aug. 30;—CL 1929, 5069;—CL 1948, 286.39;—Am. 1965, p. 702, Act 355, Eff. Mar. 31, 1966.

286.51-286.63 Repealed. 1965, p. 624, Act 329, Eff. Mar. 31, 1966.

Sections regulated sale of agricultural, vegetable and forest tree seeds.

Act 221, 1959, p. 322; Eff. Mar. 19, 1960.

AN ACT to define certified and certain classes of seed; to authorize the director of agriculture to promulgate rules and regulations governing the certification of seed as to certain genetic and other standards; to authorize the designation by the director of official seed certification agencies; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

286.71 Certification of seeds; definitions.

Sec. 1. As used in this act:

(a) "Seed" means the seed or propagating materials of cereals, grain crops, vegetable crops, oil crops, fiber crops, forage crops, grasses, legumes, turf species, tuberous crops, and other crops used in agricultural products which are produced or processed for the purpose of being sold, offered or exposed for sale, for planting, sowing or seeding processes within this state.

(b) "Certified seed" means the progeny of foundation, registered or certified seed if designated foundation and plant propagating materials that are so handled as to maintain satisfactory genetic identity and purity and have met certification standards required by this act and have been approved and certified by the director upon the advice of official seed certifying agencies.

(c) "Foundation seed" means seed stocks or plant propagating materials that are increased from breeder or designated foundation seed and are so handled as to most nearly maintain specific genetic identity and purity. Foundation seed, established by designation, shall be that seed designated by the agricultural experiment station together with the legal certifying agency and approved by the director of agriculture.

(d) "Breeder seed" means seed or plant propagating material directly controlled by the originating or, in certain cases, the sponsoring plant breeder or institution, and which provides the source of foundation seed.

(e) "Registered seed" means the progeny of foundation or registered seed or plant propagating material that is so handled as to maintain satisfactory genetic identity and purity and that has been approved and certified by the director of agriculture upon the advice of the official certifying agencies. This class of seed shall be of a quality suitable for the production of certified seed.

HISTORY: New 1959, p. 322, Act 221, Eff. Mar. 19, 1960.

286.72 Certification of seeds; director of agriculture, duties; rules and regulations.

Sec. 2. The director of agriculture is hereby designated the legal seed certifying officer of the state of Michigan and is authorized to promulgate rules and regulations governing the certification of seed as to variety, type, strain or other genetic character, the labeling of certified seed and to adopt general seed certification standards in cooperation with the certifying agency. Such rules and regulations shall be in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1959, p. 323, Act 221, Eff. Mar. 19, 1960.

286.73 Certification of seeds; certifying agencies.

Sec. 3. The director shall, after consultation with the dean of agriculture of Michigan state university and the director of the Michigan agricultural experiment station, and after due notice and public hearing, designate official seed certifying agencies which he finds qualified to assist and advise him in carrying out the provisions of this act and to advise as to variety, type, strain or other genetic characteristics and to recommend standards for agricultural or vegetable seeds or plant propagating materials to be certified and the labeling of such seeds.

HISTORY: New 1959, p. 323, Act 221, Eff. Mar. 19, 1960.

286.74 Certification of seeds; publication of list of varieties and hybrids; plant propagating materials.

Sec. 4. The director, upon the recommendation of the Michigan agricultural experiment station and official seed certifying agencies, shall publish and make available to the public a list of varieties and hybrids of agricultural or vegetable seeds or plant propagating materials eligible for certification.

HISTORY: New 1959, p. 323, Act 221, Eff. Mar. 19, 1960;—Am. 1964, p. 85, Act 84, Eff. Aug. 28.

286.75 Violation of act; penalty; seizure of mislabeled seeds.

Sec. 5. Whoever sells or offers or exposes for sale any seed within this state represented to be or labeled as certified, foundation, registered or breeder seed, as defined in this act, unless it has been produced and labeled in compliance with the rules and regulations promulgated by the director under the provisions of this act, shall be guilty of a misdemeanor. The director or his duly authorized agent is authorized to seize and take possession of such seeds in accordance with the procedure set forth in section 10 of Act No. 314 of the Public Acts of 1923, as amended, being section 286.60 of the Compiled Laws of 1948.

HISTORY: New 1959, p. 323, Act 221, Eff. Mar. 19, 1960.

Act 86, 1929, p. 220; Imd. Eff. Apr. 29.

AN ACT to protect the cherry industry, and to provide for the control of the cherry fruit flies (*Rhagoletis Cingulata* Loew and *R. Fausta* Osten Sacken) and other cherry pests, and imposing certain powers and duties on the commissioner of agriculture.

The People of the State of Michigan enact:

286.81 Protection of cherry crops.

Sec. 1. In order to protect the cherry crops of the state from the ravages of the cherry fruit flies (*Rhagoletis Cingulata* Loew and *R. Fausta* Osten Sacken) established within the state and now seriously and destructively threatening and infesting cherry orchards within the state, and other cherry pests which are now or may hereafter be established in the state, the commissioner of agriculture shall adopt and carry out such control measures as are deemed advisable and may cooperate with other agencies in the control of these pests.

HISTORY: CL 1929, 5112;—CL 1948, 286.81.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

286.82 Control regulations; enforcement.

Sec. 2. The commissioner of agriculture is authorized to adopt, issue and enforce rules and regulations for the control of these pests. Under such rules and regulations, the commissioner of agriculture or his authorized agents may prohibit and prevent the movement within the state without inspection, or the shipment or transportation within the state of any and all cherries or any horticultural product or any other material of any character whatsoever capable of carrying these pests in any living stage of their development, and in the enforcement of such rules and regulations may intercept, stop and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon or other vehicle or container believed or known to be carrying the said pests in any living state of their development, in violation of said rules and regulations of the commissioner of agriculture, and may seize, possess and destroy any cherries moved, shipped or transported in violation of the rules and regulations of the commissioner of agriculture.

HISTORY: CL 1929, 5113;—CL 1948, 286.82.

286.83 Right of access; unlawful acts.

Sec. 3. For the purpose of this act the commissioner of agriculture or his authorized agents shall have free access to any farm, field, orchard, garden, elevator, canning factory, warehouse, freight or express office, car, freight yard, vehicle, vessel, boat, container or any other place which for probable cause it may be necessary or desirable for such authorized agents to enter in carrying out the provisions of this act. It shall be unlawful to deny such access to such authorized agents and to hinder, thwart or defeat such inspection or entrance by misrepresentation or concealment of facts or conditions or otherwise.

HISTORY: CL 1929, 5114;—CL 1948, 286.83.

286.84 Violation of act; penalty.

Sec. 4. Any person, copartnership, association or corporation violating any provision of this act or the rules or regulations of the commissioner of agriculture issued and promulgated hereunder shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than 25 dollars nor more than 100 dollars or imprisonment in the county jail for not more than 90 days, or both fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5115;—CL 1948, 286.84.

286.85 Treatment by owner or commissioner; expense, enforcement of payment.

Sec. 5. The commissioner of agriculture shall have power, and it is made his duty to require on the part of the owner all necessary treatment, by spraying or otherwise, of all cherry trees within the state, whether in field, lot, orchard or elsewhere. The owner or person having charge of cherry trees or cherry orchards shall, within the time limit provided, administer such treatment or cause the same to be administered as set forth in the rules and regulations of the commissioner of agriculture. In case the owner or person in charge of such cherry trees or cherry orchards shall refuse or neglect to carry out any and all instructions given by the commissioner of agriculture within the time limit provided, the commissioner of agriculture or his authorized agents may take the action so required and shall employ such aid as may be necessary to carry out his own orders or those of his inspector or inspectors as the case may be. The commissioner of agriculture shall render a bill against the owner for the full amount of such expenses. If the owner refuses or neglects to pay said bill within 30 days, it shall be certified to the supervisor of the township in which the property on which the work was done, is located. The supervisor shall cause all such expenditures to be severally levied on the lands on which such expenditures were made, and the same shall become a lien upon said land and shall be assessed and collected as other taxes are assessed and collected. When collected, they shall be paid by the collecting official direct to the commissioner of agriculture, who shall deposit the same into the general fund of the state.

HISTORY: CL 1929, 5116;—CL 1948, 286.85.

286.86 Liability of agent or employe.

Sec. 6. In construing and enforcing the provisions of this act, the act, omission, or failure to act of any official, agent or other person acting for or employed by any association, partnership or corporation within the scope of his employment or office, shall in every case be deemed the act, omission or failure to act of such association, partnership or corporation as well as of the person.

HISTORY: CL 1929, 5117;—CL 1948, 286.86.

286.87 Commissioner's appointment of assistants and employes.

Sec. 7. The commissioner of agriculture is hereby empowered to appoint such assistants and employes as will be necessary to perform the duties hereby imposed. The number of such assistants and employes and the compensation payable to all persons

so appointed and employed being subject to the approval of the state administrative board.

HISTORY: CL 1929, 5118;—CL 1948, 286.87.

Act 313, 1929, p. 859; Imd. Eff. May 24.

AN ACT to provide for the control and eradication of white pine blister rust; to provide for the destruction of trees, plants and bushes infected with white pine blister rust; to authorize the commissioner of agriculture to remove, appraise and pay for healthy host plants necessarily destroyed; to declare certain plants and bushes a public nuisance; to authorize the commissioner to set aside fruiting currant and gooseberry and white pine growing districts as control areas; to provide for co-operation between state departments; to authorize the promulgation of rules and regulations; to provide funds for carrying out the purposes of this act; and to provide penalties for its violation.

The People of the State of Michigan enact:

286.101 White pine blister rust; definitions.

Sec. 1. For the purposes of this act the following words, names and terms shall be construed respectively to mean:

- (a) Commissioner: The commissioner of agriculture.
- (b) Cultivated black currants: Plants, roots, cuttings or scions of *Ribes nigrum* L.
- (c) Currants and gooseberries: Plants, roots, cuttings or scions belonging to the genera *Ribes* L. and *Grossularia* (Tourn.) Mill.
- (d) White pine blister rust control area: An area established by state authority, wherein the planting and possession of currant and gooseberry plants is prohibited for the purpose of protecting the white pines on such area from damage by white pine blister rust.
- (e) Fruiting currant and gooseberry control area: An area established by state authority wherein the planting or possession of white pines is prohibited for the purpose of protecting fruiting currants and gooseberries in such areas from damage by the white pine blister rust.
- (f) White pine: Plants of any species belonging to the genus *Pinus* which bear their needles in clusters of 5.
- (g) White pine blister rust: The fungous disease caused by *Cronartium ribicola* Fischer.

HISTORY: CL 1929, 5131;—CL 1948, 286.101.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

286.102 White pine blister rust; declared dangerous pest; enforcement of act; rules; co-operation.

Sec. 2. The fungous disease commonly known as the white pine blister rust caused by the organism *Cronartium ribicola* Fischer, is hereby declared to be a dangerous forest pest in all its stages; and it shall be the duty of the commissioner of agriculture to enforce the measures hereinafter specified for the control of this pest. The commissioner of agriculture is hereby empowered to make such rules and regulations as are necessary to carry out the provisions of this act and all state departments co-operating with the state department of agriculture shall issue and promulgate rules and regula-

tions for the control and eradication of the white pine blister rust in harmony with those issued and promulgated by the state department of agriculture so that the work carried on may all be along the same line.

HISTORY: CL 1929, 5132;—CL 1948, 286.102.

286.103 White pine blister rust; destruction of plants.

Sec. 3. Any white pines, currants or gooseberries within the state which are found to be infected with white pine blister rust are hereby declared a public nuisance, and any such diseased plants and any and all wild plants of the genera *Ribes* and *Grossularia*, may be destroyed forthwith by order of the commissioner or his agents. Any currants, gooseberries or white pines not infected with white pine blister rust may be destroyed by the commissioner or his agents where necessary in carrying out the purposes of this act.

HISTORY: CL 1929, 5133;—CL 1948, 286.103.

286.104 Cultivated black currant declared public nuisance; destruction.

Sec. 4. The cultivated black currant is hereby declared a public nuisance. Planting, possessing, growing, propagating, selling or offering for sale plants, roots, or cuttings of cultivated black currants within the state is hereby prohibited. Such roots, cuttings or plants now planted or growing may be destroyed by the commissioner or his agents.

HISTORY: CL 1929, 5134;—CL 1948, 286.104.

286.105 White pine blister rust; blister rust control areas; fruiting currant and gooseberry control areas; destruction of plants, expense.

Sec. 5. The commissioner is hereby authorized and empowered to promulgate by letter, publication, poster or other means, information concerning the white pine blister rust and to designate by the aforesaid means of promulgation blister rust control areas within the state in which control measures are necessary or advisable. In designating fruiting currant and gooseberry control areas, the commissioner shall use due care to fix their boundaries so as to include areas where currants and gooseberries are grown on a commercial scale and where their value for this purpose is clearly greater than the use of the area for the production of white pine. In designating white pine blister rust control areas, the commissioner shall use due care to fix their boundaries so as to protect white pines on such areas from damage by white pine blister rust. It shall be the duty of every land owner within such designated areas to carry out such control measures as are ordered by the commissioner, including the removal and destruction of any or all wild and cultivated currants and gooseberries or white pines. No currants or gooseberries shall be planted within such white pine blister rust control areas without written permission from the commissioner. No white pines shall be planted within such fruiting currant or gooseberry control areas without written permission of the commissioner. If the owner fails to destroy the above named plants within the time specified by the commissioner, the commissioner shall cause said plants to be destroyed and the expense thereof shall be a lien upon the owner's land. Such lien shall have the same effect and may be collected in the same manner as taxes upon such land. Any moneys so collected shall be paid into the state treasury and credited to the fund provided for this work.

HISTORY: CL 1929, 5135;—CL 1948, 286.105.

286.106 White pine blister rust; destruction of plants; compensation to owner; noxious weeds.

Sec. 6. If cultivated currants, gooseberries or white pines which are not infected with white pine blister rust, are destroyed by specific order of the commissioner or his agents, the owner may be compensated therefor, the damages to be appraised by the commissioner or his agents at and not to exceed the actual value of the material destroyed, and paid to said owner by the state treasurer upon authorization of the com-

missioner: Provided, That any and all wild currants and gooseberries are hereby declared noxious weeds and no compensation shall be paid therefor.

HISTORY: CL 1929, 5136;—CL 1948, 286.106.

286.107 Right of entry by commissioner of agriculture.

Sec. 7. The commissioner and his agents shall have the right to enter upon any private or public lands to determine the presence or the absence of white pine blister rust in any of its stages and to carry out measures for its control.

HISTORY: CL 1929, 5137;—CL 1948, 286.107.

286.108 White pine blister rust; co-operation; rust control on state lands.

Sec. 8. The commissioner may co-operate with the United States department of agriculture, with the department of conservation, and with counties, townships, associations, institutions and individuals for the suppression and control of white pine blister rust, and shall carry on such investigations of the disease and its control as are deemed advisable by the commissioner. The department of conservation shall have control of all state owned lands and it shall be its duty to co-operate with the department of agriculture in the control of the white pine blister rust on all state lands and the expense so incurred shall be borne by the department of conservation.

HISTORY: CL 1929, 5138;—CL 1948, 286.108.

286.109 Entry or movement of certain plants.

Sec. 9. The commissioner is hereby authorized and empowered to prohibit and prevent or regulate the entry into or movement within the state from any part thereof to any other part, of any white pines or any plants of genus Ribes or Grossularia when such plants are to be shipped into blister rust control areas.

HISTORY: CL 1929, 5139;—CL 1948, 286.109.

Sec. 10. (This was an appropriation section.)

HISTORY: CL 1929, 5140;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

Sec. 11. (This was a tax clause section.)

HISTORY: CL 1929, 5141;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

286.112 Violation of act; penalty.

Sec. 12. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than 100 dollars or imprisonment for not more than 90 days, and costs of prosecution, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5142;—CL 1948, 286.112.

Act 6, 1919 (Ex. Ses.), p. 16; Imd. Eff. Jun. 25.

AN ACT to authorize county boards of supervisors and township boards to appropriate money for the extermination of grasshoppers and other similar pests.

The People of the State of Michigan enact:

286.121 Extermination of grasshoppers, similar pests; county appropriation.

Sec. 1. Whenever there may exist within this state, any scourge, or threatened scourge, of grasshoppers or other similar pests, the board of supervisors of any county is hereby authorized to appropriate money for the purchase of poison and to provide such other means as may to them seem best, for the extermination of such pests.

HISTORY: CL 1929, 5143;—CL 1948, 286.121.

286.122 Extermination of grasshoppers, similar pests; township appropriation.

Sec. 2. Whenever any board of supervisors shall have purchased any such poison, as in this act provided, the township board of any township within such county is hereby authorized to appropriate money for the spreading of such poison as may be allotted to such township, or to use other means to exterminate such pests.

HISTORY: CL 1929, 5144;—CL 1948, 286.122.

286.123 Expense; payment.

Sec. 3. Any expense incurred or money appropriated under this act shall be treated as a general county or township expense, as the case may be, and shall be payable as other general county and township expenses are now payable.

HISTORY: CL 1929, 5145;—CL 1948, 286.123.

PAYMENT OF EXPENSES: Townships, see Compilers' § 41.72; counties, see Compilers' § 46.71.

Act 358, 1921, p. 650; Eff. Aug. 18.

AN ACT authorizing the state to reimburse counties and townships to the extent of 1/2 of the amounts spent by such counties and townships in connection with the destruction of grasshoppers and similar pests, making an appropriation therefor, and providing a tax to meet the same.

The People of the State of Michigan enact:

286.131 Exterminating grasshoppers, similar pests; state reimbursement.

Sec. 1. Whenever any county or township shall have made an appropriation under the authority of Act No. 6 of the Public Acts of 1919, special session, and shall have spent any sum of the money so appropriated for the destruction of grasshoppers and other similar pests, such county or township shall be reimbursed by the state not more than 1/2 of such sum or sums so spent within the fiscal years ending June 30, 1922, and June 30, 1923, out of the appropriation authorized by this act: Provided, That no payment shall be made out of the appropriations hereby made until November first of each year, and that should the amount of the claims on the basis of 1/2 of the amount expended exceed the appropriation, then such claims shall be reduced pro rata.

HISTORY: CL 1929, 5146;—CL 1948, 286.131.

NOTE: Act 6 of 1919, Ex. Sess., above referred to, is Compilers' § 286.121 et seq.

286.132 Exterminating grasshoppers, similar pests; payment procedure for county.

Sec. 2. Before any such county shall receive reimbursement under this act, it shall be the duty of the county clerk to prepare a voucher showing the payments made by such county, the date of contracting for the material or services, the date of payment of each item thereof; and that all payments for which such reimbursement is sought were made pursuant to the provisions of said Act No. 6 of the Public Acts of 1919, special session. Such voucher shall be countersigned by the county treasurer in each case, who shall certify thereon that the warrant of the county has been issued for the sums stated. Such voucher shall be forwarded to the auditor general upon such blank as the auditor general shall prescribe, who is hereby authorized to audit the claim, and if found to be correct to issue his warrant for the payment of 1/2 of such sum as shall have been expended by such county as provided for herein.

HISTORY: CL 1929, 5147;—CL 1948, 286.132.

286.133 Exterminating grasshoppers, similar pests; payment procedure for township.

Sec. 3. Before any township shall be reimbursed under this act, it shall be the duty of the township board to prepare a voucher showing the payments made by such township in the same manner and in similar form to that prescribed in section 2 of this act, countersigned and certified to by the township treasurer, and further certified to by the agent provided for in section 4 hereof that the use of said poisons was necessary and economical. Such voucher shall be forwarded to and disposed of by the auditor general in the same manner as is herein provided in the case of claims made in behalf of counties.

HISTORY: CL 1929, 5148;—CL 1948, 286.133.

286.134 Exterminating grasshoppers, similar pests; scope of act; time of presentment for payment.

Sec. 4. No reimbursement shall be made under this act for any year prior to the year 1921, and all claims of counties and townships arising hereunder for the calendar year of 1921 shall be presented to the auditor general for payment on or before December first of that year, and shall be paid as soon as the appropriation therefor is available. All claims arising in the year 1922 shall be presented for payment on or before December first of that year and shall be paid as soon as the appropriation for such year becomes available.

HISTORY: CL 1929, 5149;—CL 1948, 286.134.

286.135 Exterminating grasshoppers, similar pests; county administration officer; poison supervision; certificate of necessity.

Sec. 5. The board of supervisors of each county appropriating money for the destruction of grasshoppers and similar pests shall appoint an agent or agents for the purpose of managing the purchase, mixing and distribution of the necessary poisons used in the destruction of grasshoppers and similar pests, and to superintend the use of the same by townships and individuals. In the absence of such appointment, such duties shall devolve upon the county agricultural agent, if any, and otherwise in the absence of such appointment or if there be no county agricultural agent, such duties shall devolve upon the county clerk. The certificate of such agent that the purchase and use of such poisons were necessary and economical shall accompany every claim presented to the auditor general under this act before payment shall be made thereon.

HISTORY: CL 1929, 5150;—CL 1948, 286.135.

Secs. 6-7. (These were appropriation and tax clause sections.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

286.151-286.160 Repealed. 1949, p. 498, Act 297, Eff. Sep. 23.

Sections related to prevention of manufacture, sale or transportation of misbranded insecticides and fungicides and regulation of traffic therein.

Act 297, 1949, p. 491; Eff. Sep. 23.

AN ACT to regulate the distribution, transportation or sale of insecticides, fungicides, rodenticides, defoliants, desiccants, plant regulators, nematocides, larvicides, ovicides, herbicides and other "economic poisons"; to prohibit adulterated and misbranded economic poisons; to provide for registration and fixing a fee therefor, guarantees, and labeling of all economic poisons; to authorize the expenditure of such fees; to authorize seizure of misbranded, adulterated or unregistered economic poisons; and to fix penalties for the violation of this act. Am. 1961, p. 162, Act 130, Eff. Sep. 8.

The People of the State of Michigan enact:

286.161 Insecticide, fungicide, and rodenticide act of 1949; short title.

Sec. 1. This act may be cited as "The insecticide, fungicide, and rodenticide act of 1949."

HISTORY: New 1949, p. 492, Act 297, Eff. Sep. 23.

286.162 Insecticide, fungicide, and rodenticide act of 1949; definitions.

Sec. 2. For the purpose of this act:

a. "Economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, nematodes, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other vertebrate animals, which the director shall declare to be a pest; and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

b. "Device" means any instrument or contrivance intended for trapping, destroying, repelling or mitigating insects or rodents or destroying, repelling or mitigating fungi, nematodes or weeds, or such other pests as may be designated by the director, but not including equipment used for the application of economic poisons when sold separately therefrom.

c. "Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.

d. "Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

e. "Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animal which the director shall declare to be a pest.

f. "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

g. "Larvicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any larvae which may be present in any environment whatsoever.

h. "Ovicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any ova.

i. "Nematocides" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes.

j. "Plant regulator" means any substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

k. "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

l. "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

m. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising 6-legged, usually winged forms, as for example, beetles, bugs, bees, flies, including eggs, larvae and immature forms, and to other allied classes of arthro-

Pods whose members are wingless and usually have more than 6 legs, as for example, spiders, mites, ticks, centipedes and wood lice.

n. "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

o. "Fungi" means all nonchlorophyll-bearing thallophytes that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living man or other vertebrate animals.

p. "Weed" means any plant which grows where not wanted.

q. "Ingredient statement" means:

(1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison.

(a) Or, in the case of "economic poison", household disinfectants or household germicides, for preventing, destroying, repelling or mitigating common household pests, a statement of the name of each active ingredient together with the name of each and total percentage of the inert ingredients, if any there be, in the economic poison (except option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 6 of this act); and

(2) In case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

r. "Active ingredient", other than a plant regulator, defoliant or desiccant, means an ingredient which will prevent, destroy, repel or mitigate insects, nematodes, fungi, rodents, weeds or other pests.

(1) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(2) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(3) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

s. "Inert ingredient" means an ingredient which is not an active ingredient.

t. "Antidote" means a practical immediate treatment in case of poisoning and includes first aid treatment.

u. "Person" means any individual, partnership, association, corporation or organized group of persons whether incorporated or not.

v. "Director" means the director of the state department of agriculture.

w. "Registrant" means the person registering any economic poison pursuant to the provisions of this act.

x. "Label" means the written, printed or graphic matter on or attached to, the economic poison or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

(1) "Labeling" means all labels and other written, printed or graphic matter—

(a) Upon the economic poison or device or any of its containers or wrappers;

(b) Accompanying the economic poison or device at any time;

(c) To which reference is made on the label or in literature accompanying the economic poison or device, except when accurate, nonmisleading reference is made to current official publications of the United States departments of agriculture or interior, the United States public health service, state experiment stations, state agricul-

tural colleges or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of economic poisons.

y. "Adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

z. "Misbranded" shall apply—

(1) To any economic poison or device if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) To any economic poison—

(a) If it is an imitation of or is offered for sale under the name of another economic poison;

(b) If its labeling bears any reference to registration under this act, except as provided in section 3, a., (6);

(c) If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;

(d) If the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals, vegetation and useful invertebrate animals;

(e) If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase;

(f) If any word, statement or other information required by or under the authority of this act to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) If in the case of insecticide, nematocide, fungicide, herbicide, larvicide or ovicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such economic poison; or

(h) If in the case of a plant regulator, defoliant or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such economic poison. Physical or physiological effects on plants or parts thereof shall not be deemed to be injury when this is the purpose for which the plant regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations.

HISTORY: New 1949, p. 492, Act 297, Eff. Sep. 23;—Am. 1961, p. 102, Act 130, Eff. Sep. 8.

286.163 Economic poisons; unlawful distribution or sale; labels, contents, defacing.

Sec. 3. (a) It shall be unlawful for any person to distribute, sell or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(1) Any economic poison which has not been registered pursuant to the provisions of section 4 of this act, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its

composition as represented in connection with its registration. In the discretion of the director, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing:

(i) The name and address of the manufacturer, registrant or person for whom manufactured.

(ii) The name, brand or trade mark under which the article is sold.

(iii) The net weight or measure of the content subject, however, to such reasonable variations as the director may permit.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 6 of this act, unless the label shall bear, in addition to any other matter required by this act:

(i) The skull and cross bones.

(ii) The word "poison" prominently, in red, on a background of distinctly contrasting color.

(iii) A statement of an antidote for the economic poison.

(4) The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this act, or any other white powder economic poison which the director, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored, unless it has been so colored or discolored. The director may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded, or any device which is misbranded.

(b) It shall be unlawful for any person to detach, alter, deface or destroy, in whole or in part, any label or labeling provided for in this act or regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this act.

HISTORY: New 1949, p. 494, Act 297, Eff. Sep. 23;—Am. 1968, p. 146, Act 92, Imd. Eff. Jun. 4.

286.164 Economic poisons; registration fee; use; exemption; vendor's records.

Sec. 4. Each manufacturer, importer, jobber, firm, association, corporation or person manufacturing, distributing or selling any economic poison as defined in section 2 shall pay to the director of agriculture on or before November 1, annually, a registration fee of \$10.00 for each brand or separate economic poison sold, offered or exposed for sale, or distributed in this state, except that for each registration in excess of 10 in any year by the same person, the registration fee shall be \$4.00. Such fees shall be paid into the state treasury and credited to the general fund.

When any entity or person has paid such fee, no other entity or person shall be required to pay such fee upon such economic poison, nor is registration required in case of an economic poison shipped from one plant within this state to another plant within

this state operated by the same person. The provision of this section requiring registration shall not apply to economic poisons that have been discontinued by manufacturers or to stocks of economic poison in the possession of dealers until 1 year after the effective date of this act. Economic poisons registered by the United States department of agriculture under the provisions of the federal insecticide, fungicide and rodenticide act shall be eligible for registration in this state. United States department of agriculture registered uses not currently approved by the commission of agriculture by and with the advice of the Michigan agricultural experiment station shall not be registered. A vendor of economic poisons shall keep on file, subject to inspection by any authorized agent of the director for a period of 1 year, all invoices, freight bills, truckers' receipts, way bills and similar shipping data pertaining to economic poisons that would establish date and origin of the shipments.

HISTORY: New 1949, p. 494, Act 297, Eff. Sep. 23;—Am. 1964, p. 396, Act 258, Eff. Aug. 28;—Am. 1968, p. 147, Act 92, Imd. Eff. Jun. 4.

286.165 Economic poisons; cancellation of registration; appeal; corrections.

Sec. 5. Should any economic poison be registered in this state and it is afterward discovered that such registration is in violation of any of the provisions of this act, the director shall have the power to cancel such registration. The director shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis or change the active ingredients of any brand of his or their economic poison during the term for which registered unless reasons satisfactory to the director are presented for making such change or changes. A person who has been denied a registration of an economic poison or whose registration has been cancelled may be granted an appeal hearing before the commission of agriculture, whose finding of fact shall be justification for sustaining or overruling of the director.

If it does not appear to the commission of agriculture that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this act, the director shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fails to comply with the act so as to afford the registrant an opportunity to make the corrections necessary.

HISTORY: New 1949, p. 495, Act 297, Eff. Sep. 23;—Am. 1968, p. 148, Act 92, Imd. Eff. Jun. 4.

286.166 Powers and duties of director.

Sec. 6. a. The director is authorized, after opportunity for a hearing

- (1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles, or substances;
- (2) To determine whether economic poisons are highly toxic to man; and
- (3) To determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of section 3a (4) of this act.

b. The director is authorized, after due public hearing, to make appropriate rules and regulations for carrying out the provisions of this act, including rules and regulations providing for the collection and examination of samples of economic poisons or devices. Rules and regulations promulgated under the provisions of this act shall be subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1949, p. 495, Act 297, Eff. Sep. 23.

286.167 Examinations of poisons and devices; report of violations; notice of judgments.

Sec. 7. a. The examination of economic poisons or devices shall be made under the direction of the director for the purpose of determining whether they comply with the

requirements of this act. If it shall appear from such examination that an economic poison or device fails to comply with the provisions of this act, and the director contemplates instituting criminal proceedings against any person, he shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings and if, thereafter, in the opinion of the director it shall appear that the provisions of the act have been violated by such person, then the director shall refer the facts to the prosecuting attorney for the county in which the violation shall have occurred with a copy of the results of the analysis or the examination of such article.

b. It shall be the duty of each prosecuting attorney to whom any such violation is reported to cause appropriate proceedings to be instituted and prosecuted in the circuit court without delay.

c. The director shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this act.

HISTORY: New 1949, p. 496, Act 297, Eff. Sep. 23.

286.168 Violation of act; penalties; exemptions.

Sec. 8. a. The penalties provided for violations of this act shall not apply to—

(1) Any carrier while lawfully engaged in transporting an economic poison within this state, if such carrier shall, upon request, permit the director or his designated agent to copy all records showing the transactions in and movement of the articles;

(2) Public officials of this state and the federal government engaged in the performance of their official duties;

(3) The manufacturer or shipper of an economic poison for experimental use only.

(a) By or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of economic poisons, or

(b) By others if the economic poison is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only—Not to be sold," together with the manufacturer's name and address: Provided, however, That if a written permit has been obtained from the director, economic poisons may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit.

b. No article shall be deemed in violation of this act when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported all the provisions of this act shall apply.

HISTORY: New 1949, p. 496, Act 297, Eff. Sep. 23.

286.169 Violations; penalty.

Sec. 9. Any manufacturer, importer, jobber, firm, association, corporation, or person, who shall sell, offer, or expose for sale, or distribute in this state, or who shall take or receive from any firm, association, corporation, or person in this state any order for the sale of any economic poison or device as defined in section 2 of this act, or who shall directly or indirectly contract with any manufacturer, importer, jobber, firm, association, corporation, or person in this state for the sale of such economic poison or device to be delivered in this state by common carrier or otherwise, which has not been registered as required by the provisions of this act, or without complying with the labeling requirements of this act or who shall impede, obstruct, or hinder such director or his authorized agents in the performance of his or their duty in connection with the provisions of this act, or who shall violate any of the rules or regulations promulgated by the director as provided herein, shall be deemed guilty of a violation of the provisions of this act and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$200.00, or to imprisonment of not more than 60 days in the county

jail, or both such fine and imprisonment in the discretion of the court: Provided, however, That nothing in this act shall be construed as requiring the director to report for prosecution or for the institution of libel proceedings, minor violations of the act whenever he believes that the public interest will be best served by a suitable notice of warning in writing.

HISTORY: New 1949, p. 496, Act 297, Eff. Sep. 23.

286.170 Seizures; procedure; complaints; forfeiture; destruction or sale; proceeds from sale credited to general fund.

Sec. 10. The director, his deputy, or any person by said director duly appointed for that purpose, is authorized at all times to seize and take possession of any and all economic poisons or devices, substitutes therefor, or imitations thereof, kept for sale, exposed for sale, distributed, or held in possession or under the control of any person, which are contrary to the provisions of this act.

1. The person so making such seizures as aforesaid, shall take from such goods as seized a sample for the purpose of analysis and shall cause the remainder thereof to be boxed and sealed and shall leave the same in the possession of the person from whom they were seized, subject to such disposition as shall hereafter be made thereof according to the provisions of this act.

2. The person so making such seizure shall forward the sample so taken to the chief chemist of the department of agriculture for analysis, who shall make an analysis of the same and shall certify the results of such analysis, which certificate shall be prima facie evidence of the fact or facts therein certified to in any court where the same may be offered in evidence.

3. If upon such analysis it shall appear that said economic poison or device is adulterated, misbranded, a substitute or imitation within the meaning of this act, said director, or his deputy or any person by him duly authorized, may make complaint before any justice of the peace or police justice having jurisdiction in the city, village, or township where such goods were seized, and thereupon said justice of the peace shall issue his summons to the person from whom said goods were seized, directing him to appear not less than 6 nor more than 12 days from the date of the issuing of said summons and show cause why said goods should not be condemned and disposed of. If the said person from whom said goods were seized cannot be found said summons shall be served upon the person then in possession of the goods. The said summons shall be served at least 6 days before the time of appearance mentioned therein. If the person from whom said goods were seized cannot be found, and no one can be found in possession of said goods, and the defendant shall not appear on the return day, the said justice of the peace shall proceed in said cause in the same manner provided by law where a writ of attachment is returned not personally served upon any of the defendants and none of the defendants shall appear upon the return day.

4. Unless cause to the contrary thereof is shown, or if said goods shall be found upon trial to be in violation of any of the provisions of this act or other laws which now exist or which may be hereafter enacted, it shall be the duty of said justice of the peace or police justice to render judgment that said seized property be forfeited to the state of Michigan, and that the said goods be destroyed or sold by the said director for any purpose other than to be used for economic poisons or devices. The mode of procedure before said justice shall be the same, as near as may be, as in civil proceedings before justices of the peace. Either parties may appeal to the circuit court as appeals are taken from justices' courts, but it shall not be necessary for the people to give any appeal bond.

5. The proceeds arising from any such sale shall be paid into the state treasury and credited to the general fund: Provided, That if the owner or party claiming the prop-

erty or goods so declared forfeited can produce and prove a written guarantee of purity, signed by the wholesaler, jobber, manufacturer or other party from whom said articles were purchased, then the proceeds of the sale of such articles, over and above the cost of seizure, forfeiture, and sale, shall be paid over to such owner or claimant to reimburse him, to the extent of such surplus, for his actual loss resulting from such seizure and forfeiture, as shown by the invoice: And provided, further, That upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the article shall not be disposed of unlawfully, the court may direct that said article be delivered to the owner thereof for relabeling or reprocessing as the case may be.

6. It shall be the duty of each prosecuting attorney when called upon by said director or by any person by him authorized as aforesaid, to render any legal assistance in his power in proceedings under the provisions of this act, or any subsequent act, relative to the adulteration, misbranding, substituting, imitating or selling economic poisons or devices.

HISTORY: New 1949, p. 497, Act 297, Eff. Sep. 23.

286.171 Authority vested in employees of department of agriculture.

Sec. 11. All authority vested in the director by virtue of the provisions of this act may with like force and effect be executed by such employees of the department of agriculture as the director may from time to time designate for said purpose.

HISTORY: New 1949, p. 498, Act 297, Eff. Sep. 23.

286.172 Cooperation with state agencies, United States department of agriculture and other states.

Sec. 12. The director is authorized and empowered to cooperate with, and enter into agreements with, any other agency of this state, the United States department of agriculture, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulations.

HISTORY: New 1949, p. 498, Act 297, Eff. Sep. 23.

286.173 Jurisdiction vested in department of agriculture.

Sec. 13. Jurisdiction in all matters pertaining to the distribution, sale and transportation of economic poisons and devices is by this act vested exclusively in the department of agriculture and all acts and parts of acts inconsistent with this act are hereby expressly repealed. Act No. 254 of the Public Acts of 1913, being sections 286.151 through 286.160 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1949, p. 498, Act 297, Eff. Sep. 23.

Act 189, 1931, p. 304; Eff. Sep. 18.

AN ACT to regulate the sale and distribution of nursery stock, plants and plant products; to prevent the introduction into and the dissemination within this state of insect pests and plant diseases and to provide for their repression and control; to provide for license and to provide for inspection; and imposing certain powers and duties on the director of agriculture; and providing penalties. Am. 1955, p. 428, Act 255, Eff. Oct. 14;—Am. 1961, p. 747, Act 239, Eff. Sep. 8.

The People of the State of Michigan enact:

286.201 Insect pest and plant disease act; short title.

Sec. 1. This act shall be known by the short title of "The insect pest and plant disease act."

HISTORY: CL 1948, 286.201.

NOTE. See also Compilers' § 286.251 et seq.

FORMER ACTS: Act 91, 1905, being CL 1915, 7411-7432, as amended by Act 187, 1917, Act 60, 1919, Act 241, 1921, and Act 279, 1913, Act 142, 1927, being CL 1929, 5083-5111.

CITED IN OTHER SECTIONS: Sections 286.201 to 286.236 are cited in § 390.416.

286.202 Insect pest and plant disease act; definitions.

Sec. 2. As used in this act:

(a) "Insect pests" means insects or other invertebrates injurious to plants and plant products.

(b) "Plant diseases" means fungi, bacteria, nematodes and viruses, injurious to plants and plant products, and the pathological condition in plants and plant products caused by fungi, bacteria, nematodes and viruses.

(c) "Plants" and "plant products" mean trees, shrubs, vines, fruit, forage and cereal plants and all other plants, cuttings, grafts, scions, buds and all other parts of plants; and fruit, vegetables, roots, bulbs, seeds, wood, lumber and all other plant products.

(d) "Nursery stock" means all botanically classified hardy perennial or biennial trees, shrubs, vines and plants, either domesticated or wild, cuttings, grafts, scions, buds, bulbs, rhizomes or roots thereof, fruit pits; also other such plants and plant parts for, or capable of, propagation, excepting field, vegetable and flower seeds, corms and tubers.

(e) "Nursery" means any grounds or premises on or in which nursery stock is propagated, grown or cultivated for the purpose of distributing or selling same as a business.

(f) "Nurseryman" means any person, firm, partnership, association or corporation owning, leasing, managing or in charge of a nursery.

(g) "Plant grower" or "plant dealer" means any person, firm, partnership, association or corporation growing or offering for sale herbaceous perennials, or biennial nursery stock, small fruit plants or asparagus or rhubarb roots.

(h) "Native tree dealer" means any person, firm, partnership, association or corporation digging, selling or offering for sale any native trees, shrubs, vines or other native perennials or biennial plants growing in woodlots or other forest lands.

(i) "Nursery dealer" means any person, firm, partnership, association or corporation not a grower or an original producer of nursery stock in this state, who buys nursery stock for the purpose of reselling or reshipping independently of the control of any nurseryman, nursery dealer or who is engaged with a nursery man or dealer in handling nursery stock on a consignment basis.

(j) "Agent" means any person who solicits, takes orders or sells nursery stock in this state for a nurseryman, dealer or grower of nursery stock, but not on the premises or place of business.

(k) "Places" means vessels, cars and other vehicles, buildings, docks, nurseries, orchards and other premises where plants and plant products are grown, kept or handled.

(l) "Property" means real estate, personal property and any thing or substance connected therewith, with or without value.

(m) "Commissioner of agriculture" or "director" means the director of agriculture.

HISTORY. Am. 1933, p. 394, Act 246, Imd. Eff. Jul. 10;—Am. 1939, p. 852, Act 332, Eff. Sep. 29;—CL 1948, 286.202;—Am. 1955, p. 428, Act 255, Eff. Oct. 14;—Am. 1956, p. 328, Act 172, Imd. Eff. Apr. 16;—Am. 1961, p. 747, Act 239, Eff. Sep. 8;—Am. 1962, p. 102, Act 114, Eff. Mar. 25, 1963.

286.203 Inspection of nursery and other premises; right of access.

Sec. 3. The director or his deputies shall have authority to inspect any nursery, orchard, fruit or garden plantation, field, park, cemetery, private premises or public place, and any place which might become infested or infected with insect pests or diseases. He shall also have authority to inspect or to reinspect at any time or place any nursery stock shipped in or into the state, and to treat it as hereinafter provided. For

the purpose of inspection and carrying out the provisions of this act or any rule, regulation, order or quarantine made or promulgated in pursuance of this act, the officers and employees of the department of agriculture shall have authority to stop any vehicle or other means of conveyance found carrying nursery stock on the public highways and shall have free access in the daytime to any nursery, orchard, garden, field, packing ground, building, cellar, freight or express office, warehouse, car or other vehicle, vessel or other place where it may be necessary or desirable for them to go, or which it may be necessary for them to inspect or treat in the performance of their duties, except cellar and rooms of private residences. It shall be unlawful to deny such access to the officers and employees of the department of agriculture, or to offer any resistance to such officers and employees, or to thwart or hinder such inspection by misrepresenting or concealing facts or conditions, or otherwise.

HISTORY: CL 1948, 286.203;—Am. 1961, p. 748, Act 239, Eff. Sep. 8.

286.204 Inspection of stock before sale; application; assumed name.

Sec. 4. Any nursery, nurseryman, dealer, plant grower or agent desiring to sell or give away nursery stock in this state shall make application in writing before April 1 of each year to the director for the inspection of his nursery stock growing in this state, or failing to give such notice, such nursery, nurseryman, dealer, plant grower or agent shall be liable for the additional expense of the inspector for the inspection of the nursery stock. The application shall be made under the true name of the nursery grower or dealer, as the case may be. If an assumed name is used, the proprietor's name and address must also appear on the application. This requirement shall also apply in all advertising or printed matter used or distributed.

HISTORY: CL 1948, 286.204;—Am. 1955, p. 429, Act 255, Eff. Oct. 14;—Am. 1961, p. 749, Act 239, Eff. Sep. 8.

286.205 Nursery stock from foreign country; inspection.

Sec. 5. Every person, firm, partnership, association or corporation receiving directly or indirectly any nursery stock or other living plants or living plant parts for or capable of propagation from a foreign country shall notify the director of the arrival of such shipment, of the contents thereof, and of the name of the consignor, and shall hold such shipment in the original container not over 10 days, within which time such shipment shall be duly inspected or released by the director.

HISTORY: CL 1948, 286.205;—Am. 1961, p. 749, Act 239, Eff. Sep. 8.

286.206 Annual inspections of nurseries, cellars and warehouses; fee; certificate; term; unlawful sale, shipment or certificate.

Sec. 6. The director shall cause to be inspected at least once each year during the growing season all nurseries in the state to ascertain whether they are infested with insect pests or infected with plant diseases. The director shall cause to be inspected all nursery stock which will be stored or offered for sale or which is stored in cellars, heeling-in grounds or warehouses to ascertain whether it is infested with insect pests or infected with plant diseases and assess the usual inspection fees based upon the cost of making the various inspections required from time to time. If upon the inspection of any nursery stock as above provided it shall appear that such nursery stock or nursery and its premises are apparently free from insect pests and plant diseases, and if the necessary inspection fees which shall be assessed on the basis of the costs involved in making the said inspection have been paid, the director shall give or send to the owner of each nursery or nursery stock or the person in charge of the same a certificate executed by the director setting forth the fact of such inspection. If any inspections are requested by any nursery after September 1, the nursery or applicant shall pay in addition to the above charges the expense of such inspector and mileage at the prevailing rate per mile, as established by the state administrative board, in going to and returning from such inspection, either from Lansing or the location of the nearest inspector.

Certificates of inspection shall expire on September 15, 1961, and on October 31 of each year thereafter, and they shall be valid from November 1 in one year to October 31 of the following year. It shall be unlawful for any person to sell or to offer for sale or to remove or ship from a nursery or other premises any nursery stock until such stock has been officially inspected and a certificate or permit covering it has been granted by the director, except that nursery stock may be shipped to the director without such inspection and certification. It shall be unlawful for the director to grant a certificate of inspection to private landowners who are about to sell or remove trees or plants originally supplied from the state or federal or state and federal nurseries or by any political subdivision or its agencies.

HISTORY: Am. 1933, p. 395, Act 246, Imd. Eff. Jul. 10;—Am. 1935, p. 387, Act 232, Eff. Sep. 21;—Am. 1937, p. 96, Act 71, Imd. Eff. Jun. 11.—CL 1948, 286.206;—Am. 1955, p. 429, Act 255, Eff. Feb. 3, 1956;—Am. 1961, p. 749, Act 230, Eff. Sep. 8.

286.207 Withholding certificate; precautions; fraud, investigation, revocation of license.

Sec. 7. If the director finds that part of a nursery is infested or infected with insect pests or plant diseases and that the remainder of it is not so infested or infected, or if he has reason to believe that a nursery is liable, by reason of its proximity to infested or infected premises, to become so infested or infected before the next inspection, he may prescribe in writing such measures of precaution, or may make in writing such conditions as to the use of his certificate as may in his judgment be necessary, and he may withhold a certificate until such conditions have been accepted in writing by the owner of the nursery; and the use of such certificate without taking such measures of precaution or observing such conditions shall subject the owner of said nursery to the penalties prescribed for violation of this act. In any case coming to the attention of the director in which a nurseryman, dealer, plant grower or agent furnishing or selling nursery stock appears to be guilty of fraudulent practice, the director shall have authority to make such investigation as he may deem proper and proceed with such prosecution as may be necessary for the protection of the interests of the buying public, and, in addition, the director may revoke his license.

HISTORY: Am. 1933, p. 396, Act 246, Imd. Eff. Jul. 10;—CL 1948, 286.207;—Am. 1955, p. 430, Act 255, Eff. Oct. 14;—Am. 1961, p. 749, Act 230, Eff. Sep. 8.

286.208 Sale of dead or weakened nursery stock; penalty.

Sec. 8. Only sound, healthy nursery stock stored or displayed under conditions which will maintain its vigor shall be offered for sale. Offering for sale of dead nursery stock or of stock so seriously weakened by drying, excessive heat or cold, or any other condition that makes it unable to grow satisfactorily when given reasonable care, or the verbal or printed misrepresentation of any material fact, including but not limited to the size, grade, quality, condition or hardness of nursery stock offered for sale or sold, shall be unlawful.

HISTORY: CL 1948, 286.208;—Am. 1961, p. 750, Act 230, Eff. Sep. 8.

286.209 Licenses to sell nursery stock; fees, payment, use; scope of act.

Sec. 9. Any person, firm, partnership, association or corporation growing or desiring to sell any nursery stock in this state shall, on or before October 31 of each year, apply to the director for a license for its sale. The annual nursery license fee shall be \$15.00. The annual license fee for plant growers or plant dealers shall be \$5.00. The annual license fee for native tree dealers shall be \$15.00. The annual license fee for nursery dealers shall be \$15.00. All license fees provided for in this act shall become due and payable at the office of the director on or before September 15, 1961, and on or before October 31 of each year thereafter. All fees collected under this act shall be paid into the general fund of the state and shall be used in enforcement of this act. The provisions of this section shall not apply to persons engaged in fruit growing who are not nurserymen but desire to sell or exchange surplus small fruit plants of their own grow-

ing, or to farmers or other persons who may sell or give away native shade trees, native shrubs, native vines, native hardy perennials or native evergreens from their own premises.

HISTORY: Am. 1933, p. 395, Act 246, Imd. Eff. Jul. 10;—Am. 1935, p. 388, Act 232, Eff. Sep. 21;—CL 1948, 286.209;—Am. 1955, p. 430, Act 255, Eff. Oct. 14;—Am. 1961, p. 750, Act 239, Eff. Sep. 8;—Am. 1962, p. 103, Act 114, Eff. Mar. 28, 1963.

286.210 Licenses to sell nursery stock; buyers and dealers; certificate to deal in inspected stock, number of licenses.

Sec. 10. Every dealer within the meaning of this act, engaged in the buying and selling of nursery stock in this state, shall secure a license and certificate, first certifying to the director in writing that he will buy and sell only stock which has been duly inspected and certified by the director, or by an inspector approved by the director, and that he will maintain with the director a list of all sources from which he secures his stock. Dealers or nurserymen distributing nursery stock directly or on a consignment basis from more than 1 store or place of business, sales ground or heeling-in ground, or selling nursery stock from motor vehicles or other vehicles traveling about the state, shall secure a license for each place or each traveling vehicle from which nursery stock is sold or distributed, and the licensees described in this section shall pay the inspection fees as provided in this act for each such place.

HISTORY: Am. 1933, p. 396, Act 246, Imd. Eff. Jul. 10;—Am. 1935, p. 388, Act 232, Eff. Sep. 21;—Am. 1937, p. 96, Act 71, Imd. Eff. Jun. 11;—CL 1948, 286.210;—Am. 1955, p. 430, Act 255, Eff. Oct. 14;—Am. 1961, p. 750, Act 239, Eff. Sep. 8.

286.211 Licenses to sell nursery stocks; nonresidents, fee, reciprocity.

Sec. 11. No nonresident nurseryman, dealer or grower shall solicit or take orders for or sell nursery stock in this state, directly or through an agent or agents, without first obtaining written authorization from the director. Requests for such authorization shall be accompanied by such information as may be required by the director, including but not limited to a valid, current nursery stock inspection or health certificate issued to the applicant by the appropriate governmental authority of the applicant's principal place of business. Every nonresident nurseryman, dealer or grower, who solicits or takes orders for or sells nursery stock in this state through resident or nonresident agents, shall each year obtain a license from the director, for which the fee shall be \$15.00. The director may waive the license fee requirement if there is a reciprocal agreement with the appropriate authority of the applicant's principal place of business in the United States waiving such requirements for Michigan nurserymen, plant growers or dealers in that jurisdiction. The director may enter into reciprocal agreements with responsible officers of other states under which nursery stock owned or handled by nurserymen, plant growers or dealers of such states may be sold in this state without the payment of the license fee provided for in this section.

HISTORY: Am. 1933, p. 397, Act 246, Imd. Eff. Jul. 10;—Am. 1937, p. 97, Act 71, Imd. Eff. Jun. 11;—CL 1948, 286.211;—Am. 1955, p. 431, Act 255, Eff. Oct. 14;—Am. 1956, p. 330, Act 172, Imd. Eff. Apr. 16;—Am. 1961, p. 750, Act 239, Eff. Sep. 8.

286.212 Licenses to sell nursery stocks; agent's permit, fee.

Sec. 12. (a) Each agent of a resident or nonresident nurseryman, dealer or grower, who solicits or takes orders for or sells nursery stock in this state, must carry an agent's permit issued by the director upon payment by the principal employing such agent or agents of a \$5.00 license fee for each permit issued upon the request of the agent's principal. The agent's permit shall expire on September 1, 1961, and on October 31 of each year thereafter.

Same; list of agents, transfer of permits.

(b) Every nursery man, dealer or grower, who solicits or takes orders or sells nursery stock in this state through resident or nonresident agents, shall file and maintain in the office of the director a complete and current list of the names and addresses of all such agents. The list of agents so filed shall be confidential and shall not be divulged by em-

employees of the state department of agriculture, except in case of judicial or quasi-judicial proceedings. Agents' permits may not be transferred.

HISTORY: Am. 1935, p. 338, Act 232, Eff. Sep. 21;—Am. 1939, p. 852, Act 332, Eff. Sep. 29;—CL 1948, 286.212;—Am. 1955, p. 431, Act 25, Eff. Oct. 14;—Am. 1956, p. 330, Act 172, Imd. Eff. Apr. 16;—Am. 1961, p. 751, Act 239, Eff. Sep. 8.

286.213 Revocation, suspension or withholding of license or certificate; hearing; appeal.

Sec. 13. The commissioner of agriculture shall at any time have the power to withhold, suspend or revoke any license or certificate for sufficient cause, including any violation of this act or non-conformity with any rule or regulation promulgated under this act. Before withholding, suspending or revoking any license or certificate, the commissioner of agriculture shall give written notice to the applicant for or holder of such license or certificate, stating that he contemplates the withholding, suspending or revocation of same and giving his reasons therefor. Said notice shall appoint a time of hearing before said commissioner and shall be mailed by registered mail to the party holding the license or certificate. On the day of hearing, the respondent may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the commissioner shall decide the question in such manner as to him appears just and right. The respondent, if he feels aggrieved at the decision of the commissioner, may appeal from said decision within 10 days to the circuit court of the county where respondent resides, and issue shall be framed in said court and a trial had and its decision shall be final, unless appeal is had to the supreme court, in which event the said appeal shall conform to the court practice of appeals in civil cases.

HISTORY: Am. 1939, p. 853, Act 332, Eff. Sept. 29;—CL 1948, 286.213.

286.214 Revocation, suspension or withholding of license or certificate; hearing, order of revocation; penalty for wrongful use of license on certificate, withholding.

Sec. 14. If it is found that any license or certificate issued or approved by the commissioner of agriculture is being used in connection with nursery stock or other plants which have not been inspected, or which are infested with insect pests or infected with plant diseases, or which are being sold and delivered without treatment being given or other precautionary measures prescribed by the commissioner of agriculture being observed by the owner, or is being used by persons other than the one to whom it was issued with the knowledge of the owner without permission of the commissioner of agriculture, the commissioner of agriculture may require the owner of such license or certificate to appear before him, on a date specified, for a hearing to show cause why his license or certificate should not be revoked. If after such hearing, the commissioner of agriculture finds that such license or certificate has been wrongfully used in 1 or more of the ways specified in this section, or if the owner of such license or certificate fails to appear at such hearing he may issue an order revoking such license or certificate and the owner's license and the use of such certificate or license after it has been revoked, shall be unlawful and shall subject the owner thereof to the penalty prescribed in section 26 of this act. The commissioner of agriculture may withhold a license or certificate of inspection from any person applying for the same if such person fails to comply with the requirements of the commissioner of agriculture with reference to freeing his nursery and premises of injurious insect pests and plant diseases and may refuse to certify a nursery if the same is in such condition that it can not be adequately inspected.

HISTORY: CL 1948, 286.214.

286.215 Tags on stock; inspection of imported stock on request; expense.

Sec. 15. It shall be unlawful for any person, firm, partnership, association or corporation to bring or cause to be brought into this state, or to transport or ship within this

state, any nursery stock unless there is plainly and legibly marked thereon or affixed thereto, or on, or to the car or other vehicle carrying, or on the bundle, package, or other container of the same, in a conspicuous place, a statement or a tag or other device showing the names and addresses of the consignor or shipper, and the consignee or person to whom shipped, the general nature of the contents, as well as labels upon each variety as to name and grade as approved by the American Association of Nurserymen and such stock shall be in a live and vigorous condition and of the grade specified, together with a certificate of inspection of the proper official of the state, territory, district, or country from which it was brought or shipped: Provided, however, That if persons to whom stock has been shipped believe said stock to be infected with a contagious disease or infested with a dangerous insect or that said stock does not meet the approved grades, he may call upon the commissioner of agriculture to inspect said stock, and the expenses incurred in making such inspection are paid by such person. Such stock may be shipped to the commissioner of agriculture with all transportation charges prepaid, for inspection without any additional expense to the owner other than transportation, drayage and other storage charges when such charges are necessarily incurred.

HISTORY: Am. 1935, p. 389, Act 232, Eff. Sep. 21;—Am. 1937, p. 97, Act 71, Imd. Eff. Jun. 11;—CL 1948, 286.215;—Am. 1955, p. 431, Act 255, Eff. Oct. 14.

286.216 Tags on stock; certificate of inspection; unlawful transportation; report to commissioner.

Sec. 16. Every person, firm, partnership, association or corporation who sells or gives away nursery stock in this state is hereby required to attach to the outside of each package, box, bale or carload shipped or otherwise delivered, a tag or poster on which shall appear an exact copy of his valid certificate. It shall be unlawful for any carrier, or driver, or owner of a truck or other vehicle to accept for shipment, or transportation, or to transport any nursery stock from place to place within this state unless such nursery stock has attached thereto a valid official certificate of inspection showing that such stock has been inspected and found apparently free from injurious pests and plant diseases, or that the shipment has been authorized by the commissioner of agriculture: Provided, That nursery stock consigned to the commissioner of agriculture may be offered and accepted for shipment, and shipped without such certificate. In case any nursery stock is shipped or transported by any carrier in this state or into this state from another state, country or province without a valid certificate plainly affixed as aforesaid, the fact shall be promptly reported to the commissioner of agriculture by the person, firm, partnership, association or corporation carrying the same, together with the names of the consignor and the consignee and the nature of the shipment, and such carrier shall return it to the consignor, hold it for instructions from the commissioner of agriculture, or send it to the commissioner of agriculture, with the transportation charges prepaid, for inspection. Any person, firm, partnership, association or corporation receiving nursery stock transported from any point within the state, or any other state, country or province, without a valid certificate affixed as aforesaid, shall at once notify the commissioner of agriculture of the fact, and shall not allow such nursery stock to leave his possession until it has been inspected or released by the commissioner of agriculture, and the expenses incurred in making such inspection are paid by such person, firm, partnership, association or corporation. Such stock may be shipped to the commissioner of agriculture, with all transportation charges prepaid, for inspection without any additional expense to the owner other than transportation, drayage and storage charges when such charges are necessarily incurred.

HISTORY: CL 1948, 286.215;—Am. 1955, p. 432, Act 255, Eff. Oct. 14.

286.217 Sale of stock; inspection, transportation of nursery stock, native trees, perennials, shrubs; uninspected stock.

Sec. 17. It shall be unlawful for any person, firm, partnership, association or corporation to sell within this state any nursery stock unless such nursery stock has been officially inspected and a certificate issued by the director stating that such nursery stock has been inspected and found free from insect pests and plant diseases. It shall, however, be the privilege of a nurseryman or plant grower holding a valid certificate covering nursery stock grown by him to ship under the certificate nursery stock grown for him elsewhere or purchased by him from other states or countries, if all such nursery stock is received under an official certificate acceptable to the director and states that it has been inspected where grown and found to be apparently free from insect pests and diseases. The director shall also have authority to inspect or re-inspect at any time or place any nursery stock shipped in or into the state and to treat it as hereinafter provided. It shall be contrary to the provisions of this act for any person, firm, association, partnership, tourist or corporation to ship into or transport within this state any nursery stock unless same has first been inspected by the director. In the case of plants moving from a nursery or other premises, a tag bearing a valid certificate issued to the person, firm, partnership, association or corporation owning or in charge of the nursery or other premises from where the plants have been moved must be in plain sight and attached to some of the plants on the vehicle used to transport the plants. All native trees, herbaceous perennials and shrubs taken up from farmers' woodlots, forests or other premises other than a nursery, when being shipped into or transported on the highways of the state, shall have attached to each plant a special tag furnished at cost by the director, which tag shall remain on the plant or plants after they are replanted, and shall have plainly printed thereon the fact that this plant is of native stock and is not nursery grown and such fact shall be clearly and legibly stated in all advertising media offering same for sale. Carrying uninspected nursery stock in vehicles is prohibited by law, and the director is authorized to post the highways warning tourists and other carriers against the transportation of wild trees, perennials and shrubs and he is also authorized to cooperate with the department of conservation and seek the cooperation of the Michigan state police or local law enforcing officials in the enforcement of the provisions of this law.

HISTORY: Am. 1933, p. 397, Act 246, Imd. EF. Jul. 10;—CL 1948, 286.217;—Am. 1955, p. 432, Act 255, EF. Oct. 14;—Am. 1961, p. 751, Act 239, EF. Sep. 8.

286.218 Nuisances; public places kept free from injurious insect pests and plant diseases.

Sec. 18. (a) All injurious insect pests and plant diseases which are liable to spread to other plants, plant products or places to the injury thereof, or to the injury of man and animals, and all trees, shrubs, vines, fruit plants, cuttings, scions, grafts, plants and plant parts, plant products and places within this state, infested with such injurious insect pests and plant diseases, and all species and varieties of trees, shrubs, vines, and other plants not essential to the welfare of the people of the state which may serve as favorable host plants, and promote the prevalence and abundance of insect pests and plant diseases, or any stage thereof, destructively injurious to other plants essential to the welfare of the people of the state, are hereby declared to be a nuisance; and all persons owning or controlling lands or places in this state, and all public authorities having jurisdiction over streets, highways, parks, and other public places shall keep the same free from all injurious insect pests and plant diseases and all species and varieties of plants declared by the provisions of this section to be a nuisance.

Insects, fungi, bacteria, nematodes, viruses or living plant parasitic organisms; permits.

(b) No person shall sell, barter, offer for sale, or move, transport, deliver, ship, or offer for shipment, into or within this state any living insects in any stage of their development, or living fungi, bacteria, nematodes, viruses or other living plant parasitic organisms without first obtaining a permit from the commissioner of agriculture. Such permit shall be issued only after the commissioner of agriculture has determined that the insects or living bacteria, fungi, nematodes, viruses or other plant parasitic organisms in question are not injurious to plants or plant products, if not already present in the state, or have not been found to be seriously injurious to warrant their being refused entrance or movement, if known to be already established within the border of the state: Provided, That the commissioner of agriculture may at his discretion exempt the sale and transportation of specific insects, fungi, bacteria, and other plant parasitic organisms from the provisions of this section if such sale and transportation is not considered harmful to the health and welfare of the people of the state.

HISTORY: CL 1948, 286.218;—Am. 1955, p. 433, Act 255, Eff. Oct. 14.

286.219 Barberry, mahonia or mahoberberis bushes subject to black stem rust of small grains; destruction; rules.

Sec. 19. It shall be unlawful for any person or persons, firm or corporation to keep upon their premises or upon any premises under their control or charge any barberry, mahonia or mahoberberis bushes, which are subject to the attack of black stem rust of small grains. If the commissioner of agriculture or his assistants, shall find upon any premises any mahonia, mahoberberis or barberry varieties of species subject to the black stem rust of small grains, they are hereby authorized to destroy the same without indemnity to the property owner. The commissioner of agriculture is hereby authorized to promulgate rules and regulations relative to the sale, distribution, transportation or planting of barberry, mahonia and mahoberberis plants or parts thereof and seeds and the movement, planting or growing of black stem rust susceptible species and varieties of barberry, mahonia or mahoberberis shall be deemed a violation of this act.

HISTORY: Am. 1933, p. 397, Act 246, Imd. Eff. Jul. 10;—CL 1948, 286.219;—Am. 1955, p. 433, Act 255, Eff. Oct. 14.

286.220 Insect pests and plant diseases; eradication of nuisances; notices; abatement.

Sec. 20. (1) If the director shall determine that any species or variety of tree, shrub, vine or other plant growing within this state is a host plant nuisance as defined in section 18, and if in the judgment of the director such species or variety of plant should be eradicated from this state or from any section thereof, in order to safeguard the other plants and plant products of the state or any section thereof, he shall give public notice thereof, designating the species or variety of plant, the eradication of which is proposed, the section of the state involved, and the reasons why the eradication of such plant is necessary. The notice shall also designate a place and a time, which time shall not be less than 30 days after the date of such notice, for a public hearing, at which all persons in the state interested in the proposed action of the director may be heard. If after such hearing the director shall determine that such species or variety of plant should be eradicated, he shall give public notice of the fact, naming the species or variety of plant to be eradicated, describing the boundaries of the section of the state from which such species or variety of plant shall be eradicated, and the date when such notice shall become effective. The director shall also give written notice of the facts to any owner, or other person in charge of the property or place where such nuisance is found; which notice shall specify the condition constituting such nuisance and the method by which and the time within which such nuisance shall be abated.

The owner or person in charge shall proceed to remove, cut, destroy or otherwise completely eradicate the host plant constituting the nuisance within the time and in the manner described in such notice. Whenever such owner or other person cannot be found, or shall fail, neglect or refuse to obey the requirements of the notice, the director may proceed to abate such nuisance; and in so doing, the director is authorized to treat, remove, cut or destroy the host plant nuisance. Certain plants and plant products included in the classification of host plant nuisances and not actually infested or infected may be permitted by the director to remain without eradication until such time as they become infested or infected.

Inspection; notice, eradication or control.

(2) If the director has reason to believe that any article, except one which could serve as a favorable host plant, is a nuisance as defined by section 18 or that such a nuisance, either alone or in combination with a host plant, exists on any premise or area or is in transit in this state, he may inspect or cause to be inspected by a person or device any such article, premise or area. If he finds by inspection that such nuisance exists, he may give notice to the owner, possessor or person in charge of such article or premise, and after expiration of the time stated in the notice, may seize, quarantine, treat or otherwise dispose of such nuisance in a manner deemed necessary to suppress, control, eradicate or to prevent or retard the spread of an insect pest or plant disease, or he may order the owner, possessor or person in charge to so treat or otherwise dispose of the pest or article. The notice shall be given at least 10 days prior to such action and may be given by personal service, mail or newspaper publication as the director deems expedient.

Payment of expenses.

(3) The director may employ the necessary aid in abating any nuisance under this section and he may render a bill against the owner for the expense incurred. If the owner refuses to pay the bill, it shall be certified to the local assessing officer and assessed against the property.

HISTORY: CL 1948, 286.220;—Am. 1961, p. 752, Act 239, Eff. Sep. 8;—Am. 1967, p. 19, Act 11, Imd. Eff. Jun. 2.

286.221 Inspection of public grounds; application, payment of expense.

Sec. 21. Any municipality, park board, or other board or person in control of public grounds may apply to the commissioner of agriculture for an inspection of the same with reference to the presence of insect pests or plant diseases; and upon receipt of such application, or as soon thereafter as may be conveniently practicable, the commissioner of agriculture shall comply with such request, and send to such applicant a statement as to the facts disclosed, with any recommendations which the commissioner of agriculture may deem pertinent. The expense of the special inspection shall be paid by the applicant.

HISTORY: CL 1948, 286.221.

286.222 Inspection of plants and plant products before interstate shipment; expenses, certificate.

Sec. 22. Any owner of plants or plant products which are not nursery stock and which he wishes to ship into another state or country may apply to the commissioner of agriculture for an inspection of the same with reference to the presence of insect pests or diseases likely to prevent the acceptance of such plants in such state or country, agreeing in his application to pay in full the expenses of the inspection, and upon receipt of such application and agreement, or as soon thereafter as may be conveniently practicable, the commissioner of agriculture shall comply with such request, and upon the receipt of the expenses of the inspection, he shall issue to the applicant a certificate to the facts disclosed.

HISTORY: CL 1948, 286.222;—Am. 1955, p. 434, Act 255, Eff. Oct. 14.

286.223 Quarantine; enforcement, hearing, notice.

Sec. 23. The commissioner of agriculture when he shall find that there exists in any other state, territory, or district, or part thereof any dangerous plant disease or insect infestation with reference to which the secretary of agriculture of the United States has not determined that a quarantine is necessary and duly established such quarantine, he is hereby authorized to promulgate, and to enforce by appropriate rules and regulations, a quarantine prohibiting or restricting the transportation into or through the state, or any portion thereof, from such other state, territory, or district, of any class of nursery stock, plant, fruit, seed, or other article of any character whatsoever, capable of carrying such plant disease or insect infestation. The commissioner of agriculture is hereby authorized to make rules and regulations for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plant, fruit, seed, or other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, a quarantine with respect to which shall have been established by the secretary of agriculture of the United States, and which have been transported to, into or through this state in violation of such quarantine. The notice of any hearing and the promulgation of any quarantine provided for in this section shall be by publication in 1 or more newspapers in circulation in the area affected: Provided, That any person within the state holding a license under the provisions of this act shall be mailed notice of such hearing or promulgation by the commissioner of agriculture. The commissioner of agriculture is hereby authorized and empowered to seize and hold for use as evidence any article or thing found in the possession of or used, held for shipment, shipped, offered for sale or sold by any person in violation of any of the provisions of this act.

HISTORY: Am. 1939, p. 853, Act 332, Eff. Sept. 29;—CL 1948, 286.223.

286.224 Violation of act; penalty, quarantine, misdemeanor.

Sec. 24. Any person, firm, partnership, association or corporation violating any of the provisions of this act or of any quarantine, or rules or regulations supplemental thereto, issued by the commissioner of agriculture in pursuance of this section shall be deemed guilty of a misdemeanor and subject to the penalties prescribed in section 26 of this act.

HISTORY: CL 1948, 286.224;—Am. 1955, p. 434, Act 255, Eff. Oct. 14.

286.225 Review of rule or order; appeal to circuit court.

Sec. 25. Any person, firm, partnership, association or corporation affected by any rule, regulation or order made or served pursuant to this act may have a review of the same by the commissioner of agriculture and from his decision may appeal to the circuit court for the purpose of having such rule, regulation or order modified or suspended. Application for such review may be made to the commissioner of agriculture in writing within 10 days after the receipt of notice of such rule, regulation or order; and such review shall be allowed and considered by the commissioner of agriculture at such time and place and under rules and regulations as the commissioner of agriculture may prescribe.

HISTORY: CL 1948, 286.225;—Am. 1955, p. 434, Act 255, Eff. Oct. 14.

286.226 Violation of act; penalty.

Sec. 26. Any person, firm, partnership, association or corporation who shall violate any of the provisions of this act with reference to the sale, shipment, transportation, receipt or delivery of nursery stock without inspection or certificate, or with reference to treatment of nursery stock, plants, plant products, or other property, or who shall forge, counterfeit, deface, alter, destroy or wrongfully use a certificate provided for in this act, or who shall use a certificate belonging to another person without the consent of the commissioner of agriculture; or who shall use a certificate after it has been re-

worked or has expired; or who fails to secure a license as provided for in section 9 of this act; or who shall violate any quarantine, or rule, regulation or order of the commissioner of agriculture provided for in this act; or who shall maintain a nuisance after receiving notice from the commissioner of agriculture to abate the same, or shall fail or neglect to use such measures of arrest and control of injurious insect pests and plant diseases as are required of him by the commissioner of agriculture; or who shall offer any hindrance or resistance to the carrying out of this act, or shall violate any other provision thereof, shall be adjudged guilty of a misdemeanor, and upon conviction be fined not less than \$25.00 nor more than \$100.00 for each and every offense, or if the fine is not paid, a prison sentence in the county jail may be authorized at the discretion of the court.

HISTORY: Am. 1933, p. 398, Act 246, Imd. Eff. Jul. 10;—Am. 1935, p. 399, Act 232, Eff. Sep. 21;—CL 1946, 296,236;—Am. 1955, p. 434, Act 255, Eff. Oct. 14.

Sec. 27. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 28. (This was a repeal section.)

HISTORY: Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 142, 1927, CL 1929, 5083-5111.

Act 72, 1945, p. 70; Eff. Sep. 6.

AN ACT to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

286.251 Examinations for insects or infectious diseases; marking; notice to destroy, posting; appeals.

Sec. 1. It shall be the duty of the commissioner of agriculture whenever it comes to his attention that any of the dangerous insects or infectious diseases exist or are supposed to exist within this state to proceed without delay to examine the trees, shrubs, vines, plants, or fruits supposed to be infested or infected and all other such trees, shrubs, vines, plants, or fruit as he may deem advisable. If upon examination destructive insects or dangerously infectious diseases are found to exist, a distinguishing mark shall be placed on the trees, shrubs, vines, or plants and a written notice shall be served upon the owner or his agent with recommendations. When the owner or his agents cannot be found it shall be the duty of the commissioner of agriculture or his deputies to give general notice in the following manner to every owner, possessor, or occupier of land and to every person or persons, firm or corporation having charge of any land in this state, whereon neglected, abandoned, or semi-abandoned fruit trees are growing, to cut and destroy such plants; 4 notices each not less than 1 foot square shall be printed in clear readable type and posted 1 in each of 4 conspicuous places in the area, at least 1 to be on the property. The posting of such notices shall take place at least 15 days prior to the date upon which the trees must be cut. At the time of posting said notices a copy of the same shall be mailed to every owner, possessor or occupant or occupier of land and to every person or persons, firm or corporation financially interested therein, or having charge of any lands in this state, whereon neglected or abandoned trees are growing, whose postoffice address is known.

In case the owner refuses to accept the opinion of the inspector or inspectors, regarding the nature of an insect or a disease, or the remedy that shall be employed he

may appeal, within 10 days, to the commissioner of agriculture by serving a written notice of such appeal. The commissioner of agriculture shall as soon as practicable investigate the matter and order the proper treatment, and his opinion or orders shall be final. In cases where the owner appeals to the commissioner of agriculture, and the findings of the original inspector or inspectors are approved, the expense incurred as a result of appeal shall be paid by the owner.

HISTORY: CL 1948, 286.251.

NOTE: See also preceding act.

The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

286.252 Orders of commissioner; refusal to carry out.

Sec. 2. In case the owner, or person in charge of the trees, shrubs, vines or plants, infested with a destructive insect or dangerously contagious disease, refuses or neglects to carry out the orders of the commissioner of agriculture within the period stated in the notice served upon him, the commissioner of agriculture shall employ such aid as may be necessary to carry out his own orders.

HISTORY: CL 1948, 286.252.

286.253 Declaration as public nuisances.

Sec. 3. Any and all neglected or abandoned trees, vines, shrubs, plants or parts thereof, which because of the existence therein or thereon of injurious or destructive insect pests, or plant diseases or other conditions which may constitute a menace to the horticulture or agriculture of the county, district, or vicinity or which are host plants of or provide a favorable and likely harbor for such pests or diseases, which, if they become established upon such neglected or abandoned host plants or crops, would be a menace to agriculture or horticulture, are hereby expressly declared to be public nuisances, and it shall be unlawful to maintain the same, and all remedies which are or may be given for the prevention or abatement of the nuisance shall apply thereto.

HISTORY: CL 1948, 286.253.

286.254 Report of inspections.

Sec. 4. Whenever the commissioner of agriculture shall determine by inspection that there exists on any property or premises within his jurisdiction any trees, vines, shrubs, plants, or parts thereof, which are or have been neglected or abandoned, which because of the existence therein or thereon of injurious or destructive insect pests or plant diseases, or other conditions constitute a menace to the horticulture or agriculture of the county, district, or vicinity, he shall make a complete report of his inspection, setting forth in such report a description of the property or premises upon which the neglected or abandoned pest host exists, naming the pest or pests or other conditions which in his opinion are dangerous to the horticulture or agriculture of the county, district, or vicinity and, if in his judgment the findings justify, he shall state in such report that the removal or destruction of the neglected or abandoned trees, vines, shrubs, plants, or parts thereof, will provide the best means for the elimination of such menace to the horticulture and agriculture of the county, district or vicinity.

HISTORY: CL 1948, 286.254.

286.255 Authority to enter upon premises; treatment to prevent spread of disease; owners recompensed for loss.

Sec. 5. The commissioner of agriculture and his inspectors, deputies, assistants and employes shall have authority to enter upon any premises in the state for the purpose of examining trees, shrubs, vines and plants for the presence of destructive insects or diseases, and, if any such insects or diseases are found, may, under the provisions of this act, take such steps as may be necessary to exterminate them. No damage shall be awarded for the destruction of any trees, shrubs, vines, plants or fruit or for injury to

same if done by the commissioner of agriculture or his authorized inspectors and assistants, in accordance with the provisions of this act: Provided, It is deemed necessary in order to suppress dangerous insects and diseases, when the trees, shrubs, vines and plants have already been attacked by dangerous insects or diseases. Whenever any dangerous plant disease, or destructive insect, which is new to or which has not become widely prevalent or distributed through or within the state is found upon any trees, shrubs, vines or plants, in case it is deemed necessary in order to prevent the spread and the dissemination of said insect, or disease, the commissioner of agriculture may cause any tree, shrub, vine, or plant likely to be attacked by such insect or disease, and which are growing within 3,000 feet of where said dangerous insect or disease has been found, to be treated with approved remedies, or, if this is not feasible, to be destroyed: Provided, It becomes necessary to destroy any trees, shrubs, vines or plants which have not already become attacked by said new and dangerous insect or disease, the owner shall be recompensed for their actual value, the amount to be fixed by 3 parties, 1 to be selected by the owner, another by the commissioner of agriculture, and the third party to be selected by the other 2 so selected. The amount awarded, when approved by the commissioner of agriculture, shall be certified to the auditor general, who shall draw a warrant on the state treasurer for the payment of the same from the general fund of the state.

HISTORY: CL 1948, 286.255.

286.256 Commissioner may make rules and regulations; quarantines.

Sec. 6. The commissioner of agriculture is hereby authorized to make such rules and regulations and establish such quarantines as he shall deem necessary for the proper enforcement of this act, and all orders, rules and regulations promulgated by the commissioner of agriculture pursuant to the act shall have the force and effect of law.

HISTORY: CL 1948, 286.256.

286.257 Liability of agent.

Sec. 7. In construing and enforcing provisions of this act, the act, omission or failure of any official, agent, or other person acting for, or employed by, any association, partnership or corporation within the scope of his employment or office, shall in every case also be deemed the act, omission or failure of such association, partnership or corporation, as well as of the person.

HISTORY: CL 1948, 286.257.

Sec. 8. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

286.259 Violation of act; misdemeanor, penalty; fines turned into state treasury.

Sec. 9. Any person who shall violate any of the provisions of this act, shall be adjudged guilty of a misdemeanor, and upon conviction be fined not less than \$25.00 or more than \$100.00 for each and every offense, or by imprisonment in the county jail for a period of not to exceed 90 days, or by both such fine and imprisonment at the discretion of the court; and the amount collected in fines shall be paid to the commissioner of agriculture and by the commissioner of agriculture turned into the state treasury and be used to help to defray the expenses of the enforcement of this act, in addition to the regular annual appropriation for the state department of agriculture. All rules and regulations shall be issued and promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943.

HISTORY: CL 1948, 286.259.

NOTE: Act 86, 1943, above referred to, is Compilers' repealed § 24.71 et seq.

Sec. 10. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 307, 1927, CL 1929, 5119-5130.

286.301-286.305 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for suppression and prevention of spread of European corn borer.

286.321, 286.322 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for control of European corn borer.

Act 137, 1935, p. 216; Imd. Eff. Jun. 4.

AN ACT to provide for the protection of the public health; to promote the fruit growing industry; to assist in the marketing of fresh fruit; to provide for the establishing of temporary chemical laboratories in the fruit growing sections during the harvesting and shipping season, in order to control excess poisonous spray residue on fruit; to provide for the payment of inspection fees for chemical analyses; to issue clearance certificates on lots of apples and other fruits prepared for shipment; to make an appropriation therefor, and to prescribe the duties and powers of the commissioner of agriculture.

The People of the State of Michigan enact:

286.341 Chemical laboratories; fruit growing sections; poisonous spray residue; examination, certificate, fees.

Sec. 1. The commissioner of agriculture is hereby empowered to establish temporary chemical laboratories in fruit growing sections during the harvesting and shipping season for the purpose of examining fruit and determining the amount of poisonous spray residue thereon, and in the case of lots of fruit prepared for shipment to collect representative samples from such lots; to cause to be made chemical analyses for poisonous spray residue remaining on the fruit and in the event, as the result of such examination on representative samples, that prohibited poisonous spray residue does not exceed the maximum tolerance allowed therefor by the secretary of agriculture of the United States; to cause to be issued a certificate stating that fact. Certificates issued will be and are applicable only to such designated lots as have been appropriately numbered and identified. The owner of such lot of fruit shall pay such reasonable fees for the examination and issuance of certificate as is determined by the commissioner of agriculture.

HISTORY: CL 1948, 286.341.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

286.342 Chemical laboratories; voluntary submission of samples; fee; certificate.

Sec. 2. Growers of fruit may submit to any temporary chemical laboratory samples of fruit for analyses for spray residue in order to determine the conditions that prevail as a result of spraying practices, upon the payment of a reasonable fee for each sample submitted. The results of the analyses of such samples from individuals, corporations or firms shall be reported direct to the grower or parties submitting the samples but in no case shall a certificate be issued on a lot of fruit as a result of the submission of informative samples by individuals.

HISTORY: CL 1948, 286.342.

286.343 Chemical laboratories; establishment by private concerns; supervision, regulations.

Sec. 3. The commissioner of agriculture shall have supervision over any chemical laboratory established by any cooperative exchange, growers' exchange, or other business engaged in the harvesting, grading, packing or selling of fruit, for the analyses of

fruit for spray residue, and shall cause such firm or individual to register with the department of agriculture. Upon registration and demonstration of ability for the sampling, examination and chemical analyses of fruit for spray residue, such firms or individuals may be permitted to charge fees for the examination of samples of fruit on a basis similar to that charged by the commissioner of agriculture, and report the results of their findings to the owner of such fruit. No certificate attempting to show the presence or amount of arsenic, lead, fluorine, or any other dangerous chemical shall be valid unless issued by authority of the commissioner of agriculture.

HISTORY: CL 1948, 286.343.

286.344 Appropriation for state chemical laboratories.

Sec. 4. There is hereby appropriated the sum of 25,000 dollars for the fiscal year ending June 30, 1936, and a sum not exceeding 10,000 dollars for the year ending June 30, 1937: Provided, That in no event shall these appropriations exceed the fees collected herein to carry into effect the intent and purpose of this act. All moneys derived from fees shall be deposited to the credit of the general fund, and all expenditures incurred on account of the provisions of this act shall be from appropriations made herein.

HISTORY: CL 1948, 286.344.

286.345 Rules and regulations; enforcement by commissioner of agriculture.

Sec. 5. The commissioner of agriculture is charged with the enforcement of this act and is hereby empowered to promulgate such reasonable rules and regulations as are necessary to carry into effect the intent and purpose of this act.

HISTORY: CL 1948, 286.345.

Act 228, 1959, p. 331; Eff. Mar. 19, 1960.

AN ACT to promote the development of the Michigan fruit and vegetable industry; to define certain types and methods of fruit and vegetable storage; to prohibit the sale of fruits and vegetables misbranded as to type of storage; to provide for records; to provide for licensing of certain fruit and vegetable storage facilities; to provide for registration and permits for packers or repackers; to provide for revocation of licenses; to provide for the enforcement of this act; and to provide penalties for violation of this act.

The People of the State of Michigan enact:

286.371 Controlled atmosphere storage for fruits or vegetables; definitions.

Sec. 1. For the purpose of this act, "controlled atmosphere storage", "modified atmosphere storage" or similar terms referring to a method of storage for fruits or vegetables means the storage of fruits or vegetables that have been kept in an approved sealed storage room or in an approved sealed storage building, or in a sealed storage space within the room or building, under controlled conditions of time in days, oxygen content, carbon dioxide content and temperature as established by regulation of the director of agriculture. The term controlled atmosphere may be referred to by the initials "CA" or similar terms or abbreviations.

HISTORY: New 1960, p. 331, Act 228, Eff. Mar. 19, 1960.

286.372 Controlled atmosphere storage for fruits and vegetables; use of term.

Sec. 2. No person, firm, association or corporation shall sell, expose, offer for sale, exchange or transport any fruits or vegetables for sale represented as having been exposed to controlled atmosphere or modified atmosphere, alone or with other words, or use any such terms or form or words or symbols of similar import on any container or lot of fruits or vegetables advertised, sold, offered for sale or transported for sale within this state unless the fruits or vegetables have been stored in compliance with the provisions of this act, and rules and regulations promulgated by the director of agriculture.

HISTORY: New 1959, p. 332, Act 228, Eff. Mar. 19, 1960.

286.373 Controlled atmosphere storage for fruits and vegetables; record, form, review.

Sec. 3. A record on a form approved by the director of agriculture shall be kept at a convenient location adjacent to the storage room, storage space or storage building from the day of sealing the room, space or building to the day of opening of the storage room, space or building. The record shall be subject to review by the director of agriculture or his authorized agents at any time for a period of at least 1 year from date of sealing.

HISTORY: New 1959, p. 332, Act 228, Eff. Mar. 19, 1960.

286.374 Controlled atmosphere storage for fruits and vegetables; rules and regulations.

Sec. 4. The director of agriculture shall make reasonable rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948 in the enforcement of the provisions of this act.

HISTORY: New 1959, p. 332, Act 228, Eff. Mar. 19, 1960.

286.375 Controlled atmosphere storage for fruits and vegetables; license, application, fee, inspection, expiration, renewal, exemption.

Sec. 5. No person, firm, association or corporation shall operate any sealed type storage for fruits or vegetables where controlled atmosphere is used without first obtaining a license from the director of agriculture. A license shall be applied for and obtained for each sealed storage unit where fruits or vegetables are stored under controlled atmosphere conditions. Application for license shall be made on forms furnished by the director of agriculture. A fee of \$25.00 per room shall accompany each application. No license shall be issued under the provisions of this act unless the director of agriculture or his authorized agent has inspected the storage facilities and found them to be in compliance with this act and regulations promulgated under this act. All licenses shall expire on November 1 of the year after issue, and shall be renewed annually thereafter, unless the license is revoked or suspended. When fruits and vegetables are not represented as controlled atmosphere or modified atmosphere storage it shall not be necessary to comply with the requirements of this act.

HISTORY: New 1959, p. 332, Act 228, Eff. Mar. 19, 1960;—Am. 1969, p. 126, Act 69, Imd. Eff. Jul. 21.

286.376 Controlled atmosphere storage for fruits and vegetables; license, refusal, action to revoke.

Sec. 6. The director of agriculture may withhold and refuse to issue a license for any controlled atmosphere storage room, space or building that had not been operated, or is not prepared to be operated, in accordance with the requirements of this act or any rules and regulations issued hereunder. The director of agriculture may bring an ac-

tion for the revocation of any license issued under the authority of this act in the circuit court of the county where the license was issued.

HISTORY: New 1959, p. 332, Act 228, Eff. Mar. 19, 1960.

286.377 Controlled atmosphere storage for fruits and vegetables; labeling requirements.

Sec. 7. No person, firm, association or corporation shall describe, advertise, sell, offer or expose for sale or otherwise represent as such any fruits or vegetables, the label of which indicates in any way that the fruits or vegetables were in storage under controlled atmosphere conditions, unless the storage of such fruits or vegetables has taken place under controlled atmosphere conditions as established in this act, and under rules and regulations promulgated under the authority of this act.

HISTORY: New 1959, p. 332, Act 228, Eff. Mar. 19, 1960.

286.378 Controlled atmosphere storage for fruits and vegetables; registration numbers and permits.

Sec. 8. Any person, firm, association or corporation who packs fruits or vegetables from controlled atmosphere storage shall be issued registration numbers and permits by the director of agriculture. Application for registration numbers and permits shall be made upon forms provided by the director of agriculture and shall contain such information as he determines is necessary. Any packer or repacker holding a registration number and permit at all times shall furnish the director of agriculture or his duly appointed representatives all pertinent information concerning the sources of any fruits or vegetables which he may be packing or repacking and which is represented as having come from a controlled atmosphere storage room, space or building.

HISTORY: New 1959, p. 333, Act 228, Eff. Mar. 19, 1960.

286.379 Controlled atmosphere storage for fruits, and vegetables; violation of act, penalty.

Sec. 9. Any person, firm, association or corporation who violates any of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1959, p. 333, Act 228, Eff. Mar. 19, 1960.

Act 6, 1959, p. 6; Imd. Eff. Apr. 9.

AN ACT to empower the director of agriculture to issue orders under certain conditions prohibiting or restricting the use of 2,4-D (2,4-Dichlorolphenoxycetic acid), 2,4-5-T (2,4-5-Trichlorophenoxycetic acid) and MCP (2 Methyl, 4 Chlorophenoxycetic acid) causing damage to grape vineyards or crops of grapes within affected areas; and to provide a penalty for violation of such orders. Am. 1963, p. 86, Act 70, Eff. Sep. 6.

The People of the State of Michigan enact:

286.401 Grape growers; chemical substances; definitions.

Sec. 1. As used in this act:

- (a) "Grape grower" means a producer of grapes for profit.
- (b) "Grape vineyard" means lands upon which grapevines are maintained and harvested for profit.
- (c) "Townships" means government survey townships, and need not be in the same county.
- (d) "Proximity" means a radial distance of 2 miles from the site of damage.
- (e) "Development" means natural and normal growth before harvest.
- (f) "Affected area" means the area defined in the petition. The affected area may be

altered by description in the order of the director, if the director finds that such alteration should be made to effectuate the purposes of the petition.

(g) "Major source of agricultural income" means that the producers of grapes within the affected area obtain at least 10% of their gross income as a group in any 5-year period from the production of grapes.

(h) "Director" means the director of the state department of agriculture.

HISTORY: New 1959, p. 6, Act 6, Imd. Eff. Apr. 9.

286.402 Chemical substances; petition by grape grower for prohibition.

Sec. 2. Whenever the director receives a petition in a form prescribed by him, signed by 10 or more grape growers in the same or contiguous townships in this state, alleging that the use of 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) in proximity to grape vineyards or crops of grapes described in the petition has proved harmful to the development of grapevines or the grape crop in the affected area in the same or any prior year and asking that the use of such chemical substances be prohibited or restricted within the affected area, the director shall ascertain whether at least 10 of the signers of the petition are grape growers and owners of grape vineyards within the affected area. In counting the required number of petitioners, joint tenants or tenants by the entireties shall be counted as 1 signer.

HISTORY: New 1959, p. 6, Act 6, Imd. Eff. Apr. 9;—Am. 1963, p. 86, Act 70, Eff. Sep. 6.

286.403 Chemical substances; hearing, posting of notice.

Sec. 3. If the director determines that the petition is properly filed, he shall hold a public hearing after giving at least 10 days' notice of the time and place at which the hearing will be held by posting in at least 5 of the most public places within the affected area, and by notice by mail to each of the petitioners and to each manufacturer, supplier and dealer furnishing the chemical substance complained of within the affected area, so far as is known to the director, after diligent inquiry. Proof of notice shall be evidenced by affidavit of the director appended to the minutes of the hearing at which the petition is considered.

HISTORY: New 1959, p. 6, Act 6, Imd. Eff. Apr. 9.

286.404 Chemical substances; director's findings; damage; orders, continuing effect.

Sec. 4. If the director finds, from testimony adduced, that:

(a) There has been actual damage to grapevines or grape crops within the affected area; and

(b) Such damage was caused by the use of the chemical substance complained of in the petition, and by that cause alone; and

(c) Such use was upon lands within the affected area or in proximity to the affected area, or upon the damaged crop itself; and

(d) The commercial production of grapes within the affected area constitutes a major source of agricultural income within the affected area; then the director may issue his order prohibiting or restricting the use of 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area during the period from May 1 to October 1. The order shall continue in effect from year to year unless modified or rescinded by the director. Not later than March 15 of each year, the director shall give notice of the order by publication in a newspaper of general circulation in the area affected. The notice shall state the terms of the order in general language and that the order will continue in effect for the ensuing period of May 1 to October 1, unless a petition for modification or rescission of the order, signed by 10 or more grape growers or

50 or more persons not grape growers in the affected area, is filed with the director on or before April 1. If a request for modification or rescission is received, the director shall hold a hearing after giving notice as provided in section 3. After the hearing, the director shall make such findings as the evidence adduced justifies and may continue, modify or rescind the order. If the director modifies or rescinds the order, he shall give notice of his action as provided in section 4. All restrictions upon the use of 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area shall be set forth in the order with particularity.

HISTORY: New 1959, p. 6, Act 6, Imd. Eff. Apr. 9;—Am. 1963, p. 86, Act 70, Eff. Sep. 6.

286.405 Chemical substances; orders, effective date.

Sec. 5. All orders shall be effective upon posting the same prominently in at least 5 of the most public places within the affected area. They shall be published in the administrative code, provided for in Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, but publication within the quarterly supplement to the administrative code shall not be a condition precedent to their effectiveness.

HISTORY: New 1959, p. 7, Act 6, Imd. Eff. Apr. 9.

286.406 Chemical substances; penalty for violation.

Sec. 6. Any person who uses 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to an affected area, in violation of an order of the director prohibiting or restricting such use, is guilty of a misdemeanor.

HISTORY: New 1959, p. 7, Act 6, Imd. Eff. Apr. 9;—Am. 1963, p. 87, Act 70, Eff. Sep. 6.

Act 233, 1959, p. 338; Eff. Mar. 19, 1960.

AN ACT to prevent harm to man, contamination of food or feed or the destruction or damage of agricultural crops, growing plants, livestock or wildlife from the application of any economic poison, pesticide, insecticide, herbicide, fungicide, rodenticide; to provide for the licensing of persons engaged in the business of applying economic poisons and imposing penalties for violations; to provide for the collection of licensing fees; and to prescribe the powers and duties of certain officers. Am. 1966, p. 140, Act 120, Imd. Eff. Jun. 23;—Am. 1970, p. 153, Act 67, Eff. Apr. 1, 1971.

The People of the State of Michigan enact:

286.411 Economic poisons; definitions.

Sec. 1. As used in this act:

(a) "Equipment" means any mechanical device, system, apparatus, or method utilized in the application of economic poisons.

(b) "Economic poison" means any substance or mixture of substances, by whatever term designated, intended for preventing, destroying, repelling or mitigating any insects, rodents, pest birds, nematodes, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other vertebrate animals, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant, and any other substance intended for such use as may be named by the director of agriculture by rule.

(c) "Insecticide" means a substance or mixture of substances intended for preventing, destroying, repelling or mitigating insects.

(d) "Fungicide" means a substance or mixture of substances intended for preventing, destroying, repelling or mitigating fungi.

(e) "Herbicide" means a substance or mixture of substances intended for preventing, destroying, repelling or mitigating weeds.

(f) "Defoliant" means a substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

(g) "Desiccant" means a substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(h) "Plant regulator" means a substance or mixture of substances intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants, but does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

(i) "Nematocide" means a substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes.

(j) "Insect" means a small invertebrate animal generally having a body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, as, for example, beetles, bugs, wasps and flies, and to other allied classes of arthropods whose members are wingless and usually have more than 6 legs, as, for example, spiders, mites, ticks, centipedes and wood lice.

(k) "Fungus" means nonchlorophyll-bearing thallophytes of a lower order than mosses and liverworts as, for example, rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living man or other animals.

(l) "Weed" means a plant or part thereof which grows where not wanted.

(m) "Nematode" means an invertebrate animal of the phylum nemathelminthes and class nematoda.

(n) "Person" means any individual, firm, partnership, association, corporation, company, joint stock association, or body politic, or any organized group of persons whether incorporated or not; and in direct charge of a principal place of business and includes any trustee, receiver, assignee, or other similar representative thereof.

(o) "Aircraft" means a contrivance now known or hereafter invented, used or designed for navigation of, or flight in, the air.

(p) "Ground equipment" means a machine or device other than aircraft, for use on land or water, designed for, or adaptable to, use in applying economic poisons, as sprays, dusts, aerosols, fogs or other forms.

(q) "Director" means the director of agriculture.

(r) "Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animal.

(s) "Avicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating pest birds.

(t) "Principal place of business" means any business location staffed by at least 1 full-time employee and where records of business transactions are maintained. A telephone answering service or an employee working out of his home is not a principal place of business.

HISTORY: New 1959, p. 338, Act 233, Eff. Mar. 19, 1960;—Am. 1968, p. 144, Act 91, Eff. Nov. 15;—Am. 1970, p. 153, Act 67, Eff. Apr. 1, 1971.

286.412 Economic poisons; exemption from act.

Sec. 2. This act shall not apply to persons applying economic poisons on their own premises, or to the employees of such persons on such premises; or to farmers who are trading work with other farmers; or to the application of economic poisons indoors

other than insecticides, rodenticides and avicides; or to municipalities, road commissions, or state or federal agencies.

HISTORY: New 1959, p. 338, Act 233, Eff. Mar. 19, 1960;—Am. 1970, p. 154, Act 67, Eff. Apr. 1, 1971.

286.413 Economic poisons; license; application, contents.

Sec. 3. No person subject to this act shall operate equipment without first obtaining from the director a license for such operation. Application for a license shall be filed with the director on blanks furnished by him. The application shall state the name and permanent address of the applicant; his knowledge of the effects of the economic poisons used in the pursuit of his business when misapplied; his knowledge of proper dosing of economic poisons to accomplish the control or eradication of pests; his knowledge of the susceptibility of economic poisons to wind drift and air currents; his experience in the application of economic poisons; the type of equipment to be used by the applicant in the application of economic poisons; his knowledge of the use of such equipment; damage suits resulting in judgments against him, if any, arising out of his application of economic poisons, which judgments have not been satisfied; and other information deemed to be pertinent by the director, which shall be requested on the application form.

HISTORY: New 1959, p. 339, Act 233, Eff. Mar. 19, 1960;—Am. 1970, p. 155, Act 67, Eff. Apr. 1, 1971.

286.414 License; fee; expiration, renewal.

Sec. 4. Every application for license, whether for an initial license or annual renewal, shall be accompanied by a fee of \$20.00. All fees shall be deposited in the state treasury to the credit of the general fund. If the license is not issued or renewed, the fee shall be retained by the state as payment for the reasonable expense of processing the application. Licenses shall expire on December 31 following their issuance, but may be renewed annually upon qualifying and payment of the annual fee of \$20.00.

HISTORY: New 1959, p. 339, Act 233, Eff. Mar. 19, 1960;—Am. 1970, p. 155, Act 67, Eff. Apr. 1, 1971.

286.415 License; issuance, qualifications, examination, restrictions, bond, denial.

Sec. 5. If the director shall find from the application that the applicant has currently engaged in the business of applying economic poisons prior to January 1, 1971 and is otherwise qualified for a license he shall issue such license. Satisfactory completion of a written examination prepared by the director in cooperation with the agricultural experiment station and a representation of licensed applicators of economic poisons and categorized according to the various types of economic poison application established by rule by the director shall be an additional prerequisite for licensing of applicants not otherwise qualified as of January 1, 1971. The license may restrict the applicant to use of a certain type of equipment or pesticides if the director finds that the applicant is qualified to use only such type. The director shall require proof of sufficient financial responsibility of the applicant. If the license application discloses unsatisfied judgments against the applicant, the director may require a sufficient bond of the applicant conditioned upon the payment of further judgments against him, or the director may refuse to issue a license or annual renewal thereof because of such unsatisfied judgments. The director may refuse to issue a license or annual renewal thereof if the equipment to be used by the licensee is unsafe or inadequate to accomplish the proper application of the economic poisons to be used. The director may refuse to issue a license if the applicant demonstrates an insufficient knowledge of any item called for in the application. Denial of a license shall be treated as a contested case under the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1959, p. 339, Act 233, Eff. Mar. 19, 1960;—Am. 1968, p. 145, Act 91, Eff. Nov. 15;—Am. 1970, p. 155, Act 67, Eff. Apr. 1, 1971.

286.416 Economic poisons; rules.

Sec. 6. The director may promulgate rules to carry out the provisions of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 339, Act 233, Eff. Mar. 19, 1969;—Am. 1968, p. 146, Act 91, Eff. Nov. 15;—Am. 1970, p. 155, Act 67, Eff. Apr. 1, 1971.

286.417 Economic poisons; owner or operator, responsibility.

Sec. 7. Registration with the director of agriculture shall not exonerate the owner and operator of the equipment from responsibility for damage resulting from overdosing, drifting or misapplication of control chemicals.

HISTORY: New 1969, p. 339, Act 233, Eff. Mar. 19, 1969.

286.418 Economic poisons; right of entry; samples; unsafe use by licensee; order to desist, noncompliance; license revocation, rescission of order.

Sec. 8. The director of agriculture or his designated employees may enter upon premises where a licensee is operating and take samples of economic poisons or mixtures being used by the licensee; and may inspect equipment or methods of application used by the licensee and make recommendations therefor. Whenever the director of agriculture or any of his designated employees shall have reason to believe that a licensee is using or intending to use economic poisons in an unsafe or inadequate manner, the director or his designated employee shall order the licensee to cease the use of or refrain from the intended use of such economic poisons, mixtures, equipment or methods. The order may be either oral or written and shall inform the licensee of the reason therefor.

Upon the receipt of the order, the licensee shall immediately comply therewith. Failure to comply constitutes cause for revocation of the license and subjects the licensee to the penalty imposed under section 10 of this act.

The director of agriculture shall rescind the order immediately upon being satisfied after inspection that the reason therefor does not or no longer exists. The inspection shall be conducted as soon as possible at the request of the licensee, which request may be either oral or written. The rescinding order of the director may be oral and the licensee may rely thereon. However, an oral order shall be followed by a written rescinding order.

HISTORY: New 1969, p. 339, Act 233, Eff. Mar. 19, 1969;—Am. 1968, p. 140, Act 120, Imd. Eff. Jun. 23.

286.419 Economic poisons; advisory board.

Sec. 9. There is created an advisory committee on economic poisons to consult with and aid the director in the administration of this act. The committee shall be composed of the director of conservation, the director of public health, the director of aeronautics, the director of the pesticide research center of Michigan State University and the executive secretary of the water resources commission. Members of the committee may designate an employee to represent them on the committee.

HISTORY: New 1969, p. 340, Act 233, Eff. Mar. 19, 1969;—Am. 1968, p. 146, Act 91, Eff. Nov. 15.

286.420 Economic poisons; penalty.

Sec. 10. Any person subject to license under this act who applies economic poisons without such license or who violates an order issued, under this act, is guilty of a misdemeanor.

HISTORY: New 1969, p. 340, Act 233, Eff. Mar. 19, 1969;—Am. 1968, p. 146, Act 91, Eff. Nov. 15.

Act 188, 1965, p. 297; Eff. Mar. 31, 1966.

AN ACT to regulate the intrastate distribution and sale of hazardous substances intended or suitable for household use. Am. 1967, p. 200, Act 152, Eff. Nov. 2.

The People of the State of Michigan enact:

286.451 Hazardous substances act; short title.

Sec. 1. This act shall be known and may be cited as the "hazardous substances act".

HISTORY: New 1965, p. 297, Act 188, Eff. Mar. 31, 1966;—Am. 1967, p. 200, Act 152, Eff. Nov. 2.

286.452 Hazardous substances act; definitions.

Sec. 2. As used in this act:

(a) "Agency" means state department of agriculture.

(b) "Administrator" means state director of agriculture or his legally authorized representative or agent.

(c) "Intrastate commerce" means any and all commerce within this state and subject to the jurisdiction thereof; and includes the operation of any business or service establishment.

(d) "Hazardous substance" means:

(1) Any substance or mixture of substances which is toxic, corrosive, an irritant, a strong sensitizer, flammable, or generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(2) Any substances which the administrator by regulation finds, pursuant to the provisions of section 3, meet the requirements of subdivision (d) (1).

(3) Any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the administrator determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this act in order to protect the public health.

The term "hazardous substance" shall not apply to economic poisons subject to the federal or the state insecticide, fungicide and rodenticide act, nor to foods, drugs and cosmetics subject to the federal food, drug and cosmetic act, or would be subject to federal food, drug and cosmetic act if in interstate commerce, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house; and shall not include any source material, special nuclear material or byproduct material as defined in the atomic energy act of 1954, as amended, and regulations issued pursuant thereto by the atomic energy commission, but such term shall apply to any article which is not itself an economic poison within the meaning of the federal insecticide act but which is a hazardous substance within the meaning of subparagraph (1) of this paragraph by reason of bearing or containing such an economic poison.

(e) "Toxic" applies to any substance, other than a radioactive substance, which has the capacity to produce personal injury or illness to man through ingestion, inhalation or absorption through any body surface.

(f) "Highly toxic" means any substance which falls within any of the following categories:

(1) Produces death within 14 days in half or more than half a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or

(2) Produces death within 14 days in half or more than half a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of 1 hour or less at an atmosphere concentration of 200 parts per million by volume or less of gas or vapor or 2 milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or

(3) Produces death within 14 days in half or more than half a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

If the administrator finds that available data on human experience with any substance indicate results different from those obtained on animals in the above named dosages or concentrations, the human data shall take precedence.

(g) "Corrosive" means any substance which, in contact with living tissue, will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.

(h) "Irritant" means any substance not corrosive within the meaning of subparagraph (g) which on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

(i) "Strong sensitizer" means a substance which will cause on normal living tissue through an allergic or photodynamic process of hypersensitivity which becomes evident on reapplication of the same substances and which is designated as such by the administrator. Before designating any substance as a strong sensitizer, the administrator, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

(j) "Extremely flammable" shall apply to any substance which has a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue open cup tester, and the term "flammable" shall apply to any substance which has a flash point of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue open cup tester; except that the flammability of solids and of the contents of self-pressurized containers shall be determined by methods found by the administrator to be generally applicable to such materials or containers, respectively, and established by regulations issued by him, which regulations shall also define the terms "flammable" and "extremely flammable" in accord with such methods.

(k) "Radioactive substance" means a substance which emits ionizing radiation.

(l) "Label" means a display of written, printed or graphic matter upon the immediate container of any substance or in the case of an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of such matter directly upon the article involved or upon a tag or other suitable material affixed thereto; and a requirement made by or under authority of this act that any word, statement or other information appearing on the label shall not be considered to be complied with unless such word, statement or other information also appears (1) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and (2) on all accompanying literature where there are directions for use, written or otherwise.

(m) "Immediate container" does not include package liners.

(n) "Misbranded hazardous substance" means a hazardous substance (including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted) intended, or packaged in a form suitable for use in the household or by children, which substance, except as otherwise provided by or pursuant to section 3, fails to bear a label:

(1) Which states conspicuously (i) the name and place of business of the manufacturer, packer, distributor or seller; (ii) the common or usual name or the chemical name (if there be no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard, unless the administrator by regulation permits or requires the use of a recognized generic name; (iii) the signal word "DANGER" on substances which are extremely flammable, corrosive or highly toxic; (iv) the signal word "WARNING" or "CAUTION" on all other hazardous substances; (v) an affirmative statement of the principal hazard or hazards, such as "Flammable", "Vapor Harmful", "Causes Burns", "Absorbed Through Skin", or similar wording descriptive of the hazard; (vi) precautionary measures describing the action to be followed or avoided, except when modified by regulation of the administrator pursuant to section 3; (vii) instruction, when necessary or appropriate, for first aid treatment; (viii) the word "POISON" for any hazardous substance which is defined as "highly toxic" by subsection (f); (ix) instructions for handling and storage of packages which require special care in handling or storage and; (x) the statement "Keep out of the reach of children", or its practical equivalent, or if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard, and

(2) on which any statements required under subparagraph (1) of this subsection are located prominently and are in the English language in conspicuous and legible type in contrast by typography, layout or color with other printed matter on the label.

(c) The term "banned hazardous substance" means:

(1) Any toy or other article intended for use by children, which is a hazardous substance or which bears or contains a hazardous substance accessible to a child to whom the toy or other article is entrusted.

(a) The administrator by regulation shall:

(i) Exempt articles such as chemical sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, and which bear labeling giving adequate directions and warning for safe use and are intended for use by children of sufficient maturity and may reasonably be expected to read and heed the directions and warnings; and

(ii) Exempt and provide for the labeling of common fireworks, including toy paper caps, cone fountains, cylinder fountains, whistles without report and sparklers, to the extent that he determines that such articles can be adequately labeled to protect the purchasers and users thereof.

(2) Or any hazardous substance intended or packaged in a form suitable for use in the household, which the administrator by regulation classifies as a "banned hazardous substance" on the basis of a finding that notwithstanding the cautionary labeling required under this act for that substance, the degree or nature of the hazard involved in the presence or use of the substance in households is such that the protection of the public health and safety can be adequately promoted only by keeping the substance, when so intended or packaged, out of intrastate commerce.

HISTORY: New 1965, p. 298, Act 188, Eff. Mar. 31, 1966;—Am. 1967, p. 200, Act 152, Eff. Nov. 2.

286.453 Hazardous substances; designation; requirements; exemptions.

Sec. 3. (1) Whenever in the judgment of the administrator such action will promote the objectives of this act by avoiding or resolving uncertainty as to its application, the administrator may by regulation declare to be a hazardous or banned substance, for the purposes of this act, any substance or mixture of substances which he finds meets the requirements of subdivision (d) (1) of section 2.

(2) If the administrator finds that the requirements of subdivision (n) (1) of section 2 are not adequate for the protection of the public health and safety in view of the spe-

cial hazard presented by any particular hazardous substance, he may establish by regulation such reasonable variations or additional label requirements as he finds necessary for the protection of the public health and safety; and any hazardous substance, intended suitable for household use, which fails to bear a label in accordance with such regulations shall be deemed to be a misbranded, a hazardous or banned substance.

(3) If the administrator finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this act is impracticable or is not necessary for the adequate protection of the public health and safety, the administrator shall promulgate regulations exempting such substances from these requirements to the extent he determines to be consistent with adequate protection of the public health and safety.

HISTORY: New 1965, p. 299, Act 188, Eff. Mar. 31, 1966;—Am. 1967, p. 303, Act 152, Eff. Nov. 2.

286.454 Prohibited acts.

Sec. 4. The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into intrastate commerce of any misbranded or banned hazardous substance.

(b) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the label of, or the doing of any other act with respect to, a hazardous substance, if such act is done while the substance is in intrastate commerce, or while the substance is held for sale, whether or not the first sale, after shipment in intrastate commerce, and results in the hazardous substance being a misbranded or banned hazardous substance.

(c) The receipt in intrastate commerce of any misbranded or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

(d) The giving of a guarantee or undertaking which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by, and containing the name and address of, the persons residing in the United States from whom he received in good faith the hazardous substance.

(e) The failure to permit entry or inspection as authorized by section 10 or to permit access to and copying of any record as authorized by section 11.

(f) The introduction or delivery for introduction into intrastate commerce, or the receipt in intrastate commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug or cosmetic container or in a container which, though not a reused container, is identifiable as a food, drug or cosmetic container by its labeling or by other identification. The reuse of a food, drug or cosmetic container as a container for a hazardous substance shall be deemed to be an act which results in the hazardous substance being a misbranded or banned hazardous substance. As used in this paragraph, the terms "food", "drug" and "cosmetic" shall have the same meanings as in the state food, drug and cosmetic act.

(g) The use by any person to his own advantage, or revealing other than to the administrator or officers or employees of the agency, or to the courts when relevant in any judicial proceeding under this act, of any information acquired under authority of section 10 concerning any method of process which as a trade secret is entitled to protection.

HISTORY: New 1965, p. 300, Act 188, Eff. Mar. 31, 1966;—Am. 1966, p. 219, Act 194, Imd. Eff. Jul. 1;—Am. 1967, p. 303, Act 152, Eff. Nov. 2.

286.455 Hazardous substances act; violations, penalties; exception.

Sec. 5. (1) Any person who violates any of the provisions of section 4 is guilty of a misdemeanor.

(2) No person shall be subject to the penalties of subsection (1) of this section, for having violated subdivision (c) of section 4, if the receipt, delivery or proffered delivery of the hazardous substance was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the administrator, the name and address of the person from whom he purchased or received the hazardous or banned substance, and copies of all documents pertaining to the delivery of the hazardous or banned substance to him; or for having violated subdivision (a) of section 4, if he establishes a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous or banned substance, to the effect that the hazardous or banned substance is not a misbranded hazardous substance within the meaning of that term in this act.

HISTORY: New 1965, p. 300, Act 188, Eff. Mar. 31, 1966;—Am. 1967, p. 304, Act 152, Eff. Nov. 2.

286.456 Injunctive relief; application, jurisdiction.

Sec. 6. In addition to the remedies hereinafter provided, the administrator is hereby authorized to apply to the circuit court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 4; irrespective of whether or not there exists an adequate remedy at law.

HISTORY: New 1965, p. 300, Act 188, Eff. Mar. 31, 1966.

286.457 Hazardous household substance; misbranding; tagging; detaining article; procedure to condemn.

Sec. 7. (1) Whenever a duly authorized agent of the administrator finds or has probable cause to believe that any hazardous household substance is so misbranded as to be dangerous to the public health, within the meaning of this act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the agent or the court. No person shall remove or dispose of a detained or embargoed article by sale or otherwise without permission.

(2) When an article detained or embargoed under subsection (1) has been found by the agent to be misbranded, he shall petition the judge of the circuit court in whose jurisdiction the article is detained or embargoed to condemn the article. When the agent has found that an article so detained or embargoed is not misbranded, he shall remove the tag or other marking.

(3) If the court finds that a detained or embargoed article is misbranded, the article, after entry of the judgment or order, shall be destroyed at the expense of the claimant thereof, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or his agent. When the misbranding can be corrected by proper labeling of the article, the court, after entry of the judgment or order and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled, has been executed, may direct that the article be delivered to claimant thereof for labeling under the supervision of an agent of the administrator. The expense of the supervision shall be paid by claimant. The article shall be returned to the claimant on the representation to the court by the administrator that the article is no longer in violation of this act, and that the expenses of supervision have been paid.

HISTORY: New 1965, p. 301, Act 188, Eff. Mar. 31, 1966.

286.458 Violations; prosecuting attorney, duties; notice.

Sec. 8. The prosecuting attorney to whom the administrator reports any violation of this act shall cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of

this act is reported to any prosecuting attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the administrator or his designated agent, either orally or in writing, in person, or by attorney, with regard to the contemplated proceeding.

HISTORY: New 1965, p. 301, Act 188, Eff. Mar. 31, 1966.

286.459 Rules and regulations; promulgation, conformity with federal regulations; banned hazardous substances, notice of finding, effect.

Sec. 9. (1) The administrator shall promulgate rules necessary for the administration of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(2) The administrator shall cause the rules promulgated under this act to conform, insofar as practicable, with the regulations established pursuant to the federal hazardous substances labeling act.

(3) If the administrator finds that the distribution for household use of the hazardous substance involved presents imminent hazard to the public health, he may give notice by order published in the administrative code of such finding, and thereupon such substance when intended or offered for household use, or when so packaged as to be suitable for such use, shall be deemed to be a banned hazardous substance pending the completion of the proceedings relating to the issuance of such regulation.

HISTORY: New 1965, p. 301, Act 188, Eff. Mar. 31, 1966;—Am. 1967, p. 204, Act 152, Eff. Nov. 2.

286.460 Factory or warehouse; entry and inspection, samples, receipt.

Sec. 10. (1) For purposes of enforcement of this act, officers or employees duly designated by the administrator, upon presenting appropriate credentials to the owner, operator, or agent in charge, may enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into intrastate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such hazardous substances in intrastate commerce; inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein; and obtain samples of such materials or packages thereof, or of such labeling.

(2) If the officer or employee obtains any sample, prior to leaving the premises, he shall pay or offer to pay the owner, operator, or agent in charge for such sample and give a receipt describing the samples obtained.

HISTORY: New 1965, p. 301, Act 188, Eff. Mar. 31, 1966.

286.461 Carriers, access to records; admissibility of evidence in criminal prosecution.

Sec. 11. For the purpose of enforcing the provisions of this act, carriers engaged in intrastate commerce, and persons receiving hazardous or banned substances in intrastate commerce or holding hazardous or banned substances so received, upon the request of an officer or employee duly designated by the administrator, shall permit the officer or employee, at reasonable times, to have access to and to copy all records showing the movement in intrastate commerce of any hazardous or banned substance, or the holding thereof during or after such movement, and the quantity, shipper and consignee thereof; and it is unlawful for any carrier or person to fail to permit access to and copying of any record so requested when the request is accompanied by a statement in writing specifying the nature or kind of such hazardous or banned substance to which such request relates. Evidence obtained under this section shall not be used

in a criminal prosecution of the person from whom obtained. Carriers shall not be subject to the other provisions of this act by reason of their receipt, carriage, holding or delivery of hazardous or banned substances in the usual course of business as carriers.

HISTORY: New 1965, p. 302, Act 188, Eff. Mar. 31, 1966;—Am. 1967, p. 204, Act 152, Eff. Nov. 2.

286.462 Publication of reports; dissemination of information.

Sec. 12. (1) The administrator may cause to be published from time to time reports summarizing any judgments, or court orders which have been rendered under this act, including the nature of the charge and the disposition thereof.

(2) The administrator may also cause to be disseminated information regarding hazardous or banned substances in situations involving, in the opinion of the administrator, imminent danger to health. Nothing in this section shall be construed to prohibit the administrator from collecting, reporting and illustrating the results of the investigations of the agency.

HISTORY: New 1965, p. 302, Act 188, Eff. Mar. 31, 1966;—Am. 1967, p. 205, Act 152, Eff. Nov. 2.

Act 187, 1965, p. 291; Imd. Eff. Jul. 15.

AN ACT providing for the joinder of this state in the pest control compact, and for related purposes.

The People of the State of Michigan enact:

286.501 Pest control compact; findings, definitions, insurance fund, assistance, committees, relations, finance, entrance and withdrawal, construction.

Sec. 1. The pest control compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

PEST CONTROL COMPACT

Article I

Findings

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately 7 billion dollars from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II

Definitions

As used in this compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate 1 or more pests within 1 or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (a) of this article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

(e) "Insurance fund" means the pest control insurance fund established pursuant to this compact.

(f) "Governing board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive committee" means the committee established pursuant to article V (e) of this compact.

Article III

The Insurance Fund

There is hereby established the pest control insurance fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

Article IV

The Insurance Fund, Internal Operations and Management

(a) The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this compact shall be deemed the actions of the insurance fund.

(b) The members of the governing board shall be entitled to 1 vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

(c) The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

(d) The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the governing

board. The governing board shall make provision for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the insurance fund.

(f) The insurance fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(g) The insurance fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this article shall be reported in the annual report of the insurance fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The insurance fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The insurance fund annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. The insurance fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the insurance fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V

Compact and Insurance Fund Administration

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in his state; and
2. Represent his state on the governing board of the insurance fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the governing board of the insurance fund by not to exceed 3 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or on the executive committee thereof.

(c) The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee, or a majority of the membership of the governing board.

(d) At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee thereof shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

(e) The executive committee shall be composed of the chairman of the governing board and 4 additional members of the governing board chosen by it so that there shall be 1 member representing each of 4 geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, 1 such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least 4 members of such committee are present and vote in favor thereof. Necessary expenses of each of the 5 members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

Article VI

Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.

2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by 1 or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.

2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.

3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.

4. Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item 3 constitutes a normal level of pest control activity.

5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the insurance fund in 1 year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.

6. Such other information as the governing board may require consistent with the provisions of this compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the executive committee shall upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the insurance fund pursuant to an application of a requesting state, the insurance fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The insurance fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.

Article VII

Advisory and Technical Committees

The governing board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any

one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the governing board or executive committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee may receive and consider the same: provided that any participant in a meeting of the governing board or executive committee held pursuant to article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

Article VIII

Relations with Nonparty Jurisdictions

(a) A party state may make application for assistance from the insurance fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this article.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to article VI (d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

Article IX

Finance

(a) The insurance fund shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the insurance fund shall be maintained in 2 accounts to be designated respectively as the "operating account" and the "claims account." The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing 2-year period. The claims account shall contain all moneys not included in the operating account and shall not exceed the amount

reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of 3 years. At any time when the claims account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget requests on a pro rata basis in such manner as to keep the claims account within such maximum limit. Any moneys in the claims account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of claims.

(d) The insurance fund shall not pledge the credit of any party state. The insurance fund may meet any of its obligations in whole or in part with moneys available to it under article IV (g) of this compact, provided that the governing board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of moneys available to it under article IV (g) hereof, the insurance fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The insurance fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

(f) The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the insurance fund.

Article X

Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any 5 or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 2 years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XI

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

HISTORY: New 1905, p. 291, Act 187, Imd. Eff. Jul. 15.

286.502 Cooperation by state departments, agencies and officers with insurance fund.

Sec. 2. Consistent with law and within available appropriations, the departments, agencies and officers of this state may cooperate with the insurance fund established by the pest control compact.

HISTORY: New 1965, p. 297, Act 187, Imd. Eff. Jul. 15.

286.503 Bylaws and amendments; filing.

Sec. 3. Pursuant to article IV (h) of the compact, copies of bylaws and amendments thereto shall be filed with the department of agriculture.

HISTORY: New 1965, p. 297, Act 187, Imd. Eff. Jul. 15.

286.504 Compact administrator; duties.

Sec. 4. The compact administrator for this state shall be the director of agriculture. The duties of the compact administrator shall be deemed a regular part of the duties of his office.

HISTORY: New 1965, p. 297, Act 187, Imd. Eff. Jul. 15.

286.505 Insurance fund; application for assistance.

Sec. 5. Within the meaning of article VI (b) or VIII (a), a request or application for assistance from the insurance fund may be made by the governor whenever in his judgment the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such request.

HISTORY: New 1965, p. 297, Act 187, Imd. Eff. Jul. 15.

286.506 Credit to account of department liable for expenditure.

Sec. 6. The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to his account in the state treasury the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof.

HISTORY: New 1965, p. 297, Act 187, Imd. Eff. Jul. 15.

286.507 Executive head; definition.

Sec. 7. As used in the compact, with reference to this state, the term "executive head" means the governor.

HISTORY: New 1965, p. 297, Act 187, Imd. Eff. Jul. 15.

Act 288, 1965, p. 547; Imd. Eff. Jul. 22.

AN ACT to require the department of commerce, public service commission division, to adopt rules and regulations for the minimum safety requirements for motor vehicles, and the operators thereof, used to transport migrant agricultural workers; and to provide a penalty for the violation of such rules. Am. 1966, p. 216, Act 190, Eff. Mar. 10, 1967.

The People of the State of Michigan enact:

286.601 Transportation of migrant agricultural workers; minimum safety standards, rules and regulations.

Sec. 1. The department of commerce, public service commission division, shall adopt rules and regulations on or before July 1, 1966 in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, to protect

the health and safety of migrant workers proceeding to or returning from employment in agriculture in any motor vehicle carrier.

The rules and regulations shall specify the minimum safety and other requirements for motor vehicles, parts, accessories, equipment and safety devices thereon and for health, language, driving skill, age and other requirements for operators of motor vehicles which transport migrant workers and which are covered by the regulations. The rules may also specify other minimum safety requirements for transportation of migrant workers to or from agricultural employment.

The department may, by rule, require the additional licensing of persons authorized to operate motor vehicles used to transport migrant agricultural workers which otherwise are subject to the regulations promulgated pursuant to this act. There shall be no fee for such license.

HISTORY: New 1965, p. 547, Act 288, Imd. Eff. Jul. 22;—Am. 1968, p. 216, Act 190, Eff. Mar. 10, 1967.

286.602 Encouragement of compliance with safety regulations.

Sec. 2. The department shall encourage compliance with the regulations promulgated pursuant to this act and shall meet periodically with municipal and private associations and other groups to promote the health and safety of migrant workers proceeding to or returning from employment in agriculture.

HISTORY: New 1965, p. 547, Act 288, Imd. Eff. Jul. 22.

Act 197, 1970, p. 561; Imd. Eff. Aug. 6.

AN ACT to provide for certain remodeling projects; to prescribe certain powers and duties; to create a fund; to provide for certain grants; to provide for the promulgation of rules; and to make certain appropriations.

The People of the State of Michigan enact:

286.611 Migratory housing remodeling; definitions.

Sec. 1. As used in this act:

(a) "Advisory committee" means the committee appointed pursuant to section 9 of Act No. 289 of the Public Acts of 1965, being section 286.629 of the Compiled Laws of 1948.

(b) "Department" means department of public health.

(c) "Fund" means the migratory labor housing fund.

(d) "Remodeling" means the remodeling, improving or reconstruction of existing housing or facilities which are incidental or appurtenant thereto for migratory workers or the construction of new housing or facilities which are incidental or appurtenant thereto for migratory workers.

HISTORY: New 1970, p. 561, Act 197, Imd. Eff. Aug. 6.

286.612 Remodeling grants; amount, conditions.

Sec. 2. (1) An employer of migratory farm workers may receive a grant from the fund of not more than 50% of the costs of an extensive remodeling project which costs shall not exceed \$10,000.00.

(2) A grant pursuant to subsection (1) may be made on the basis of a matching payment, grant or other aid from the federal government, person or corporation.

(3) A grant shall not be made if the remodeling does not meet the requirements of any law or rule.

HISTORY: New 1970, p. 562, Act 197, Imd. Eff. Aug. 6.

286.613 Grant; claim, approval, payment; priority list.

Sec. 3. (1) A person who qualifies for a grant shall file a claim with the department following completion of construction. The department after approving the claim shall make payment to the claimant from the fund.

(2) If the fund is insufficient to cover all applications for grants approved by the department, the department shall establish a priority list which can be funded from subsequent allocations.

HISTORY: New 1970, p. 562, Act 197, Imd. Eff. Aug. 6.

286.614 Department's powers.

Sec. 4. The department may:

(a) Contract or execute other instruments necessary to implement the provisions of this act.

(b) Agree and comply with any condition for receiving federal financial assistance for purposes of remodeling migratory housing.

(c) Survey and investigate migratory housing conditions and needs and recommend to the governor and the legislature any legislation or other measures necessary or advisable to alleviate an existing housing shortage in the state for migratory workers.

(d) Encourage community organizations or private employers to assist in initiating remodeling projects as provided in this act.

(e) Enforce compliance of any law or rule regarding health or construction standards for remodeling projects which employ grants made pursuant to this act.

(f) Provide inspection of remodeling projects to determine if they comply with this act and the rules promulgated hereunder.

(g) Accept gifts, grants or other aid from the federal government, a person or corporation for purposes of implementing this act.

(h) Promulgate rules to implement this act in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

(i) Enter into agreements with a recipient of a grant to insure that the purposes of the act are effectuated.

HISTORY: New 1970, p. 562, Act 197, Imd. Eff. Aug. 6.

286.615 Advisory committee.

Sec. 5. The advisory committee shall:

(a) Advise the commissioner on the allocation of funds and any matter which pertains to this act.

(b) Make recommendations to the commissioner as to legislation or other measures necessary or advisable to alleviate any migratory farm labor housing problem.

HISTORY: New 1970, p. 562, Act 197, Imd. Eff. Aug. 6.

286.616 Appropriation; migratory labor housing fund.

Sec. 6. There is appropriated to the department of public health from the general fund of the state for the fiscal year ending June 30, 1971, the sum of \$500,000.00 for the purpose of establishing a migratory labor housing fund to provide for the implementation of this act.

HISTORY: New 1970, p. 562, Act 197, Imd. Eff. Aug. 6.

Act 289, 1965, p. 548; Eff. Jul. 22.

AN ACT to protect the public health by licensing and regulating agricultural labor camps; to prescribe the powers and duties of the state health commissioner; and to provide remedies and penalties for the violations of this act.

The People of the State of Michigan enact:

286.621 Agricultural labor camp; definitions.

Sec. 1. As used in this act:

(a) "Agricultural labor camp" means a tract of land and all tents, vehicles, buildings or other structures pertaining thereto, and part of which is established, occupied or used as living quarters for 5 or more migratory workers engaged in agricultural activities, including related food processing.

(b) "Camp operator" means the person, including natural persons and combinations of such persons, corporations, partnerships, unincorporated associations and other combinations of persons, who has been granted a license under this act to operate an agricultural camp.

(c) "Commissioner" means the state health commissioner.

HISTORY: New 1965, p. 548, Act 289, Imd. Eff. Jul. 22.

286.622 License to operate agricultural labor camp; issuance; posting.

Sec. 2. On and after January 1, 1966, no person shall operate an agricultural labor camp or cause to be operated or allow the same to be occupied and used as an agricultural labor camp, unless he obtains from the commissioner a license authorizing the operation of such agricultural labor camp and only while such license remains in full force and effect. The camp operator shall post the license in a conspicuous place on the agricultural labor camp to which it applies and such license shall continue to remain posted during the entire time such agricultural labor camp is operated.

HISTORY: New 1965, p. 548, Act 289, Imd. Eff. Jul. 22.

286.623 Application for license; form; information required.

Sec. 3. Application for a license shall be in writing on a form and under rules and regulations promulgated by the commissioner under law. In addition to such other information as may be required by the commissioner, the application shall include the full name and address of the applicant, if a corporation, firm or association, the name and address of each partner; the location of the agricultural labor camp; the maximum number of persons who will occupy the camp at any time; the months during which the camp will be used or occupied; and a brief description of all tents, vehicles, buildings or other structures in which persons will be housed in such camp, and the sanitary, water, sewage and cooking facilities available in the camp.

HISTORY: New 1965, p. 548, Act 289, Imd. Eff. Jul. 22.

286.624 Issuance of license; minimum health and construction standards; provisional and temporary licenses; exemptions.

Sec. 4. The commissioner shall issue a license for the operation of the agricultural labor camp, if after investigation and inspection, he finds that the camp and the proposed operation thereof, conforms or will conform to the minimum standards of construction, health, sanitation, sewage, water supply, plumbing, garbage and rubbish disposal, and operation, set forth in the rules and regulations promulgated under section 9; provided, however:

(a) A provisional license may be issued when the agricultural labor camp does not comply with all provisions of this act and the rules and regulations promulgated hereunder when the camp operator has formerly agreed to a definite improvement program, satisfactory to the commissioner, leading to compliance with the provisions of this act and the rules and regulations promulgated hereunder. Provisional licenses may be issued for the same agricultural labor camp to December 31, 1968. Thereafter no provisional licenses will be issued;

(b) A temporary license may be issued for 3 months or less pending the results of an

inspection or pending the correction of certain designated items. Not more than 2 consecutive temporary licenses shall be issued for any one camp.

(c) Facilities are exempt from the application of the provisions of this act to the extent that the same have been inspected and approved for health and safety by another state or federal agency.

HISTORY: New 1965, p. 548, Act 289, Imd. Eff. Jul. 22.

286.625 Application for original license and renewals; time; license assignment or transfer.

Sec. 5. Every application for a license to operate an agricultural labor camp shall be made at least 30 days before the first day that the proposed camp is to be operated. The license shall be valid for the balance of the calendar year during which it is issued. A renewal application must be filed after January of each year to operate the agricultural camp during the year, but at least 30 days before the agricultural labor camp is to commence operation. The license is not transferable or assignable, except with the express written consent of the commissioner.

HISTORY: New 1965, p. 549, Act 289, Imd. Eff. Jul. 22.

286.626 Denial of license; notice, hearing.

Sec. 6. Whenever the commissioner denies an application for a license to operate an agricultural labor camp, he shall give written notice of such denial to the applicant stating reasons for the denial. An applicant denied a license may request a hearing before the commissioner on such denial within 10 days of receipt of such denial and the commissioner shall hold the hearing on denial not later than 15 days after receipt of such request.

HISTORY: New 1965, p. 549, Act 289, Imd. Eff. Jul. 22.

286.627 Suspension or revocation of license; hearing and notice; right to counsel; appeals.

Sec. 7. The commissioner may suspend or revoke the license of any camp operator if he finds after due notice and hearing that the camp operator is in violation of the provisions of this act or rules and regulations promulgated by the commissioner in accordance with this act. If the commissioner believes that any camp operator is violating the provisions of this act or any rules and regulations promulgated thereunder, he shall set a hearing and give written notice thereof by certified mail at least 10 days before the date of the hearing, and shall set forth in writing the charges against the camp operator. The camp operator is entitled to appear by attorney and may call such witnesses as he desires. An official record of the proceeding shall be kept. The commissioner may suspend the license of the camp operator after hearing for a fixed period of time or until the camp operator meets the provisions of this act and rules and regulations promulgated hereunder, or he may revoke the license. Any camp operator aggrieved by the decision of the commissioner to suspend or revoke his license may appeal, as provided by law.

HISTORY: New 1965, p. 549, Act 289, Imd. Eff. Jul. 22.

286.628 Property for camp use; construction or alteration; notice to commissioner; contents.

Sec. 8. No person shall construct or alter for occupancy or use, an agricultural labor camp or any portion or facility thereof or convert a property for use or occupancy as an agricultural labor camp, without giving notice in writing of his intent to do so to the commissioner at least 30 days before the date of beginning such construction, enlarge-

ment, or conversion. The notice shall give the name of the city, village, or township in which the property is located, the location of the property within that area, a brief description of the proposed construction, enlargement or conversion, the name and mailing address of the person giving the notice and his telephone number, if any.

HISTORY: New 1965, p. 549, Act 299, Imd. Eff. Jul. 22.

286.629 Rules and regulations; advisory committee; public hearing.

Sec. 9. In accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, the commissioner may promulgate rules and regulations for the protection of the health, safety and welfare of seasonal or temporary workers and members of their families, occupying agricultural labor camps, and such rules and regulations shall include provisions, for the appointment by the commissioner of an advisory committee representing, among others, growers, processors, local health departments, and religious or fraternal organizations to advise him on the administration of the act and the rules and regulations, for the collection, treatment and disposal of human wastes and sewage, for the supply and maintenance of safe water, for the temporary storage and removal of food wastes and rubbish, and for the housing of seasonal workers and their families, including adequate and safe construction and repair, fire protection, facilities for workers and their families to keep and prepare food and such other necessary matters that relate to the good health, safety and welfare of seasonal workers and their families. Rules and regulations shall be promulgated only after a public hearing conducted by the commissioner.

HISTORY: New 1965, p. 550, Act 299, Imd. Eff. Jul. 22.

286.630 License; contents.

Sec. 10. The license issued by the commissioner to the camp operator shall recite on its face that the camp operator shall comply with all the provisions of this act and with all rules and regulations promulgated hereunder.

HISTORY: New 1965, p. 550, Act 299, Imd. Eff. Jul. 22.

286.631 Enforcement of act; investigations; local health agencies, entry, inspection, use, fees.

Sec. 11. The commissioner shall enforce the provisions of this act and rules and regulations promulgated hereunder. The commissioner or his agent may enter upon the premises of agricultural labor camps at reasonable times and he may investigate the premises to ascertain whether or not the camp operator is in compliance with the provisions of this act, and rules and regulations promulgated hereunder. He may utilize the services of other state agencies and offices to assist him in conducting his investigations. He may use the services of any local health agency to inspect the premises before licensing the camp operator and to conduct investigations, under rules and regulations promulgated under this act. The commissioner is authorized to approve payments of \$15.00 to local health agencies for each licensed agricultural labor camp.

HISTORY: New 1965, p. 550, Act 299, Imd. Eff. Jul. 22.

286.632 Injunction to restrain operation of unlicensed labor camp.

Sec. 12. Where the commissioner has suspended or revoked a license to operate an agricultural labor camp and the camp is being operated without a license and is subject to the provisions of this act, the commissioner through the attorney general shall petition the circuit court for the county of Ingham or the county in which the agricultural labor camp is located for appropriate injunctive relief against such continued operation of such camp.

HISTORY: New 1965, p. 550, Act 299, Imd. Eff. Jul. 22.

286.633 Agricultural labor camps; violations; penalty.

Sec. 13. Any person who violates a provision of this act or the rules and regulations promulgated hereunder is guilty of a misdemeanor.

HISTORY: New 1965, p. 550, Act 286, Imd. Eff. Jul. 22;—Am. 1966, p. 244, Act 157, Eff. Nov. 15.

286.634 Effective date.

Sec. 14. This act shall become effective July 1, 1965.

HISTORY: New 1965, p. 550, Act 286, Imd. Eff. Jul. 22.

Act 160, 1966, p. 180; Imd Eff. Jul. 1.

AN ACT to establish permanent and mobile overnight rest camps and information centers for migrant workers; and to define the duties and responsibilities of certain state departments.

The People of the State of Michigan enact:

286.641 Overnight rest camps for migrant agricultural workers; selection of sites.

Sec. 1. The department of labor shall plan, construct or lease, and provide custodial administration for at least 2 supervised overnight rest camps for migrant agricultural workers; 1 in the southwest part of the state and 1 in the southeast part of the state near U.S.-23. The final selection of the sites shall be determined with the approval of the department of labor—employment security commission.

HISTORY: New 1966, p. 180, Act 160, Imd. Eff. Jul. 1.

286.642 Minimum size of camp, and minimum facilities; time of operation.

Sec. 2. Each camp shall have not less than 6 18 feet by 24 feet units with roof, for use as sleeping quarters for migrant workers; 5 roofed cooking facilities; drinking water; separate toilet facilities and washrooms for men and women; living space for the camp supervisor; sufficient space for at least 3 desks and waiting space suitable for a farm labor services office equipped with heat, lights and telephone and radio communication systems. Each camp shall be in operation for the period from May 1 to October 31 of each year.

HISTORY: New 1966, p. 180, Act 160, Imd. Eff. Jul. 1.

286.643 Rules and regulations; promulgation.

Sec. 3. The department of labor may make rules and regulations necessary for administration of this act and setting fees for space and services provided by it. The rules and regulations shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 180, Act 160, Imd. Eff. Jul. 1.

286.644 Authorization or expenditure of federal and other funds, limitation.

Sec. 4. The authorization provided in section 1 does not include authorization for any expenditures in excess of funds obtainable from the federal government for the purpose provided in section 1 and funds obtainable from non-governmental sources for this purpose and such other funds as may hereafter be appropriated by the state

legislature and expressly designated for such purpose, and provided that the acceptance of such funds does not obligate the state to continue those programs after the federal and other funds are no longer available, and that such federal and other funds shall be allotted for expenditure only after approval by the state budget director.

HISTORY: New 1966, p. 180, Act 160, Imd. Eff. Jul. 1.

Act 234, 1966, p. 311; Imd. Eff. Jul. 11.

AN ACT to provide for the licensing and regulation of emigrant agents; to prescribe the functions of the director of labor; and to provide penalties for violation of this act.

The People of the State of Michigan enact:

286.651 Emigrant agents; definition.

Sec. 1. As used in this act:

(a) "Person" means an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy or receiver.

(b) "Emigrant agent" means a person engaged in recruiting, hiring, soliciting or enticing laborers by any means whatsoever in this state to be employed beyond the limits of this state in farm labor.

(c) "Employer" means a person employing or seeking to employ an employee for farm labor.

(d) "Farm labor" means cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, any practices performed on the farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market or any forestry or lumbering operations, and first processing of any agricultural or horticultural commodity during seasonal operations.

(e) "Director" means the director of labor or any person authorized to act in his behalf.

HISTORY: New 1966, p. 311, Act 234, Imd. Eff. Jul. 11.

286.652 Exemption from act of certain employment agencies.

Sec. 2. This act does not apply to an employment agency established and operated by this state, the United States or a municipality of this state or a person who operates a labor bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within this state, or to agricultural producers acting jointly or severally in securing farm laborers for their own use in this state.

HISTORY: New 1966, p. 312, Act 234, Imd. Eff. Jul. 11.

286.653 License; necessity; application; form; fee; bond; cancellation, hearing, grounds.

Sec. 3. No person other than those exempt shall engage in the business of emigrant agent without first having obtained a license therefor from the director. Application for a license may be made in person or by mail on an approved form and shall be accompanied by the annual fee of \$75.00 and a valid noncancelable surety bond in the amount of \$2,000.00 in favor of the director and conditioned for the faithful observance of all laws and regulations covering the licensee's actions as an emigrant agent. The license shall cover the calendar year for which it is issued. The license is subject to cancellation by the director, after a hearing, when he finds that the agent used fraud or deception in obtaining the license or in soliciting farm laborers, or is convicted of a

felony or an offense involving moral turpitude or has violated any provision of this act.

HISTORY: New 1966, p. 312, Act 234, Imd. Eff. Jul. 11.

286.654 Weekly report; filing; failure to file; contents.

Sec. 4. A licensed emigrant agent shall make weekly reports to the director covering each week in which he conducts any activity in this state covered by the license. The report shall be mailed to the director not later than Monday following the week covered by the report. Failure to file such report promptly is sufficient cause for suspension or revocation of the license. The report shall include:

(a) The name, age, sex and address of each person solicited to be employed beyond the limits of this state.

(b) The name and address of the employer of each such person.

(c) The kind of work each such person is to be employed in.

(d) The place where each such person is to be employed.

(e) The term of employment of each such person.

(f) The wages to be paid and perquisites offered to each such person for his work.

(g) Whether or not transportation is to be furnished, arranged for or paid any such agricultural worker either upon leaving or returning to this state.

HISTORY: New 1966, p. 312, Act 234, Imd. Eff. Jul. 11.

286.655 Agent to carry license; inspection.

Sec. 5. An emigrant agent shall carry the original license or a certified copy thereof on his person at all times he is soliciting, enticing or otherwise recruiting agricultural labor for employment beyond the limits of this state and shall produce the license or copy upon request of a police officer or the director.

HISTORY: New 1966, p. 312, Act 234, Imd. Eff. Jul. 11.

286.656 Violation of act; penalty.

Sec. 6. Any person who acts as an emigrant agent without having secured a license is guilty of a misdemeanor.

HISTORY: New 1966, p. 312, Act 234, Imd. Eff. Jul. 11.

286.657 Effective date.

Sec. 7. This act shall become effective July 1, 1966.

HISTORY: New 1966, p. 312, Act 234, Imd. Eff. Jul. 11.

Act 329, 1965, p. 618; Eff. Mar. 31, 1966.

AN ACT to regulate the labeling, advertising, sale, offering, exposing or transporting for sale of agricultural, vegetable, lawn, flower, herb and forest tree seeds; to authorize the director of agriculture to adopt rules and regulations for the enforcement of this act; to provide for the inspection and testing of seed; to prescribe license fees; to prescribe penalties for violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

286.701 Michigan seed law; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan seed law".

HISTORY: New 1965, p. 618, Act 329, Eff. Mar. 31, 1966.

286.702 Michigan seed law; definitions.

Sec. 2. As used in this act:

(1) "Person" means any individual, partnership, company, corporation, society, co-operative, union or association.

(2) "Sale" means the act of transfer of property for any consideration and includes the acts of offering, advertising, exposing, holding or transporting for sale.

(3) "Label" includes all labels, and other written, printed or graphic representation in any form, accompanying or pertaining to any seed in bulk or in containers and includes representation on invoices, bills and letterheads.

(4) "Seed" means the matured or ripened ovule of the plant and excludes seed of vegetative nature such as stolons and tubers.

(5) "Agricultural seed" includes the seed of grass, forage, cereal, fiber, turfgrass, oil plants, and lawn seeding mixtures, and shall be as listed in the rules and regulations under this act.

(6) "Director" means director of the state department of agriculture.

(7) "Screenings" include chaff, florets, immature seed, weed seed, inert and other foreign matter removed in any way in cleaning or processing of seed or obtained from weedy fields or any source and contains less than 50% agricultural seed.

(8) "Vegetable seed" includes the seed of those crops which are grown in gardens or on truck farms and shall be as listed in the rules and regulations under this act.

(9) "Flower and herb seed" includes the seed of those plants usually grown for their food, flavor, aromatic, medicinal or decorative value and shall be as listed in the rules and regulations under this act.

(10) "Forest tree seed" includes the seeds of those forest trees that are usually grown in nurseries and forests in this state and shall be as listed in the rules and regulations under this act.

(11) "Pure seed" includes all seeds of the kind or kinds under consideration whether shriveled, cracked or injured and pieces of broken seed larger than 1/2 the original size.

(12) "Inert matter" includes broken seed 1/2 or less the original size, seeds of legumes or crucifers with seed coats removed, undeveloped or badly injured weed seed, the empty glumes or attached sterile glumes of grasses, dirt, stones, chaff, fungus bodies or matter other than seed.

(13) "Weed seed" includes the seeds of all plants generally recognized as weeds within the state and includes the noxious weed seeds.

(14) "Crop seed" includes the seed of crops other than the kind or kinds under consideration when not claimed as a component or not present as specified in special and lawn mixtures.

(15) "Germination percent" means the percent of seeds capable of producing normal seedlings under favorable growing conditions. Broken, weak, diseased, malformed, or abnormal seedlings shall not be considered as having germinated.

(16) "Hard seed percent" means the seed which due to hardness or impermeability does not absorb moisture and start growth under favorable conditions during prescribed germination period but remains hard.

(17) "Prohibited noxious weeds" include the seeds of bindweed (*convulvulus arvensis*), Canada thistle (*cirsium arvense*), perennial sowthistle (*sonchus arvensis*), whitetop (*lepidium draba*), Russian knapweed (*centaurea picris*), leafy spurge (*euphorbia esula*), quackgrass (*agropyron repens*), and horsenettle (*solanum carolinense*).

(18) "Restricted noxious weeds" include the seeds of dodder (*cuscuta* spp.), fanweed (*thlaspi arvense*), wild mustard (*brassica kaber*, *junceae* and *nigra*), hoary alyssum (*berteroa incana*), buckhorn pliantain (*plantago lanceolata*), wild carrot (*daucus carota*), wild onion (*allium* spp.), giant foxtail (*setaria faberii*), and yellow rocket or wintercress (*barbarea vulgaris*).

(19) "Lot" means a definite quantity of seed identified by a number or other mark, every portion of which is uniform within recognized tolerances for the factors which appear in the labeling.

(20) "Kind" means 1 or more related species or subspecies which singly or collectively is known by 1 common name; for example, oats, wheat, beans, corn.

(21) "Variety" means a specific, close subdivision of a kind with definite differentiating genetic characteristics; for example, clinton oats, genesee wheat, michelite beans, golden bantam sweet corn.

(22) "Hybrid" as applied to field, sweet or popcorn, means the first generation seed of a cross made under controlled conditions between 2 inbred lines (single cross), and another inbred line (3-way cross), or a second single cross (double-cross). For labeling purposes the number or other designations of hybrid corn shall be used as a variety name. The name hybrid will be recognized and apply to authentic hybrids of other agricultural, flower or vegetable seed.

(23) "Records" include all information relating to the shipment or shipments involved with seed, such as invoices, vouchers, freight bills and other records.

(24) "Advertising" means all representations other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this act.

(25) "Treated" means that the seed has received an effective application of substance or method designed to reduce, control or repel certain disease organisms, fungi, insects or other pests attacking the seed or seedlings growing therefrom, or has received some other treatment to improve its planting value.

(26) "Tolerance" means the allowable deviation from any percentage claim used on a label. It is based on the law of normal variation from a mean. Tolerance tables used in the enforcement of this act are those shown in the rules for testing seed as adopted by the association of official seed analysts.

(27) "Official sample" means the sample taken from a lot of seed by a representative of the director.

(28) "Vendor" means a person engaged in the selling of seed.

(29) "Grower's declaration" means a statement signed by the grower or shipper giving, for any lot of seed, the lot number, the kind, variety, weight and origin.

HISTORY: New 1965, p. 618, Act 329, Eff. Mar. 31, 1966.

286.703 Seed containers; tags or labels required; contents.

Sec. 3. Each bag, container, package, bundle, box or bulk of seed which is sold within this state shall bear thereon or have attached thereto in a conspicuous place a plainly printed or imprinted label or tag in the English language giving the information specified in sections 4 to 7.

HISTORY: New 1965, p. 619, Act 329, Eff. Mar. 31, 1966.

286.704 Agricultural seed, special mixtures and lawn seed; label information.

Sec. 4. For agricultural seed, special mixtures thereof and lawn seed mixtures the information required is:

(a) The kind, or kind and variety of seed. In special mixtures, the name of each kind of seed in excess of 5% of the total in order of predominance shall be declared. In lawn mixtures the name of each kind of seed in excess of 5% of the total in order of predominance shall be declared except white clover which shall be declared if present in excess of 2%. Where more than 1 component is required to be named, the word "mix" or "mixture" shall appear conspicuously on the label. Mixtures where the component part is 5.0% or less, except white clover, the component part shall not be shown on the tag or label.

(b) For seed mixtures for lawn or turf purposes the headings "fine-textured grasses" or "coarse kinds" and thereunder in tabular form in type no larger than the heading, the commonly accepted name in order of its predominance, of the kinds, or the kind and varieties of each agricultural seed present in excess of 5% of the whole and determined to be a "fine-textured grass" or a "coarse kind" in accordance with the rules and regulations under this act.

(c) The lot number or identifying mark.

(d) The percent by weight of pure seed, or the percentage by weight of pure seed of each component, in the case of mixtures, the percentage by weight of inert matter, the percentage by weight of weed seed, and the percentage by weight of other crop seed present.

(e) The percent of germination, and the percent of hard seed, if present, and the month and year the germination was completed for each agricultural seed named.

(f) The state or foreign country where grown for alfalfa, red clover and white clover. If the origin is unknown, that fact shall be stated.

(g) The name and the rate of occurrence per pound, if present, of each kind of the seeds of the restricted noxious weeds, except buckhorn and yellow rocket which must be shown on the label only when in excess of 90 seeds per pound.

(h) The name and address of the vendor of the seed.

HISTORY: New 1965, p. 690, Act 329, Eff. Mar. 31, 1966.

286.705 Vegetable, herb and flower seed, special mixtures; label information.

Sec. 5. For vegetable, herb and flower seed or special mixtures thereof the information required is:

(a) The variety of seed. In the case of special mixtures the name of each kind and variety present in excess of 5% of the total.

(b) The lot number or identifying mark.

(c) The percent of germination and the percent of hard seed, if present, and the month and year the germination was completed for each vegetable, herb or flower seed named or percent germination by standards established, if desired. The germination and date of test shall not be required on packet seed or small bulk containers from which retail sales are made in retail establishments, if the germination meets the standards established by the director.

(d) The name and address of vendor of the seed.

(e) For all seeds which have been treated, the same analysis label shall be required as for agricultural seeds.

(f) The number of noxious weed seeds per pound of vegetable, flower or herb seed, if any are present.

HISTORY: New 1965, p. 690, Act 329, Eff. Mar. 31, 1966.

286.706 Forest tree seed; label information.

Sec. 6. For forest tree seed the required information is:

(a) The kind, or variety of seed.

(b) The lot number or identifying mark.

(c) The percent by weight of pure seed and percent by weight of inert matter or other contaminants.

(d) The percent of germination and percent of hard seed, if present, and the month and year germination test was completed.

(e) Geographic origin where seed was grown or collected.

(f) The name and address of vendor of the seed.

HISTORY: New 1965, p. 620, Act 329, Eff. Mar. 31, 1966.

286.707 Seeds treated with irritating or poisonous substances; information on label.

Sec. 7. For seed which has been treated with an irritating or poisonous substance the required information is:

(a) A warning statement in 12-point type that the seed has been treated.

(b) The common, coined, chemical or abbreviated chemical name of the substance applied.

(c) If substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement in 12-point type as follows: "poison treated—do not use for food or feed or oil purposes". The caution for mercurials and similarly toxic substances shall be: "poison" and a statement or symbol on label.

HISTORY: New 1965, p. 621, Act 329, Eff. Mar. 31, 1966.

286.708 Correction of seed labels; removal from sale.

Sec. 8. Seed labels shall be corrected when found to be in error. Whenever, by examination of the label or by sampling and testing of the seed or by other dependable information, the label on any seed container of agricultural seed is found to be unlawful or to be in error beyond the limits of tolerance allowed by law, the label shall be corrected at once if the seed is of legal quality, otherwise the seed shall be removed from sale at once.

HISTORY: New 1965, p. 621, Act 329, Eff. Mar. 31, 1966.

286.709 Sale, exposition, transportation of seed; unlawful acts.

Sec. 9. It is unlawful for any person to sell, offer for sale, expose or transport for sale any of the seed defined in this act within this state:

(a) Not labeled in accordance with the provisions of this act, or having a false or misleading label.

(b) Unless the test to determine the percentage of germination required by section 3 was completed within an 11-month period, exclusive of the month in which the test was completed, immediately prior to sale, exposure, offering or transporting for sale, except that a longer period of time shall be permitted for any kind of agricultural or vegetable seed which is packaged in such container materials and under such conditions prescribed under the rules that will maintain the viability of the seed under ordinary conditions of handling.

(c) Consisting of or containing prohibited noxious weeds.

(d) Consisting of or containing restricted noxious weeds in excess of 1 seed of any or all of the restricted noxious weeds to 2,000 seeds of the seed sold, offered, exposed or transported for sale, except for buckhorn and yellow rocket the limit shall be 1 seed to 1,000 seeds of the seed sold, offered, exposed or transported for sale. If present in a lesser ratio it must be named on the tag with rate of occurrence per pound.

(e) Which has a germination, including hard seeds, that is below 60% or in the case of vegetable, flower, herb and forest tree seed, below the germination standard established in the rules authorized by this act.

(f) Having tags or labels on or attached to the container of seed including a liability or nonwarranty clause, disclaiming responsibility for the information on the label required by this act.

(g) Pertaining to which there has been false or misleading advertisement in any manner or by any means.

(h) Containing in excess of 1% by weight of all weed seeds.

(i) Represented to be certified, registered or foundation seed unless it was produced and labeled in accordance with the procedures and in compliance with rules of the state department of agriculture.

(j) When substitution or altering of seed under tag or label has occurred.

(k) Where hindrance or obstruction has occurred in any way to inspection or official sampling of seed by the director or a duly authorized agent during regular business hours.

(l) When seizure processes have been instituted by the director or his representative.

(m) Represented to be a hybrid and is not one as defined in this act.

(n) When stored, shipped, or handled under such conditions as renders it impossible to properly inspect or obtain samples representative of the seed being sold, offered, exposed or transported for sale.

(o) Unless each person whose name appears on the label as distributing agricultural, vegetable, flower, herb or forest tree seed subject to this act shall keep for a period of 2 years complete records of each lot of agricultural, vegetable, flower, herb or forest tree seed distributed; and keep for 1 year a file sample of each lot of seed that is distributed after final disposition of the lot; and unless such records and samples pertaining to the shipment or shipments involved shall be accessible for inspection by the director or his duly authorized agent during customary business hours.

(p) When the name of the state department of agriculture is used in connection with the labeling or advertising or sale of any seed in any manner.

(q) When the word "trace" is used as a substitute for any statement which is required, or the word "type" is used in any labeling in connection with the name of any seed variety.

(r) When selling grain or other seed which has been treated as defined in this act, to any person for any purpose unless the grain or seed is clearly labeled as required in section 7 of this act.

HISTORY: New 1965, p. 621, Act 329, Eff. Mar. 31, 1966;—Am. 1970, p. 585, Act 206, Imd. Eff. Aug. 25.

286.710 Exempt seed.

Sec. 10. All seeds defined under this act are exempt from the provisions of section 3 of this act when:

(a) Possessed, exposed for sale, or sold for manufacturing, food or feeding purposes only and plainly marked "not for seeding purposes" and a statement of intended usage, except farm to processor movement of home grown seed and grain does not need to be so marked.

(b) Sold to be cleaned and tested before being sold or exposed for sale for seeding purposes and marked "not cleaned—for processing".

(c) Stored or held for cleaning, testing and tagging and marked "not cleaned—for processing", or if screenings, marked "screenings—for processing or for seed".

(d) In the case of agricultural, vegetable, flower, herb and forest tree seed which is sold and delivered direct to the purchaser from a container which is labeled as required in section 3 of this act.

(e) Seed grown, sold and delivered by the producer on his own premises directly to the purchaser if the seed contains no prohibited noxious weed seeds or not more than 1 restricted noxious weed seed to 2,000 of the seeds being sold or not more than 2% of all weed seeds. If, however, the seed is advertised for sale through the medium of the public press, by circular, by catalog, or by exposing a sample of the seed or a printed or written statement pertaining to the seed in a public place or in any place of business, or if the seed is delivered by a common carrier, except when transported for the

purpose of being recleaned as provided in this section the producer shall be considered a vendor and the seed shall meet all requirements of the act including complete labeling of the seed. For cereal and soybean seed where the purpose for which the seed is intended may be in question, all seeds advertised for sale by variety name or as processed or tested, or treated or offered at a price substantially higher than current market prices, shall be presumed to be offered for seeding purposes and subject to the labeling provisions of this act.

HISTORY: New 1965, p. 622, Act 329, Eff. Mar. 31, 1966.

286.711 Seed testing laboratory; director of agriculture; powers and duties.

Sec. 11. The director shall administer and enforce this act and maintain a seed testing laboratory and facilities with all necessary equipment and such analysts, inspectors, assistants and other personnel necessary for proper enforcement and incur such expenses as may be necessary to carry out the provisions of this act. The director who may act through his authorized agents shall:

(a) Sample, inspect, make analysis of, and test any of the seed defined in this act which is sold or held for sale within the state, for seeding purposes, at such time, place and to such an extent as he may deem necessary to determine whether said seeds are in compliance with the provisions of this act and notify promptly the person who sold, offered or exposed the seed for sale of any violation found relating to such seed.

(b) Enter upon any public or private premises during regular business hours in order to have access to seeds and the records connected therewith subject to the act and the rules and regulations thereof and any conveyance on land, water or air at any time it is accessible, for the same purpose.

(c) Make and promulgate such rules and regulations, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as may be incidental to, or necessary for, the accomplishment of the purpose and the enforcement of this act, and to prescribe a list of recognized agricultural seeds for this state.

(d) Prescribe and after public notice establish germination standards for vegetable, flower, herb and forest tree seed, if necessary, to aid in the efficient enforcement of this act.

(e) Make or provide for making purity and germination tests of seed for any person on request; to prescribe rules and regulations governing such testing; to prescribe a schedule of fees for such testing of not less than \$1.00 nor more than \$15.00 per sample and to collect such fees. All fees collected for the testing of seeds shall be deposited with the state treasurer and credited to the general fund.

(f) Cooperate with the United States department of agriculture and other agencies or associations in seed law enforcement.

(g) Publish the results of inspection, sampling, analyzing and testing or any other information as may be necessary to the efficient enforcement of this act.

HISTORY: New 1965, p. 622, Act 329, Eff. Mar. 31, 1966.

286.712 Seed testing; official methods and tolerances.

Sec. 12. The official methods and tolerances of the association of official seed analysts for testing seed shall be used in the enforcement of this act.

HISTORY: New 1965, p. 623, Act 329, Eff. Mar. 31, 1966.

286.713 Seizure of seeds; samples; notice of seizure; summons; judgment; costs; review; appearance by prosecuting attorney.

Sec. 13. (1) The director or his agent at all times may seize and take possession of any lot of agricultural, flower, herb, forest tree and vegetable seeds which, in his opinion is held, kept for sale, or exposed for sale contrary to the provisions of this act.

(2) The person making the seizure shall take samples of the seeds if he deems it necessary, cause the remainder to be sealed and leave them in the possession of the person from whom they were seized, subject to such disposition as may be made thereof according to the provisions of this act.

(3) The person making the seizure shall forward the notice of seizure and deliver the sample to the state seed analyst who shall make an analysis of it and certify the results of the analysis which certificate shall be prima facie evidence of the facts, or facts therein certified to, in any court where the same may be offered in evidence.

(4) If upon analysis, it appears that the seeds seized were, at the time of such seizure, possessed for the purpose of being sold, or were offered or exposed for sale contrary to the provisions of this act, the director may make complaint before any justice of the peace having jurisdiction in the township or city where such seeds were seized. The justice shall issue his summons to the person from whom the seeds were seized, directing him to appear not less than 6 nor more than 12 days from the date of the issuing of the summons, and show cause why the seeds should not be condemned, or disposed of as provided in this act. If the person from whom the seeds were seized cannot be found, the summons shall be served upon the person then in possession of the seeds. The summons shall be served at least 6 days before the time of appearance mentioned herein. If the person from whom the seeds were seized cannot be found and no one can be found in possession of the seeds, and the defendants do not appear on the return day, then the justice of the peace shall proceed in the cause in the same manner provided by law where a writ of attachment is returned not personally served upon any of the defendants and none of the defendants appear upon the return day.

(5) Unless cause to the contrary is shown, or if the seeds are found upon trial to be possessed for the purpose of being sold or offered or exposed for sale contrary to this act, the justice shall render judgment as in his discretion seems proper, as follows: (a) That the seeds seized be forfeited to the state to be disposed of by the director, (b) that the defendant clean the seed under reasonable restrictions imposed by the director, or (c) that the defendant properly mark or label the packages of seeds according to the requirements of this act. In any judgment, the defendant shall also be required to pay the court costs as well as the costs and actual necessary expenses of the person making the seizure, to be levied by the justice and paid before the return to the defendants of the seeds. The mode of procedure before the justice shall be the same as near as may be in civil proceedings before justices of the peace. Either party may appeal to the circuit court as appeals are taken from justices' courts, but it shall not be necessary for the people to give any appeal bond.

(6) The prosecuting attorney, when called upon by the director shall appear for and represent the director.

HISTORY: New 1965, p. 683, Act 329, Eff. Mar. 31, 1966.

286.714 Injunctions; issuance without bond.

Sec. 14. When in the performance of his duty the director applies to any court for a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rules and regulations under this act, the injunction shall be issued without bond.

HISTORY: New 1965, p. 684, Act 329, Eff. Mar. 31, 1966.

286.715 Violation; penalty; prosecution; publication of information.

Sec. 15. (1) Violation of any of the provisions of this act is a misdemeanor. When the director finds that any person has violated any of the provisions of this act, he or his duly authorized agent may institute proceedings in a court of competent jurisdiction in the locality in which the violation occurred, or the director may file with the attorney general with a view of prosecution such evidence as may be deemed necessary. When the director is of the opinion the evidence warrants prosecution, he shall proceed as provided in this act.

(2) The prosecuting attorney or the attorney general shall institute proceedings at once against any person charged with a violation of this act if in the judgment of the officer the information submitted warrants such action.

(3) After judgment by the court in any case arising under this act the director shall publish information pertinent to the issuance of the judgment by the court in such media as he may designate from time to time.

HISTORY: New 1965, p. 624, Act 329, Eff. Mar. 31, 1966.

286.716 Repeal.

Sec. 16. Act No. 314 of the Public Acts of 1923, as amended, being sections 286.51 to 286.63 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1965, p. 624, Act 329, Eff. Mar. 31, 1966.

CHAPTER 287. AGRICULTURE—ANIMAL INDUSTRY

ANIMAL INDUSTRY

Act 181 of 1919

- 287.2 State veterinarian; appointment, term, qualifications.
- 287.3 State commissioner of animal industry; salaries and expenses; assistants and supplies.
- 287.4 Quarantine, sanitary and other regulations as to domestic animals; facilities; poultry, rabbits.
- 287.5 Domestic animals affected with disease; report; duty of local health boards, quarantine, expense.
- 287.6 Quarantine; examination of animals; preventive rules; quarantine; right of entry; dogs; killing of animals; enforcement.
- 287.7 Quarantine; notice to governor; quarantine proclamation, publication; limited district.
- 287.8 Domestic animals affected with disease; appraisal of animals killed; payment; tuberculous cattle.
- 287.9 Domestic animals affected with contagious disease; slaughtering; value paid; right of indemnity.
- 287.10 Domestic animals affected with contagious disease; prohibitions on owner.
- 287.11 Domestic animals affected with contagious disease; importation; obstruction of examination unlawful.
- 287.11a Domestic animals affected with contagious disease; misrepresentation by altering tag, mark or brand of animal.
- 287.12 Execution of orders; arrest; notice to prosecutor, duty.
- 287.13 Governor may prohibit importation of uncertified animals; quarantine.
- 287.14 Violation by corporation or common carrier; penalty; civil damages.
- 287.15 Tuberculous cattle, Bang's disease; slaughter, appraisal, indemnity, conditions; proceeds of sale.
- 287.15a Tuberculous cattle, Bang's disease; county veterinarian's expenses; notice of determination to test; reactors; unlawful to obstruct test; steers.
- 287.15b Bang's disease; county-wide test; notice, publication; branding; expenses; reacting cattle, slaughter.
- 287.15c Indemnities paid to owners of slaughtered cattle.
- 287.16 Cattle entering state; health certificate, specifications.
- 287.16a Imported sheep; health certificate to accompany, contents; cleaning vehicles used in transporting.
- 287.17 Vaccines; sale and use, report; rules governing importation; animals reacting positively to be slaughtered.
- 287.18 Hog cholera serum; living virus, source of supply, use, sale permit, expense, local appropriations.
- 287.19 Swine; feeding garbage; vaccination against hog cholera; removal from stock

yards, garbage feeding lots.

- 287.20 Duty to clean and disinfect premises; notice to commissioner.
- 287.21 Importation of horses or mules; certificate of inspection, contents, expense; scope, limitations.
- 287.21a Feedlots; restriction of cattle sale; tuberculin testing, certificate, nonapplicability; disinfection of facilities.
- 287.21b Exhibition of cattle at fairs or shows; certificate of record; exemptions, nonresident cattle.
- 287.21c Tuberculin test; Bang's disease; branding of reacting cattle.
- 287.22 Biennial report of commissioner.
- 287.23 Penalty; civil liability.
- 287.24 State livestock sanitary commission abolished; powers and duties transferred; rules continued; saving clause; repeal.
- 287.25 Importation or release of live San Juan rabbits prohibited.
- 287.26 Swine; importation; health certificate; quarantine; vaccination; ineligibility for indemnification.

VETERINARY MEDICINE, DENTISTRY AND SURGERY

Act 244 of 1907

287.51-287.65 Repealed.

TUBERCULOSIS IN LIVE STOCK

Act 304 of 1931

- 287.81 Tuberculosis in livestock; eradication, expense.

TEXAS CATTLE

Act 198 of 1885

- 287.91 Certain neat cattle (Texas cattle); unlawful transportation.
- 287.92 Duty of railroad; label on cars; cattle of unascertainable origin.
- 287.93 Feeding; stock yards, location, sign, admittance of other cattle.
- 287.94 Penalty; civil damages.
- 287.95 Misdemeanor; penalty.

HORSES AND MULES

Act 62 of 1931

- 287.101 Imported horses and mules; quarantine.
- 287.102 Imported horses and mules; not to be sold.
- 287.103 Exemption; certificate of health.
- 287.104 When quarantine provisions invoked.
- 287.105 Provisional quarantine.
- 287.106 Penalty for misdemeanor.

LIVE STOCK DEALERS, LICENSING

Act 284 of 1937

- 287.121 Livestock dealer license; definitions.
- 287.122 Licensing of dealers or brokers.
- 287.123 Licensing of livestock dealers or brokers; application, contents, fee; weighmasters; records, bond; transporters, license. Producers' proceeds account, records; sworn statement.
- 287.123a Livestock auction; bond, producers' proceeds account, deposits; record of charges.

- 287.124 Dealers or brokers license; revocation, hearing, notice, review; causes for revocation.
- 287.125 Dealers or brokers license; place of keeping license.
- 287.126 Trucks, yards, pens; requirements as to cleanliness.
- 287.127 Inspection of animals; test or treatment, fee; false statements as to physical condition.
- 287.128 Records of licensee; inspection.
- 287.129 Rules and regulations; adoption, promulgation, enforcement.
- 287.131 Violation of act; penalty.

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Act 134 of 1929

- 287.141 Livestock remedies; defined; remedies excepted.
- 287.142 Livestock remedies; certificate, contents, filing; sample package, affidavit, filing.
- 287.143 Livestock remedies; labels; contents, use.
- 287.144 Livestock remedies; license, fees, issuance, term.
- 287.145 License; refusal to issue, cancellation; lowering of guaranteed analyses; changing of ingredients.
- 287.146 One fee and one certificate required for each brand.
- 287.147 Right of access; right to take samples; annual analysis.
- 287.148 Prosecutions; evidence.
- 287.149 Violation; definition; penalty.
- 287.150 Enforcement; regulations.

BABY CHICKS

Act 227 of 1935

- 287.161 Permit to offer baby chicks at certain sales.
- 287.162 Permit to offer baby chicks at certain sales; application, fee, certificate.
- 287.163 Label required on container of baby chicks.
- 287.164 Report of sale to commissioner of agriculture.
- 287.165 Rules and regulations.
- 287.166 Expenses.
- 287.167 Definitions.
- 287.168 Violation of act; penalty.
- 287.169 Necessity of act.

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Act 213 of 1962

- 287.171 Started pullets; definitions.
- 287.172 Started pullets; inspection, certificate.
- 287.173 Started pullets; inspection fees.
- 287.174 Started pullets; rules and regulations for sanitary conditions and disease control.
- 287.175 Started pullets; misrepresentations; violation of act or rules; criminal and civil liability.

COMMERCIAL FEEDING STUFFS

Act 91 of 1917

- 287.181-287.191 Repealed.

BREEDING OF HORSES

Act 72 of 1929

- 287.201 Stallions; enrollment, certificate; definitions.
- 287.202 Enrollment certificate; procedure to obtain.
- 287.203 Advertising stallions.
- 287.204 Enrollment certificate; issuance, contents; refusal to issue; posting.
- 287.205 Enrollment fees; expiration of certificate, renewal; transfer of ownership, fee; death; disposition of fees.
- 287.206 Powers of commissioner.
- 287.207 Complaint; revocation of certificate; use of unenrolled stallion prohibited; exception.
- 287.208 Stallions imported; examination, certification, fee.
- 287.209 Violation of act; penalty.
- 287.210 Lien for service of stallion, filing; sale of mare or foal; lien.

CERTIFICATION OF LIVESTOCK

Act 150 of 1966

- 287.211 Livestock certification; definitions.
- 287.212 Livestock; certification for identification; registration; forms; contents.
- 287.213 Examination and passing upon pedigree's validity.
- 287.214 Certification of identification certificate; fee.
- 287.215 Recognition of breeding associations; promulgation of rules and regulations.
- 287.216 Effective date.

BRANDING LIVE STOCK

Act 122 of 1883

- 287.221 Ear mark or brand; recording, dissimilarity.
- 287.222 Record book of county clerk; recording fee.

BODIES OF DEAD ANIMALS

Act 226 of 1929

- 287.231 Bodies of dead animals; business of transporting or disposing; license; definition.
- 287.232 Bodies of dead animals; application for license, fee, transfer station, truck or conveyance, fee; inspections.
- 287.232a Bodies of dead animals; hauling, transportation, transfer, disposal; advertisement; restrictions, exceptions.
- 287.233 Disposal plant; specifications, drainage, sanitation; burial, burning; vehicles; transfer stations.
- 287.234 Rules for conduct of business.
- 287.235 Inspection before license issued.
- 287.236 Annual inspection; suspension or revocation of license; notice, hearing.
- 287.237 Blank applications.
- 287.238 License required before engaging in business.
- 287.239 Transportation of hog carcasses.

- 287.240 Scope of act.
 287.240a Repealed.
 287.241 Violation of act; penalty.
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 Act 339 of 1919
 287.261 Dog law of 1919; short title; definitions.
 287.262 Dogs; licensing; tags, leashes.
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 287.264 Supervision and enforcement; citations.
 287.265 Tags, blanks and license forms.
 287.266 Dog license; application, contents, proof of vaccination; fee, powers of supervisors; fee increase.
 287.266a Repealed.
 287.267 Dog license; tag, approval; kept on dog.
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 287.270a Repealed.
 287.270b Kennel licenses; issuance by dog warden.
 287.271 Rules governing kennel dogs.
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 287.273 License and tag; transferability.
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 287.275 County treasurer's record; inspection.
 287.276 Listing of dogs; report to county treasurer; fees; dog wardens, term, compensation.
 287.277 Comparison of dog lists and license records; killing of unlicensed dogs.
 287.278 Killing of dogs; duty of officer; fee.
 287.279 Killing of dogs; justification.
 287.280 Damage to livestock or poultry by dogs; remedy; complaint; proceedings; liability.
 287.281 Damage to livestock or poultry by dogs; report of justice to supervisors.
 287.282 Damage to livestock or poultry by dogs; fees of justice, inclusion in damages.
 287.283 Damage to livestock or poultry by dogs; payment by county; procedure; amount.
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 287.285 Saving clause; disposition of dog fund; expense of dog department in cities, payment.
 287.286 Penalties; disposition of fines.
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 287.286b Penalty for stealing or confining licensed dog.
 287.287 Recovery of value of dog illegally killed.
 287.288 Common law liability.
 287.289 Dogs imported temporarily.
 287.290 Cities, villages, and townships excepted from dog law of 1919; ordinances; vaccination proof.
 287.291 Leader dog of a blind person; exempt from licensing fees.

REGISTRATION AND IDENTIFICATION OF DOGS
 Act 309 of 1939

- 287.301 Dogs; tattooing of serial number; application, fee.
 287.302 Dogs; assignment of title; filing; issuance of title to purchaser.
 287.303 Identification certificate; issuance to owner.
 287.304 Record of dog and owner kept by commissioner of agriculture.
 287.305 Lost dog; finder entitled to fee for keeping.
 287.306 Fees credited to general fund.
 287.307 Mutilating of serial number prohibited; penalty.
 287.308 Stealing or holding dog in possession; penalty.

PET SHOPS, DOG POUNDS AND ANIMAL SHELTERS
 Act 287 of 1969

- 287.331 Pet shops, dog pounds, animal shelters; definitions.
 287.332 Rules; promulgation.
 287.333 License required.
 287.334 Application for licenses; fee.
 287.335 Inspection of pet shop premises.
 287.336 Dog pound, animal shelter; registration.
 287.337 Dog pound, animal shelter; registration application.
 287.338 Dog pound, animal shelter; inspection.
 287.339 Animal breeders and animal researchers; applicability of act.
 287.340 Violations; penalty.

DOG OWNER, LIABILITY FOR INJURIES
 Act 73 of 1939

- 287.351 Injury by dog; liability of owner.

USE OF DOGS AND CATS FOR RESEARCH
 Act 282 of 1966

- 287.361-287.375 Repealed.
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 287.381 Regulation of dealers and facilities using animals in research; definitions.
 287.382 License; application, fee.
 287.383 License, issuance; qualifications.
 287.384 Unlawful sale or transportation of animals; dealers' licenses needed.
 287.385 Rules; promulgation.
 287.386 Identification or marking of dogs and cats.
 287.387 Records of purchases, sales, transportation.
 287.388 Disposal of animal; holding period.
 287.389 Sales by public auction or by weight; disposal of unclaimed dogs and cats, maximum price.
 287.390 License; suspension or revocation; grounds, notice, reinstatement.
 287.391 Bill of sale; form.
 287.392 Violations, penalty.
 287.393 Dealers or facilities; responsible for acts of agents or employees.
 287.394 Effect on other acts.
 287.395 Repeal.

REGULATION AND FEEDING OF GARBAGE TO SWINE
Act 173 of 1953

- 287.401 Regulation and feeding of garbage to swine; definitions.
- 287.402 License, securing, renewal; exemption.
- 287.403 Application for license and renewal, fee, disposition.
- 287.404 Suspension or revocation of license; hearing, notice, time, evidence presented; filing notice.
- 287.405 Treatment of garbage before fed to swine; transportation, regulating.
- 287.406 Inspection of property; examination and submission of records; sale prohibited.
- 287.407 Enforcement of act; rules and regulations.
- 287.408 Violations, penalty.
- 287.409 Payments for destruction of swine; ineligibility.

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Act 152 of 1956

- 287.451 Practice of veterinary medicine; application of act.
- 287.452 Practice of veterinary medicine; definitions.
- 287.453 Practice of veterinary medicine; acts constituting practice.
- 287.454 Practice of veterinary medicine; acts not constituting practice.
- 287.455 Practice of veterinary medicine; persons required to hold license.
- 287.456 State board of veterinary examiners; members, term, vacancies, removal.
- 287.457 State board of veterinary examiners; qualifications.
- 287.458 State board of veterinary examiners; membership by district.
- 287.459 State board of veterinary examiners; business connections of members; chairman; quorum.
- 287.460 State board of veterinary examiners; rules, seal, oaths, subpoenas. Moneys, expenses, per diem, clerical expenses.
- 287.461 State board of veterinary examiners; records, register of applicants; reports. Roster of registered veterinarians. Delegate to annual meeting of national organization, expenses. Board of examiners; meetings.
- 287.462 Examination for license; application, fee, affidavits of eligibility. Notice of time and place of examination. List of approved veterinary colleges. Eligibility. Examination. Grades required. Records of examination. Certification of grades; issuance of licenses.
- 287.463 Temporary permits to practice; conditions.
- 287.464 License without examination; reciprocity by other states or territories; certified statement.

- 287.465 Registration of prior licensees.
- 287.466 Unprofessional conduct; acts included.
- 287.467 Preferment of charges against registrant; suspension or revocation of license; procedure.
- 287.468 Fees.
- 287.469 Practice without license; injunction, penalty.
- 287.470 Enforcement; attorney general as legal advisor.
- 287.471 Board of examiners; duties.
- 287.472 Veterinarians; certificate of registration, filing, fee; nonresidents; list of registrants.
- 287.473 Veterinary practice act; short title.
- 287.474 Repeal.

COMMERCIAL FEED ACT
Act 242 of 1959

- 287.501 Commercial feed act; short title.
- 287.502 Commercial feed act; definitions.
- 287.503 Commercial feeds; label, contents.
- 287.504 Commercial feeds; retail sales in bulk.
- 287.505 Commercial feeds; registration.
- 287.506 Commercial feeds; license fee; exemptions.
- 287.507 Commercial feeds; license fees; disposition.
- 287.508 Commercial feeds; license, issuance, termination.
- 287.509 Commercial feeds; potentially harmful additives, requirements.
- 287.510 Commercial feeds; adulterated.
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- 287.512 Commercial feeds; license, refusal, cancellation; change in ingredients.
- 287.513 Commercial feeds; one license only required; retention of shipping data.
- 287.514 Commercial feeds; director's right of access; samples.
- 287.515 Commercial feeds; annual analysis; testing laboratory.
- 287.516 Commercial feeds; violations, notice, hearing; evidence.
- 287.517 Commercial feeds; rules and regulations.
- 287.518 Commercial feeds; penalty.
- 287.519 Repeal.

HUMANE SLAUGHTER OF LIVESTOCK
Act 163 of 1962

- 287.551 Humane slaughter of livestock; definitions.
- 287.552 Humane slaughter of livestock; methods prohibited.
- 287.553 Humane slaughter of livestock; exemptions.
- 287.554 Ritual slaughter.
- 287.555 Rules and regulations; inhumane methods.
- 287.556 Violation of act; penalty.

SLAUGHTERHOUSES, EDIBLE RENDERING,
WHOLESALE, FABRICATING,
PROCESSING, OR STORAGE ESTABLISHMENTS

Act 280 of 1965

- 287.571 Slaughterhouses, edible rendering establishments; definitions.
- 287.572 Administration; adoption of rules; minimum standards; inspection programs.

287.572a	Transfer of local meat inspection officers and employees to department; agreements; civil service and retirement rights and benefits.	287.577a	Repealed.
287.573	License requirement; sale and transportation of products.	287.578	Meat inspection mark; possession and use.
287.574	Licenses; exemptions.	287.579	Prohibited sales of meat.
287.575	Ante-mortem inspection of meat animals.	287.580	Authorization to seek federal approval of program and to enter cooperative agreement.
287.576	Postmortem inspection and reinspection; expenses, state share.	287.581	Denial or revocation of license; grounds, notice, hearing, appeal.
287.577	License; application, fee, expiration; expense of inspection programs.	287.582	Violation of act; penalty.

Act 181, 1919, p. 324; Imd. Eff. May 2.

AN ACT to provide for the prevention and suppression of contagious, infectious and communicable diseases of livestock; to prohibit the importation into or release within this state of certain rabbits; to provide for the creation of a department of animal industry of the state of Michigan; to authorize and require the appointment of a state commissioner of animal industry, of 2 advisory commissioners and of a state veterinarian; to prescribe the powers and duties of said officers; to make an appropriation therefor; and to repeal all acts or parts of acts contravening the provisions of this act. Am. 1939, p. 152, Act 91, Imd. Eff. May 12;—Am. 1956, p. 177, Act 90, Imd. Eff. Apr. 5.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

NOTE: This section provided for the creation of a department of animal industry and the appointment of a commissioner and 2 advisory commissioners and fixed their terms of office and qualifications.

FORMER ACT: Act 182 of 1885, being CL 1915, 7307-7339.

DEPARTMENT OF ANIMAL INDUSTRY: Abolished; powers and duties transferred to the department of agriculture, see Compilers' 135.1

287.2 State veterinarian; appointment, term, qualifications.

Sec. 2. On the recommendation of the state commissioner of animal industry, the governor shall appoint a state veterinarian who shall hold his office in the first instance to and including the thirtieth day of June, 1925. Thereafter his successor shall be appointed in like manner for terms of 6 years, beginning on the first day of July, 1925 and each 6 years thereafter. No person shall be appointed to the office of state veterinarian other than a graduate of a college of veterinary surgery which is legally entitled to confer the veterinary degree. Said veterinarian shall also be skilled in the diagnosis, treatment and control of contagious and infectious diseases of live stock. Each state veterinarian shall hold his said office until the appointment and qualification of his successor.

HISTORY: CL 1929, 5170;—CL 1948, 287.2.

NOTE: See "Department" note under preceding section.

CRUELTY TO ANIMALS: For criminal statutes on this subject see Compilers' § 750.49 et seq.

287.3 State commissioner of animal industry; salaries and expenses; assistants and supplies.

Sec. 3. Said state commissioner of animal industry shall receive the sum of 10 dollars per day for the time actually spent by him in the discharge of his duties together with expenses necessarily incurred by him in the performance of the duties of his office. The advisory commissioners shall receive no compensation but shall be entitled to their actual expenses incurred while attending meetings called by the commissioner,

or while assisting him in the manner contemplated by this act. The state veterinarian shall receive such compensation as may be fixed by the state commissioner of animal industry subject to the approval of the board of auditors. Said state commissioner of animal industry may employ at the expense of the state such persons, and may purchase such material and supplies as may be necessary to carry into effect the provisions of this act and the orders and regulations of the commissioner made pursuant hereto. All salaries and expenses contemplated hereby shall be paid out of the specific appropriations for said purpose.

HISTORY: CL 1929, 5171;—CL 1948, 287.3.

287.4 Quarantine, sanitary and other regulations as to domestic animals; facilities; poultry, rabbits.

Sec. 4. It shall be the duty of the commissioner of animal industry to have general charge and oversight of the protection of the health of the domestic animals of the state and the guarding of the same from all contagious or infectious diseases. To such end said commissioner is hereby authorized and empowered to establish, maintain and enforce in accordance with this act such quarantine, sanitary and other regulations as may be deemed necessary. It shall be the duty of the state veterinarian to carry out the directions of the commissioner of animal industry, and to devote his entire time to the performance of his official duties. It shall be the duty of the board of auditors of the state to furnish proper office facilities at the city of Lansing for the state commissioner of animal industry and for the state veterinarian, including a laboratory for the investigation of infectious diseases of all livestock. The terms "livestock" or "domestic animals" or "animal," when same appear in this act, shall be held to include poultry and rabbits.

HISTORY: Am. 1925, p. 272, Act 188, Eff. Aug. 28;—CL 1929, 5172;—CL 1948, 287.4;—Am. 1956, p. 177, Act 90, Imd. Eff. Apr. 5.

287.5 Domestic animals affected with disease; report; duty of local health boards, quarantine, expense.

Sec. 5. It shall be the duty of any person who discovers, suspects, or has reason to believe that any domestic animal belonging to him or in his charge, or that may come under his observation, belonging to other parties, is affected with any disease, whether it be a contagious or infectious disease, to immediately report such fact, belief, or suspicion to the state commissioner of animal industry, or to the local board of health or some member thereof. It is hereby made the duty of all local boards of health, to whom cases of contagious or infectious diseases are reported, to immediately investigate the same, either in person by some member or members of the board, or by the employment of a competent and skilled veterinarian; and should such investigation show a reasonable probability that a domestic animal is affected with a contagious or infectious disease of a malignant character, the local board of health shall immediately establish such temporary quarantine as may be necessary to prevent the spread of the disease, and report all action taken to the state commissioner of animal industry; and the acts of local boards of health establishing temporary quarantine shall have the same force and effect as though established by the commissioner, until such time as the commissioner may take charge of the case or cases, and relieve the local board of health. All expenses incurred by local boards of health in carrying out the provisions of this act shall be paid in like manner as are other expenses incurred by said boards in the discharge of other official duties.

HISTORY: CL 1929, 5173;—CL 1948, 287.5.

287.6 Quarantine; examination of animals; preventive rules; quarantine; right of entry; dogs; killing of animals; enforcement.

Sec. 6. The commissioner to whom the existence of any infectious or contagious disease of domestic animals is reported, shall forthwith, either in person or by authorized

representative, proceed to the place where such domestic animal or animals are and examine the same, and if in his opinion any infectious or contagious disease does exist he is authorized to call upon the state veterinarian or other competent and skilled veterinarian to proceed to the place where said contagious or infectious disease is said to exist and examine said animal or animals, and report his or their finding to the said commissioner, who then shall prescribe such rules and regulations as in his judgment the exigencies of the case may require for the effectual suppression and eradication of the disease, and for that purpose the said commissioner may list and describe the domestic animals affected with such disease and those which have been exposed thereto and included within the infected district or premises so defined and quarantined, with such reasonable certainty as would lead to their identification, and no domestic animal liable to become infected with the disease or capable of communicating the same shall be permitted to enter or leave the district, premises or ground so quarantined, except by authority of the commissioner. The said commissioner shall also from time to time give and enforce such directions and prescribe such rules and regulations as to separating, mode of handling, treating, feeding and caring for such diseased and exposed animals as he shall deem necessary to prevent the 2 classes of animals from coming in contact with each other, and perfectly isolate them from all other domestic animals which have not been exposed thereto and which are susceptible of becoming infected with the disease, and the said commissioner and veterinarian are hereby authorized and empowered to enter upon any grounds or premises to carry out the provisions of this act. When in the opinion of the commissioner, or his authorized representative, it shall be necessary to prevent the further spread of any contagious or infectious disease among the live stock of the state, to destroy animals affected with or which have been exposed to any such disease, he shall determine what animals shall be killed, and appraise the same, as hereinafter provided, and cause the same to be killed and the carcasses disposed of as in his judgment will best protect the health of domestic animals of that locality. Said commissioner shall also have power to declare and enforce a quarantine on dogs in any district of this state in which there is an outbreak of rabies, hog cholera, hoof and mouth disease, or any other contagious or infectious disease among live stock; and may order that all dogs in said district shall be securely chained or otherwise confined. Any dog found at large in contravention of the terms of such quarantine or order may be killed. It shall be the duty of the sheriff of each county in the district affected and of his deputies, constables and other municipal police officers to see to it that such quarantine and orders are enforced. Any officers killing a dog pursuant to the provisions of this act shall not be subject to any liability therefor.

History: CL 1922, 5174;—CL 1948, 287.6.

287.7 Quarantine; notice to governor; quarantine proclamation, publication; limited district.

Sec. 7. When the commissioner shall have determined the quarantine and other regulations necessary to prevent the spread among domestic animals of any malignant, contagious or infectious disease found to exist among the live stock of the state, and give his order as hereinbefore provided, prescribing quarantine and other regulations, he shall notify the governor thereof, who shall issue his proclamation proclaiming the boundary of such quarantine and the orders, rules and regulations prescribed by the commissioner, which proclamation may be published by written or printed hand bills posted within the boundaries or on the lines of the district, premises, places or grounds quarantined: Provided, That if the commissioner decides that it is not necessary, by

reason of the limited extent of the district in which such disease exists, that a proclamation should be issued, then none shall be issued, but such commissioner shall give such notice as may seem best to make the quarantine established by him effective.

HISTORY: CL 1929, 5175;—CL 1948, 287.7.

287.8 Domestic animals affected with disease; appraisal of animals killed; payment; tuberculous cattle.

Sec. 8. Whenever the commissioner shall direct the killing of any domestic animal or animals, it shall be his duty to appraise the animal or animals condemned, and in fixing the value thereof he shall be governed by the value of said animal or animals at the date of appraisal. When any livestock shall be appraised and killed by order of the commissioner, he shall issue to the owner of the stock so killed a certificate showing the number and kind of animals killed, and the amount in his judgment, to which the owner is entitled, and report the same to the governor of the state, which certificate, if approved by the governor, shall be presented to the auditor general, who shall draw his warrant on the state treasurer for the amount therein stated, payable out of any money in the treasury not otherwise appropriated: Provided, That the payment and compensation for tuberculous cattle and cattle which react to an approved test for Bang's disease (brucellosis) killed under the provisions of this act shall be subject to the provisions of section 15 hereof.

HISTORY: CL 1929, 5176;—Am. 1945, p. 492, Act 290, Eff. Sept. 6;—CL 1948, 287.8.

287.9 Domestic animals affected with contagious disease; slaughtering; value paid; right of indemnity.

Sec. 9. When any animal or animals are killed under the provisions of this act, by order of the director the owner thereof shall be paid therefor the appraised value as fixed by the appraisal hereinbefore provided for. The right of indemnity on account of animals killed by order of the director shall not extend to the owners of animals which have been brought into the state in a diseased condition, or exposed to disease. Nor shall any animal be paid for by the state which may be brought into the state in violation of any law or quarantine regulation thereof or the owner of which shall have violated any of the provisions of this act, or disregarded any rule or order of the director. Nor shall any animal be paid for by the state which came into the possession of the claimant with the claimant's knowledge that such animal was diseased, or was suspected of being diseased or of having been exposed to any contagious or infectious disease.

HISTORY: CL 1929, 5177;—CL 1948, 287.9;—Am. 1909, p. 184, Act 94, Imd. Eff. Jul. 24.

287.10 Domestic animals affected with contagious disease; prohibitions on owner.

Sec. 10. No person having in his possession any domestic animal affected with any contagious, infectious or communicable disease, knowing such animal to be so affected, shall permit the same to run at large; or shall keep such animal where other domestic animals not affected by, or previously exposed to such disease, may be exposed to contagion or infection; nor shall any person sell, ship, drive, trade, or give away any such diseased animal, any animal which has been exposed to contagion or infection: Provided, however, That such domestic animals may be sold and/or moved for immediate slaughter if such domestic animals are not in violation of a law, direction, rule, regulation, or order establishing or regulating any quarantine.

HISTORY: CL 1929, 5178;—CL 1948, 287.10;—Am. 1955, p. 317, Act 214, Imd. Eff. Jun. 17.

287.11 Domestic animals affected with contagious disease; importation; obstruction of examination unlawful.

Sec. 11. No person shall bring into this state any domestic animal which is affected with any contagious, infectious or communicable disease, or any animal which has

been exposed to any such disease. It shall be unlawful for any person who owns or who is in possession or control of live stock which is affected with any such disease, or which is reasonably suspected of being so affected, to prevent or refuse to allow the state veterinarian, the commissioner, or other authorized officials to examine such stock, or to hinder or obstruct the state veterinarian or commissioner, or other official in any examination or attempted examination of any such animal or animals.

HISTORY: CL 1929, 5179;—CL 1948, 287.11.

287.11a Domestic animals affected with contagious disease; misrepresentation by altering tag, mark or brand of animal.

Sec. 11a. No person acting for himself or acting as agent for any person shall tag, mark or brand, or change, alter or deface the tag, mark or brand of any domestic animal for the purpose of misrepresentation of the animal's identity or the ownership of said animal or with intent thereby to steal the same or to prevent identification thereof by the true owner.

HISTORY: Add. 1937, p. 615, Act 319, Eff. Oct. 29;—CL 1948, 287.11a.

287.12 Execution of orders; arrest; notice to prosecutor, duty.

Sec. 12. The commissioner shall have power to call upon any sheriff, under-sheriff, deputy sheriff, or constable to execute his orders, and such officers shall obey the orders of said commissioner, and the officers performing such duties shall receive compensation therefor as is prescribed by law for like services, and shall be paid therefor in like manner. And any officer may arrest and take before any justice of the peace of the county any person found violating any of the provisions of this act, and such officer shall immediately notify the prosecuting attorney of such arrest, and he shall prosecute the person so offending according to law.

HISTORY: CL 1929, 5180;—CL 1948, 287.12.

287.13 Governor may prohibit importation of uncertified animals; quarantine.

Sec. 13. Whenever the governor of the state shall have good reason to believe that any dangerous, contagious, or infectious disease has become epizootic in certain localities in other states, territories or countries, or that there are conditions which render such domestic animals from such infected districts liable to convey such disease, he shall by proclamation prohibit the importation of any live stock, of the kind diseased into the state, unless accompanied by a certificate of health given by a duly authorized veterinary surgeon; and all such animals arriving in this state shall be examined immediately by the commissioner of animal industry, or person or persons designated by him, and if he deems necessary he shall have said animals inspected by the state veterinarian, and if in his opinion there is any danger from contagion or infection, they shall be placed in close quarantine until such danger of infection or contagion is passed, when they shall be released by order of said commissioner.

HISTORY: CL 1929, 5181;—CL 1948, 287.13.

287.14 Violation by corporation or common carrier; penalty; civil damages.

Sec. 14. Any railroad company, navigation company, or other corporation, or contract or common carrier, who shall knowingly, or wilfully violate, disregard, or evade any of the provisions of this act, or who shall wilfully violate, disregard, or evade any of the rules, regulations, orders, or directions of the commissioner of animal industry establishing or governing quarantine, or who shall evade, or attempt to evade any quarantine proclamation of the governor of this state declaring quarantine limits, shall forfeit and pay to the people of the state of Michigan not less than 500 dollars nor more than 5,000 dollars, for each and every offense, and shall be liable for all damages

caused to any live stock by its or his failure to comply with the requirements of this act.

HISTORY: CL 1928, 5182;—Am. 1937, p. 615, Act 319, Eff. Oct. 29;—CL 1948, 287.14.

287.15 Tuberculous cattle, Bang's disease; slaughter, appraisal, indemnity, conditions; proceeds of sale.

Sec. 15. In case of tuberculous cattle, whenever the commissioner shall direct the killing of such cattle, it shall be the duty of the commissioner to appraise the animal or animals condemned, the owner or owners thereof to receive 1/2 of the difference between the appraised value of each animal so condemned and slaughtered and the value of the salvage thereof, but in no case shall the sum paid exceed \$100.00 for any grade animal nor more than \$150.00 for any registered pure bred animal, nor shall the combined federal and state indemnity paid for any 1 animal exceed the difference between the appraised value and the amount received for salvage. No state indemnity or compensation shall be paid on any cattle which have been slaughtered upon order of the commissioner because of a reaction to the tuberculin test or a positive reaction to the blood test for Bang's disease, unless the commissioner shall be satisfied that the premises on which the animals have been held are kept in a sanitary condition, nor shall compensation be paid until said commissioner is satisfied that the infected premises have been disinfected in such manner as to prevent the further spread of the disease, nor shall indemnity be paid to any breeder of cattle who has not signed or complied with the state or federal agreement for control of Bang's disease in their herds. When the commissioner shall deem it expedient to have cattle that have reacted to a tuberculin test or to an approved test for Bang's disease slaughtered under federal inspection or under the inspection of a competent veterinarian authorized by the commissioner, he shall have the power to order such slaughter. The owner of the animal shall receive all proceeds secured from the sale of the carcass or carcasses of such cattle after payment for shipping, handling and slaughtering charges have been deducted, in addition to the state indemnity or compensation as provided therein. The commissioner shall have power to designate the places where reactor animals shall be appraised and slaughtered. No indemnities shall be paid under the provisions of this section for cattle reacting to the tuberculin test, except such as are branded on the left jaw with the letter "T", nor for cattle reacting positively to the blood test for Bang's disease unless such are branded on the left jaw with the letter "B", either such brand to be in letters not less than 2 inches high, having had the test applied by an authorized veterinarian approved by the state or federal government and which are slaughtered within 30 days from the date of branding. In the case of cattle reacting positively to an approved test for Bang's disease and which are killed by order of the commissioner of agriculture, the state shall indemnify the owner of such reacting cattle from funds appropriated for that purpose by paying such owner 1/2 of the difference between the appraised value of each animal condemned and slaughtered and the salvage value thereof, but not to exceed \$50.00 for any grade animal nor \$100.00 for any pure bred registered animal, nor shall the combined federal and state indemnity paid for any 1 animal exceed the difference between the appraised value and the amount received for salvage. No indemnity shall be paid upon a reacting steer nor upon any animal reacting to the test to which any Bang abortion vaccine has been administered within 18 months prior to the time of such test. No reacting animal shall be eligible for appraisal or indemnity unless such animal and the herd from which that animal originated have been tested upon permit issued by the commissioner and which are handled according to the directions of the commissioner of agriculture. No indemnity shall be paid on any animal which has been imported into the state contrary to state law and the regulations of the commissioner of agriculture. Any person who shall purchase any animal which has reacted to the test for Bang's disease shall not sell or dis-

pose of said animal to any other person or allow the animal to contact or mingle with any other cattle except upon a permit from the commissioner of agriculture.

HISTORY: Am. 1921, p. 532, Act 286, Eff. Aug. 18;—Am. 1921, 1st Ex. Sess., p. 778, Act 9, Eff. Sep. 19;—Am. 1923, p. 115, Act 86, Imd. Eff. Apr. 26;—Am. 1925, p. 44, Act 36, Eff. Aug. 27;—CL 1929, 5183;—Am. 1937, p. 615, Act 319, Eff. Oct. 29;—Am. 1939, p. 152, Act 91, Imd. Eff. May 12;—CL 1948, 287.15;—Am. 1969, p. 446, Act 234, Imd. Eff. Aug. 11.

287.15a Tuberculous cattle, Bang's disease; county veterinarian's expenses; notice of determination to test; reactors; unlawful to obstruct test; steers.

Sec. 15-a. The board of supervisors of any county in this state is hereby authorized to raise and appropriate annually such sum as it may deem necessary for the purpose of paying the salaries of 1 or more veterinarians authorized by the state commissioner of agriculture and the bureau of animal industry of the United States to conduct the testing for tuberculosis of all cattle within the county, together with the actual and necessary expenses of such veterinarians and inspectors engaged in such testing, also all supplies necessary therefor. Whenever the commissioner shall have determined to test for tuberculosis all the cattle in any certain county where bovine tuberculosis eradication has been adopted, he shall give public notice of his determination by publishing a notice to that effect in 1 or more newspapers of general circulation in said county at least 10 days before such testing shall commence. Cattle found to be reactors to such test shall be branded, slaughtered when ordered by the commissioner, and the owners thereof entitled to such indemnities as in this act provided. It shall be unlawful for any person who owns or who is in possession of or controls any cattle to prevent, hinder, obstruct, or refuse to allow the commissioner or authorized veterinarian to conduct such tests for tuberculosis on such cattle: Provided, That this section shall not apply to steers properly isolated from other cattle.

HISTORY: Add. 1923, p. 116, Act 86, Imd. Eff. April 26;—CL 1929, 5184;—CL 1948, 287.15a.

287.15b Bang's disease; county-wide test; notice, publication; branding; expenses; reacting cattle, slaughter.

Sec. 15b. Upon the passage by a majority vote by the board of supervisors of any county in this state of a resolution requesting the director to conduct a county-wide test of the cattle of such county for Bang's disease, it shall be the duty of the director within a reasonable time thereafter to cause a test approved by the director for Bang's disease to be given to all breeding cattle above the age of 6 months within such county, and to cause the retesting of such cattle when necessary for control of the disease, and to establish and maintain the county as a modified certified brucellosis free area so far as funds appropriated for this purpose are available in conformity with rules and methods adopted by the commission of agriculture. At least 10 days prior to the time of the beginning of said testing, the director of agriculture shall give public notice that such test is to be given in 1 or more newspapers of general circulation in said county and all future tests shall be a part of the original notice. Cattle found to be reactors to an official test for Bang's disease shall be forthwith branded by any authorized representative of the department of agriculture. It shall be unlawful for any person, firm or corporation owning, or in possession of, or in control of any cattle subject to said tests as herein provided to prevent, hinder, obstruct, or refuse to allow the director or his duly authorized veterinarian to conduct such test or to permanently identify such reacting cattle. The necessary expense of carrying out the provisions of this act shall be met by the department of agriculture of this state, from funds appropriated for that purpose. All fees paid covering the cost of laboratory testing of specimens shall be turned over to the state treasury and credited to the general fund. When a majority of the board of supervisors of any county shall by resolution request the Michigan director of agriculture to order the slaughter of cattle which have reacted positively to an approved test for Bang's disease (brucellosis), such test having been

conducted under the provisions of this section, the director may order such reacting cattle slaughtered.

HISTORY: Add. 1937, p. 616, Act 319, Eff. Oct. 29;—Am. 1939, p. 153, Act 91, Imd. Eff. May 12;—Am. 1945, p. 492, Act 290, Eff. Sep. 6. —Am. 1947, p. 292, Act 206, Imd. Eff. Jun. 16;—CL 1948, 287.15b;—Am. 1949, p. 284, Act 234, Eff. Sep. 23;—Am. 1955, p. 317, Act 214, Imd. Eff. Jun. 17.

287.15c Indemnities paid to owners of slaughtered cattle.

Sec. 15c. The moneys appropriated by the legislature to carry out the provisions of this act with regards to Bang's disease shall be expended in the payment of indemnities to the owners of cattle reacting to the test for Bang's disease and condemned and slaughtered, all as provided in section 15 of this act, and to defray the expenses incurred in the control of Bang's disease under the terms and conditions therein set forth.

HISTORY: Add. 1939, p. 154, Act 91, Imd. Eff. May 12;—Am. 1943, p. 166, Act 128, Imd. Eff. April 13;—CL 1948, 287.15c.

287.16 Cattle entering state; health certificate, specifications.

Sec. 16. A permit or health certificate shall accompany all cattle entering this state. The health certificate or permit shall be attached to the railroad waybill or shall be in possession of the person in charge of the cattle while in transit if not moved by railroad. Health certificates shall conform to the following specifications:

(1) They shall be certificates of inspections made by and signed by a veterinarian who is approved by the state of origin or the United States department of agriculture.

(2) They shall state that the cattle described in the certificate are apparently free from contagious, infectious or communicable disease.

(3) The cattle shall be described by breed, sex and age, and identified by tag, tattoo or registration number.

(4) The certificates shall be made on official blanks of the state of origin and the date of inspection and the date of shipment shown.

(5) All data necessary to report required tests and vaccinations shall be plainly recorded.

(6) Origin and destination of the shipment and names and addresses of consignor and consignee shall be given.

(7) The certificate shall indicate whether the cattle in the shipment are to be used for (a) dairy or breeding, (b) feeding or grazing or (c) immediate slaughter.

(8) A copy of the certificate, approved by the livestock sanitary official of the state of origin, shall be immediately furnished the state veterinarian. After July 1, 1970 all female dairy and breeding cattle over 7 months of age shall have been officially calf-hood vaccinated for brucellosis between the ages of 3 months through 7 months, except upon a permit and under conditions prescribed by the director of agriculture.

All dairy and breeding cattle entering this state shall originate from herds not under quarantine and shall be accompanied by health certificates provided for in this section showing that they have passed tests for tuberculosis and brucellosis (Bang's disease) as follows:

Tuberculosis tests on all ages must be made within 30 days prior to importation, or the cattle for importation shall originate directly from a tuberculosis-free accredited herd.

The cattle 12 months of age or older shall have been tested for brucellosis under the supervision of the state or federal livestock sanitary officials within 30 days of date of shipment and found negative, except:

(1) Cattle originating in certified brucellosis-free herds.

(2) Cattle originating in modified certified brucellosis areas from herds not under quarantine, the herd having passed a blood test for brucellosis within 1 year prior to entry.

(3) Cattle identified as official vaccinates and under 30 months of age on date of shipment.

Steers, spayed heifers and calves under 12 months of age from herds not under quarantine are exempt from the brucellosis testing requirements of this section.

Permits in writing or by telegram for importation of cattle may be issued by the director of agriculture or his authorized representative. Transportation, handling, testing and quarantine requirements may be prescribed by the director of agriculture. Applicants for permits must furnish the following information:

- (1) Number and kind of cattle.
- (2) Origin and destination.
- (3) Names and addresses of consignor and consignee.

Feeding and grazing cattle, except steers and spayed heifers, entering this state shall be accompanied by:

- (1) Health certificates as herein provided for dairy and breeding cattle, or
- (2) Permits subject to the following requirements: (a) Feeding and grazing cattle over 18 months of age shall upon arrival be maintained in quarantine, intact, undivided, separate and apart from other cattle, and be tested for brucellosis (Bang's disease) and tuberculosis at the expense and risk of the owner within 10 days after arrival. (b) All cattle that react to such tests shall be slaughtered within 10 days after being tested. (c) Feeding and grazing cattle under 18 months of age may be held in quarantine separate and apart from dairy and breeding cattle until tested for brucellosis and tuberculosis or slaughtered. (d) Licensed livestock dealers operating a livestock yard in this state receiving feeding and grazing cattle under 18 months of age on permits or under the provision of the federal brucellosis regulation at federally approved yards may with the permission of the director of agriculture and within 10 days after arrival release the cattle to purchasers subject to provisions as to permit requirements and shall report names and addresses of purchasers within 5 days. Livestock dealers shall be responsible for any loss sustained by the buyer on cattle that may react to brucellosis or tuberculosis tests conducted within 10 days of purchase. (e) All cattle of each consignment shall remain in quarantine until released in writing by the state veterinarian. The director of agriculture may refuse to issue permits to anyone who has refused or failed to comply with the provisions of this act. No indemnity shall be paid for the slaughter of any cattle that react to a test for tuberculosis or brucellosis (Bang's disease) within 6 months after their arrival within the state.

Cattle entering this state for immediate slaughter shall be consigned and delivered directly to a slaughterhouse or packing plant in which United States department of agriculture meat inspection is maintained or to a slaughterhouse or packing plant approved by the director of agriculture to import cattle for immediate slaughter. All such cattle shall be kept separate and apart from all other cattle and shall be killed within 5 days after arrival.

Steers and spayed heifers may enter this state accompanied by health certificates or permits and if not tested for tuberculosis within 30 days before arrival shall be kept separate and apart from dairy or breeding cattle until tested for tuberculosis or slaughtered.

This section shall not apply to cattle consigned and delivered to terminal markets where state and United States department of agriculture veterinary inspection is daily maintained. Cattle being released from terminal markets for purposes other than slaughter shall meet the requirements of this section.

HISTORY: CL 1929, 5185;—Am. 1931, p. 359, Act 207, Eff. Sep. 18;—Am. 1937, p. 817, Act 319, Eff. Oct. 29;—CL 1948, 287.16;—Am. 1948, p. 208, Act 193, Eff. Sep. 23;—Am. 1955, p. 318, Act 214, Imd. Eff. Jun. 17;—Am. 1958, p. 143, Act 131, Eff. Sep. 13;—Am. 1959, p. 343, Act 236, Eff. Mar. 19, 1960;—Am. 1961, p. 213, Act 149, Eff. Sep. 8;—Am. 1964, p. 241, Act 181, Eff. Aug. 28;—Am. 1970, p. 533, Act 178, Eff. Apr. 1, 1971.

287.16a Imported sheep; health certificate to accompany, contents; cleaning vehicles used in transporting.

Sec. 16a. All sheep imported into Michigan for purposes other than immediate slaughter must be accompanied by a health certificate signed by an approved inspector of the state of origin or the United States department of agriculture or an accredited veterinarian. The health certificate shall state (1) the names and addresses of the consignor and the consignee; (2) the date the sheep are loaded at the point of origin; (3) the place of origin and destination; (4) the number and description of the sheep; (5) that the sheep have been inspected and are free from scabies, footrot and other contagious diseases; (6) that they originate in a state designated by the United States department of agriculture as being a scabies free area or that the sheep have been dipped once in a permitted dip in accordance with the interstate regulations of the United States department of agriculture under supervision of a state or federal inspector or an accredited veterinarian within 10 days previous to the date on which they are loaded at the point of origin. A copy of the certificate, approved by the chief state or federal veterinary livestock sanitary official of the state of origin, must be delivered to the office of the state veterinarian of Michigan not later than the arrival of the sheep at their destination. All cars and trucks used to transport sheep into Michigan must have been cleaned and disinfected since they were previously used for transporting livestock. No sheep en route to Michigan shall be unloaded in yards or other places located in areas not officially designated as scab free.

HISTORY: Add. 1943, p. 160, Act 123, Imd. Eff. Apr. 13;—CL 1948, 287.16a;—Am. 1953, p. 41, Act 46, Eff. Oct. 2;—Am. 1966, p. 156, Act 131, Imd. Eff. Jun. 23.

287.17 Vaccines; sale and use, report; rules governing importation; animals reacting positively to be slaughtered.

Sec. 17. Any person, agency or company who shall consign, ship, or transport into Michigan or who shall sell, dispose of, or distribute within the state of Michigan, any mallein, tuberculin, hog cholera serum or virus, any antigen or product which may be used for the diagnosis of any infectious or communicable disease of live stock or who shall dispose of or distribute any vaccine which contains the live virus or live organism of any disease of live stock shall immediately furnish a report of such disposal or distribution to the Michigan department of agriculture, stating the kind and amount of product involved, with the full name and address of the consignee or recipient of the product. Any person who shall engage in any test used for the detection of an infectious or communicable disease of live stock or who shall use or administer any vaccine or product which contains the live virus or live organism of any live stock disease within the state shall within 5 days furnish a report of the result of said test or the use of such vaccine to the Michigan department of agriculture. The report shall state the number and furnish identification of the animals tested or vaccinated and the name and address of the owner or custodian of said animals. The Michigan commissioner of agriculture is hereby authorized to establish rules and regulations which shall govern the importation, use, and distribution within the state of vaccines and products as mentioned herein. Any animal which has reacted positively to any test approved by the United States bureau of animal industry or the Michigan state bureau of animal industry for the detection of tuberculosis or Bang's disease shall not be sold, disposed of, or moved from the premises of the owner except said animal is immediately slaughtered. The commissioner of agriculture or his authorized representatives may issue a permit and directions providing for the sale and immediate slaughter of any animal

that may have reacted positively to the test for Bang's disease: Provided, That the commissioner may permit the owner of any cattle which have reacted to the test for Bang's disease to retain such cattle in the owner's possession under complete and sufficient isolation to prevent spread of the disease to the cattle of any other herd.

HISTORY: Am. 1925, p. 45, Act 36, Eff. Aug. 27;—CL 1929, 5186;—Am. 1931, p. 359, Act 307, Eff. Sept. 18;—Am. 1937, p. 618, Act 319, Eff. Oct. 29;—Am. 1943, p. 157, Act 119, Imd. Eff. April 13;—CL 1948, 287.17.

287.18 Hog cholera serum; living virus, source of supply, use, sale permit, expense, local appropriations.

Sec. 18. It shall not be lawful to use any hog cholera serum in this state, except that made by a serum manufacturing plant licensed by the United States department of agriculture. Such serum may be used or administered by any competent person, and the use of living hog cholera virus is prohibited in this state, except when used by a regularly qualified veterinarian, and upon a written permit issued by the director of agriculture or his authorized representative. The sale and distribution of living hog virus within this state is prohibited except upon permit from the director of agriculture or his authorized representative. All expenses connected with the purchase of such serum or virus shall be borne by the owner or owners of such infected hogs. The board of supervisors of any county, or the township board of any township shall have the power to appropriate money to be expended for hog cholera serum for use within their respective counties or townships.

HISTORY: Am. 1921, p. 532, Act 286, Eff. Aug. 18;—CL 1929, 5187;—Am. 1931, p. 359, Act 307, Eff. Sept. 18;—CL 1948, 287.18;—Am. 1954, p. 49, Act 47, Eff. Sep. 13;—Am. 1962, p. 36, Act 42, Eff. Mar. 28, 1963.

287.19 Swine; feeding garbage; vaccination against hog cholera; removal from stock yards, garbage feeding lots.

Sec. 19. The feeding of swine upon garbage, either raw or cooked, obtained elsewhere than upon the premises where fed, is prohibited, unless such hogs shall have been properly vaccinated against hog cholera as approved by the director of agriculture. No individual or firm or corporation shall sell or move any swine from any public stock yards, auction sale yards, livestock yard, or slaughter house premises, except for immediate slaughter: Provided, however, That subject to rules and regulations established by the commission of agriculture swine to be used for purposes other than immediate slaughter which shall have been properly vaccinated for the prevention of hog cholera may be removed from public stock yards, auction sales or livestock yards that have state or federal veterinary inspection. For the purpose of this act, all public stock yards, auction sale yards, livestock yards, garbage feeding premises, and slaughter house premises shall be considered as infected with the virus of hog cholera and the organisms of infectious diseases of swine. Except upon a permit from the director of agriculture or his authorized representative, no person shall sell or move any swine from a garbage feeding lot or premises within this state unless such swine shall be immediately slaughtered.

HISTORY: CL 1929, 5189;—Am. 1931, p. 359, Act 307, Eff. Sept. 18;—Am. 1936, p. 154, Act 91, Imd. Eff. May 12;—Am. 1943, p. 161, Act 121, Imd. Eff. Apr. 13;—CL 1948, 287.19;—Am. 1958, p. 155, Act 141, Eff. Sep. 13.

287.20 Duty to clean and disinfect premises; notice to commissioner.

Sec. 20. It shall be the duty of the owner or owners, or any individual in charge, of any premises from which infected or exposed live stock may be shipped or otherwise disposed of, to thoroughly clean and properly disinfect all yards, pens, or other enclosures, in which such live stock may have been kept, and upon the completion of the work immediately notify the commissioner of agriculture.

HISTORY: CL 1929, 5189;—Am. 1931, p. 360, Act 307, Eff. Sept. 18;—CL 1948, 287.20.

287.21 Importation of horses or mules; certificate of inspection, contents, expense; scope, limitations.

Sec. 21. Any horses or mules moved or imported into this state shall be accompanied by a certificate of inspection issued by a graduate veterinarian legally authorized to practice in the state or province from which said horses or mules are imported. A legible copy of such certificate approved by the chief live stock sanitary official of the state or province of origin or by a United States bureau of animal industry inspector shall immediately be furnished the Michigan department of agriculture. Such certificates shall furnish the name and proper address of the consignor and the name and proper address of the consignee at destination and the number and description of the horses or mules shipped. No horses or mules affected with or recently exposed to any malignant or communicable disease shall be brought into the state: Provided, That the provisions of this section shall not apply to the transportation of horses through the state to points beyond the state lines, to horses or mules temporarily within the state for exhibition purposes, nor to horses and mules owned by persons who live in an adjoining state and who own or lease land in Michigan contiguous to the state line and who may move horses or mules to such land for the purpose of pasturing or in connection with cultivation of said land.

HISTORY: CL 1929, 5190;—Am. 1937, p. 618, Act 319, Eff. Oct. 29;—CL 1948, 287.21.

287.21a Feedlots; restriction of cattle sale; tuberculin testing, certificate, nonapplicability; disinfection of facilities.

Sec. 21a. For the purpose of this section an "approved feedlot" is premises maintained for the purpose of feeding cattle over 18 months of age for slaughter. Approved feedlots shall be registered with the department and operated in a manner prescribed by it. Cattle over 12 months of age shall not be sold or otherwise disposed of, or moved to associate with cattle of another owner in this state except when such cattle originate from a herd not under quarantine and have passed a negative tuberculin test conducted within 90 days of date of such sale by a veterinarian approved by the state department of agriculture, or shall originate from a tuberculosis-free accredited herd, or be from a herd of which all members over 2 years of age were negative to a tuberculosis test within 12 months of the date of sale.

The seller or his agent shall furnish the buyer an official certificate of record issued by the director of agriculture certifying that cattle sold for dairy or breeding purposes have qualified with the above tuberculosis testing requirements.

Cattle over 12 months of age shall not be sold or otherwise disposed of, or moved to associate with cattle of another owner, except when such cattle originate from a herd not under quarantine and are accompanied with an official certificate of record issued by the director of agriculture (a) upon furnishing of an officially passed test for brucellosis (Bang's disease), conducted within 90 days prior to such sale, disposal or movement, or (b) upon showing vaccination between the ages of 3 through 7 months with an approved vaccine, by an accredited veterinarian, and permanently identified as a vaccinate in a manner approved by the director of agriculture by the veterinarian on animals under 30 months of age on date of sale, disposal or movement, and on record within the state department of agriculture, or (c) upon cattle originating immediately from certified brucellosis (Bang's disease) free herds, or (d) upon cattle originating immediately from herds not under quarantine, all members of which over 1 year of age were negative to a brucellosis test within 1 year of the date of the sale and located in officially modified certified brucellosis counties, or (e) except that feeder cattle under 18 months of age may be sold on a permit from the director and in a manner prescribed by the director, or (f) except that cattle over 18 months of age may be sold to

an approved feedlot on a permit issued by the department. Such cattle shall be permanently identified in a manner approved by the department.

All female cattle born after July 1, 1970 sold or otherwise disposed of or moved to associate with cattle of another owner for dairy and breeding purposes, after reaching 8 months of age, shall have been officially vaccinated for brucellosis and accompanied by official proof of such vaccination.

Responsibility for furnishing an official certificate of record and proof of vaccination in case of sale or disposal shall rest with the seller or his agent.

Certificates of record required by this section shall not apply to steers, spayed heifers, cattle under 12 months of age or cattle disposed of for slaughter. Cattle disposed of for slaughter shall be accompanied by a bill of sale, invoice or sales slip showing the date of sale and be identified in a manner determined by the director and may be sold or moved as follows:

- (a) Direct to a slaughtering establishment for slaughter within 5 days, or
- (b) To a livestock auction as defined in section 1 of Act No. 284 of the Public Acts of 1937, as amended, being section 287.121 of the Compiled Laws of 1948, or
- (c) To a terminal market.

Under (b) and (c) above cattle shall be moved to a slaughtering establishment for slaughter within 10 days.

Dairy and breeding cattle accompanied by an official certificate of record may be sold at livestock auctions licensed under Act No. 284 of the Public Acts of 1937, as amended, being sections 287.121 to 287.131 of the Compiled Laws of 1948, if such dairy and breeding cattle are handled and housed in separate facilities and pens, and these facilities and pens are not used for other cattle. The alleys and sale rings used for dairy and breeding cattle shall be cleaned and disinfected before each sale and shall not be used by untested slaughter cattle or reactor cattle after cleaning and disinfection prior to use by dairy and breeding cattle. The pens, facilities and cleaning and disinfecting shall be approved by the director.

HISTORY: Add. 1921, p. 533, Act 286, Eff. Aug. 18;—Am. 1923, p. 117, Act 89, Imd. Eff. Apr. 26;—CL 1929, 5191;—Am. 1945, p. 492, Act 290, Eff. Sep. 6;—CL 1948, 287.21a;—Am. 1949, p. 167, Act 157, Imd. Eff. May 24;—Am. 1955, p. 319, Act 214, Imd. Eff. Jun. 17;—Am. 1958, p. 145, Act 131, Eff. Sep. 13;—Am. 1959, p. 345, Act 236, Eff. Mar. 19, 1960;—Am. 1961, p. 406, Act 231, Imd. Eff. Jun. 7;—Am. 1962, p. 134, Act 140, Eff. Mar. 28, 1963;—Am. 1964, p. 242, Act 181, Eff. Aug. 28;—Am. 1970, p. 535, Act 178, Eff. Apr. 1, 1971.

287.21b Exhibition of cattle at fairs or shows; certificate of record; exemptions, nonresident cattle.

Sec. 21b. It shall be unlawful to offer any resident cattle of this state over 12 months of age at any public fair or livestock show in this state for exhibition purposes except when accompanied by a certificate of record, which shall include a record of negative tuberculin test and a record of negative test for brucellosis (Bang's disease) approved by the director of agriculture which has been furnished the state department of agriculture, both of which tests shall have been conducted within 90 days prior to the opening day of said fair or livestock show and in conformity with regulations which shall be established by the state director of agriculture relating thereto. Copies of such records of tests shall be attached to the entry blank and filed with the secretary of the fair or show. Cattle under 30 months of age may be exhibited if accompanied by an official certificate of calfhood vaccination for brucellosis issued by the director of agriculture showing such cattle to be vaccinated between the ages of 4 through 8 months, with an approved vaccine by an accredited veterinarian and on record with the department of agriculture, without meeting blood test requirement. The certificate required by this section shall not be necessary in the case of cattle identified as not under quarantine and located in Michigan in a modified tuberculosis free area, nor to cattle properly identified as not under quarantine and located in Michigan in a certified brucellosis-free area. All steers, freemartins, spayed heifers and all cattle under 12

months of age are exempt from the requirements of this section. Nonresident cattle entering this state for exhibition purposes only may be exhibited when accompanied by an interstate health certificate from the state of origin certifying that the cattle meet the requirements of this state for importation. The certificate shall bear the signature of the certifying livestock sanitary official of the state of origin, and nonresident cattle may be exhibited for 90 days from the date of issue of the accompanying interstate health certificate.

HISTORY: Add. 1921, p. 534, Act 286, Eff. Aug. 18;—Am. 1923, p. 117, Act 99, Imd. Eff. Apr. 26;—CL 1929, 5192;—Am. 1937, p. 615, Act 319, Eff. Oct. 29;—Am. 1939, p. 154, Act 91, Imd. Eff. May 12;—Am. 1947, p. 254, Act 175, Eff. Oct. 11;—CL 1948, 287.21b;—Am. 1955, p. 320, Act 214, Imd. Eff. Jun. 17;—Am. 1956, p. 146, Act 131, Eff. Sep. 13;—Am. 1961, p. 407, Act 231, Imd. Eff. Jun. 7;—Am. 1967, p. 22, Act 14, Imd. Eff. Jun. 2.

287.21c Tuberculin test; Bang's disease; branding of reacting cattle.

Sec. 21c. It shall be the duty of every veterinarian making any tuberculin test or who is employed in making any approved test for Bang's disease within the state to file with the state department of agriculture within 5 days after completing such test, the charts thereof, and to furnish the owner of cattle so tested with a certificate showing the result of the tests so made and to brand each reacting animal on the left jaw with the letter "T", if such animal has reacted positively to the tuberculin test and with the letter "B" in case such animal has reacted positively to the test for Bang's disease, such brand in each instance to be of permanent nature and not less than 2 inches high. It shall be unlawful for any person, firm or corporation owning, or in possession of, or in control of any cattle subject to said brand as herein provided to prevent, hinder, obstruct or refuse to allow the director or his duly authorized representative to permanently identify such reacting cattle.

HISTORY: Add. 1921, p. 534, Act 286, Eff. Aug. 18;—Am. 1921, 1st Ex. Ses., p. 779, Act 9, Eff. Sep. 19;—Am. 1923, p. 117, Act 89, Imd. Eff. Apr. 26;—CL 1929, 5193;—Am. 1937, p. 619, Act 319, Eff. Oct. 29;—Am. 1947, p. 293, Act 206, Imd. Eff. Jun. 16;—CL 1948, 287.21c;—Am. 1955, p. 321, Act 214, Imd. Eff. Jun. 17.

287.22 Biennial report of commissioner.

Sec. 22. The state commissioner of animal industry is hereby required to make a biennial report to the governor covering the business of the department of animal industry. Said report shall be presented on or before the thirty-first day of December of each even year, and shall be by the governor transmitted to the legislature at its next ensuing regular session.

HISTORY: CL 1929, 5194;—CL 1948, 287.22.

NOTE: See "Department" note under Sec. 1 of this act.

287.23 Penalty; civil liability.

Sec. 23. Any person, firm, partnership, copartnership, corporation or association violating, disregarding or evading any of the provisions of this act, or any of the rules, regulations, orders or directions of the director of agriculture made pursuant hereto, is guilty of a misdemeanor and for the first offense shall be fined not less than \$50.00 nor more than \$100.00, or imprisoned in the county jail for a period of not more than 90 days, or both, and for each subsequent offense upon conviction thereof shall be fined not less than \$100.00 nor more than \$500.00, or imprisoned in the county jail for a period of not more than 6 months, or both. Any person, corporation, firm, partnership, copartnership, association or common carrier shall be liable for all damages caused to any livestock for evasion or failure to comply with the requirements of this act.

HISTORY: CL 1929, 5195;—Am. 1937, p. 619, Act 319, Eff. Oct. 29;—CL 1948, 287.23;—Am. 1953, p. 41, Act 46, Eff. Oct. 2;—Am. 1961, p. 215, Act 149, Eff. Sep. 8.

287.24 State livestock sanitary commission abolished; powers and duties transferred; rules continued; saving clause; repeal.

Sec. 24. The state live stock sanitary commission is hereby abolished and all functions, powers and duties now vested by law therein are hereby transmitted to and vested in the department of animal industry hereby created, except so far as may be

inconsistent with the provisions hereof. All proceedings of any nature whatsoever now pending, instituted by or before said commission, shall be continued to determination by or before the department of animal industry; and all orders, rules and regulations heretofore made by the live stock sanitary commission, and in force at the time this act becomes effective, shall continue in force until executed or until changed in the manner provided by law. Any right accruing to any person under the law creating said commission, and prescribing the powers and duties thereof, is hereby preserved and may be enforced in the manner contemplated by said law, or as in this act contemplated, except as herein provided, all acts or parts of acts contravening the provisions of this act or covering the subject matter hereof are hereby repealed.

HISTORY: CL 1929, 5196;—CL 1948, 287.24.

DEPARTMENT OF ANIMAL INDUSTRY: Abolished, its functions being transferred to the department of agriculture, see Compilers' 285.1

287.25 Importation or release of live San Juan rabbits prohibited.

Sec. 25. No person shall bring into or release within this state any live San Juan rabbit (*Oryctolagus Cuniculus* L.).

HISTORY: Add. 1956, p. 178, Act 90, Imd. Eff. Apr. 5.

287.26 Swine; importation; health certificate; quarantine; vaccination; ineligibility for indemnification.

Sec. 26. No person, company, association or agent shall import or move any swine into this state except in conformity with the requirements of this section.

(1) Each shipment of swine imported into this state for slaughter purposes shall be delivered only to a slaughterhouse approved by the department of agriculture to receive livestock for slaughter; to a public stockyard where state or federal veterinary inspection is daily maintained or to a market specifically approved to receive swine for slaughter. The swine, upon arrival at the slaughterhouse at destination, shall be killed within 48 hours.

(2) Swine for breeding purposes shall be accompanied by an official interstate health certificate, a copy of which shall be furnished immediately to the state veterinarian. The certificate shall be issued by an accredited veterinarian or a state or federal veterinarian at the point of origin. The health certificate shall certify that the swine have been inspected and found to be free from clinical evidence of contagious or infectious disease, and that they have been vaccinated against hog cholera with inactivated or killed hog cholera vaccine approved by the United States department of agriculture more than 21 days prior and not more than 6 months prior to importation or hog cholera serum or serum concentrate within 5 days of shipment, except that breeding swine originating from hog cholera free states may enter without vaccination. The certificate shall show that breeding swine over 4 months of age were negative to an agglutination test in the 1/25 dilution for brucellosis, conducted in a state or federal laboratory within 30 days of importation, or originated directly from a validated brucellosis free herd of swine.

(3) Swine imported into this state shall be free from clinical evidence of any contagious or infectious disease and shall be transported in disinfected cars or vehicles.

(4) Swine imported for feeding purposes shall be accompanied by a permit from the state veterinarian's office and shall be accompanied by an official interstate health certificate.

(5) All swine imported into this state except those for immediate slaughter shall be identified by individual ear tag or tattoo and shall be held in quarantine for a period of not less than 3 weeks after arrival at destination.

(6) The importation of swine vaccinated for hog cholera with living vaccine is prohibited except upon a special permit issued by the director of agriculture.

(7) On and after January 1, 1971, the importation of swine vaccinated with killed or inactivated hog cholera vaccine is prohibited except upon a special permit issued by the director of agriculture.

(8) The responsibility for obtaining permits to import swine, and assuring that official interstate health certificates prepared in compliance with requirements of this section accompany the swine, rests upon the person purchasing or receiving the imported swine in this state. The person transporting the swine into this state shall be equally responsible for assuring that the swine are accompanied by valid permits and official health certificates required by this section.

(9) No person shall be eligible to receive indemnity payments for any imported swine or any native swine that are comingled [sic] with imported swine destroyed to prevent the spread of contagious or infectious disease that developed or exhibited symptoms of contagious or infectious disease during the 3-week quarantine period provided in this section nor shall any person that has violated any of the requirements of this section be eligible to receive indemnity payments for swine so destroyed.

HISTORY: Add. 1965, p. 410, Act 238, Imd. Eff. Jul. 21;—Am. 1967, p. 21, Act 12, Eff. Nov. 2;—Am. 1968, p. 247, Act 161, Imd. Eff. Jun. 17.

287.51-287.65 Repealed. 1956, p. 292, Act 152, Eff. Aug. 11.

Sections provided for regulation of practice of veterinary medicine, dentistry and surgery.

Act 304, 1931, p. 496; Imd. Eff. Jun. 8.

AN ACT to provide for the prevention and suppression of tuberculosis in live stock; to transfer to the state department of agriculture the powers now given under authorization of law to the boards of supervisors in the several counties and to make an appropriation therefor.

The People of the State of Michigan enact:

287.81 Tuberculosis in livestock; eradication, expense.

Sec. 1. From and after the date on which this act takes effect the state department of agriculture shall take over and direct the work and assume the expense which now under authorization of law may be performed by the boards of supervisors of the several counties in all work connected with the eradication of tuberculosis in live stock. All testing for tuberculosis in live stock shall hereafter be performed under the direction of the state department of agriculture and the expenses for such work and indemnities to be paid shall be paid from moneys in this act appropriated. The intent of the act is to relieve boards of supervisors in the several counties from any and all expenses which under authorization of law may now be incurred and paid for by such board or boards of supervisors.

HISTORY: CL 1948, 287.81.

Secs. 2-3. (These were appropriation and tax clause sections.)

HISTORY: Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

Act 198, 1885, p. 278; Eff. Sep. 28.

AN ACT to regulate and provide for the carrying, yarding and feeding of so-called Texas cattle while in transit into or across this state between the first day of April and the first day of November of each year.

The People of the State of Michigan enact:

287.91 Certain neat cattle (Texas cattle); unlawful transportation.

Sec. 1. That it shall not be lawful to transport any neat cattle into or across this state, yard or feed the same, that have been reared or kept south of the thirty-sixth parallel of north latitude, and that have not subsequently been kept continuously at least 1 winter north of said parallel, and which may be brought within the limits of this state between the first day of April and the first day of November following, except in the manner hereinafter provided.

HISTORY: How. 2136f;—CL 1897, 5650;—CL 1915, 7340;—CL 1929, 5197;—CL 1948, 287.91.

287.92 Duty of railroad; label on cars; cattle of unascertainable origin.

Sec. 2. It shall be the duty of all railroad companies doing business in this state to receive and transport while in this state, the class of cattle mentioned in section 1, only in cars that are branded or lettered legibly and distinctly and in plain view, the words "For the transportation of Texas cattle only"; and they shall not permit or allow any other class of cattle to enter those cars between the first day of April and the first day of November following: Provided, That cattle coming from other states for transportation through this state, when it is impossible to ascertain where they came from, may be shipped in such cars, but shall be treated in all respects as coming from the country south of the thirty-sixth parallel of north latitude.

HISTORY: How. 2136g;—CL 1897, 5651;—CL 1915, 7341;—CL 1929, 5198;—CL 1948, 287.92.

287.93 Feeding; stock yards, location, sign, admittance of other cattle.

Sec. 3. It shall be the duty of any railroad company, stock yard company, or private individual owning and operating any stock yard in this state, to receive and feed the class of cattle mentioned in section 1, only in yards separate and apart from yards used for the feeding or yarding of other cattle; and these yards shall be in the immediate vicinity and contiguous to a railroad side track so that these cattle may not pass over any open common that might be crossed by other cattle; and said yards shall have a sign posted at each entrance thereto, on which shall be plainly lettered "For the yarding of Texas cattle only," and no other cattle shall be admitted to these yards between the first day of April and the first day of November of each year.

HISTORY: How. 2136h;—CL 1897, 5652;—CL 1915, 7342;—CL 1929, 5199;—CL 1948, 287.93.

287.94 Penalty; civil damages.

Sec. 4. Any railroad company, stock yard company, or private individual owning any stock yard in this state who shall violate any of the provisions of sections 1 and 2 of this act shall forfeit and pay to the people of the state of Michigan not less than 50 dollars nor more than 500 dollars for each and every such offense, and shall be liable for any and all damages caused to any neat cattle by their failure to comply with the requirements of this act.

HISTORY: How. 2136i;—CL 1897, 5653;—CL 1915, 7343;—CL 1929, 5200;—CL 1948, 287.94.

287.95 Misdemeanor; penalty.

Sec. 5. Any person or person [persons] who shall knowingly or willfully place or attempt to place any neat cattle, or others than those mentioned in section 1, in any car or yard provided for in section 2 or 3 of this act, and branded and lettered as therein provided for between the first day of April and the first day of November following, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than 10 dollars nor more than 100 dollars, or be imprisoned not less than 10 days, nor more than 60 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: How. 2136j;—Am. 1887, p. 64, Act 57, Imd. Eff. Apr. 8;—CL 1897, 5654;—CL 1915, 7344;—CL 1929, 5201;—CL 1948, 287.95.

Act 62, 1931, p. 100; Imd. Eff. May 4.

AN ACT to provide for the protection of the horse and mule industry, and to prevent the spread of communicable diseases among horses and mules within the state.

The People of the State of Michigan enact:

287.101 Imported horses and mules; quarantine.

Sec. 1. Horses and/or mules imported or brought into this state from any other state or province shall be held in quarantine at destination at the expense of the owner or shipper for a period of not less than 10 days, including the date of arrival at destination.

HISTORY: CL 1948, 287.101.

287.102 Imported horses and mules; not to be sold.

Sec. 2. Horses and/or mules affected with influenza, strangles or any communicable disease shall not be sold, traded, given away or allowed to come in contact with or mingled with healthy horses and/or mules.

HISTORY: CL 1948, 287.102.

287.103 Exemption; certificate of health.

Sec. 3. Horses and/or mules to be slaughtered or used for work or service within the state by the owner or shipper importing such horses and/or mules shall be exempt from the provisions of section 1 of this act: Provided, That a proper certificate of health covering such horses and/or mules is furnished to and approved by the state veterinarian at the time of importation. Horses and/or mules owned by persons living in an adjoining state who may use such horses and/or mules for work or service in this state in the regular transaction of business shall be exempt from the provisions of section 1 of this act and the requirement of a certificate of health: Provided, That such horses and/or mules are not sold or disposed of within this state.

HISTORY: CL 1948, 287.103.

287.104 When quarantine provisions invoked.

Sec. 4. Horses and/or mules passing through this state consigned to points outside the state, and horses and/or mules for temporary stay within the state and used for show, exhibition and/or racing purposes, and mares temporarily within the state for breeding purposes, shall be exempt from the provisions of section 1 of this act: Provided, That quarantine provisions provided by law may be invoked in event that it becomes necessary to protect the livestock of the state from a communicable disease.

HISTORY: CL 1948, 287.104.

287.105 Provisional quarantine.

Sec. 5. Horses and/or mules as referred to in sections 3 and 4 of this act shall be considered under provisional quarantine and shall not be sold, traded or given away prior to 10 days following the date of arrival within this state.

HISTORY: CL 1948, 287.105.

287.106 Penalty for misdemeanor.

Sec. 6. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof in a court of competent jurisdiction shall be punished by a fine of not less than 50 dollars nor more than 500 dollars, or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 287.106.

Act 284, 1937, p. 527; Imd. Eff. Jul. 23.

AN ACT to prevent the spread of infectious and contagious diseases of livestock; to require persons, associations, partnerships and corporations engaged in the buying, receiving, selling, transporting, exchanging, negotiating, or soliciting sale, resale, exchange or transportation of livestock to be licensed and bonded by the department of agriculture; to keep a producers' proceeds account; to provide for the refusal, suspension or revocation of such licenses; to provide for weighmasters; to provide for the inspection and disinfection of yards, premises and vehicles; and to provide penalties for the violation of this act. Am. 1945, p. 331-332, Act 237, Eff. Sep. 6;—Am. 1957, p. 413, Act 290, Eff. Sep. 27.

The People of the State of Michigan enact:

287.121 Livestock dealer license; definitions.

Sec. 1. (a) "Department" as used in this act shall mean the Michigan state department of agriculture.

(b) "Director" as used in this act means the director of the department of agriculture.

(c) "Animals" or "livestock" as used in this act shall mean and include horses, ponies, mules, cattle, calves, swine, sheep and goats.

(d) "Dealer" or "broker" as used in this act shall mean any person, copartnership, association or corporation engaged in the business of buying, receiving, selling, exchanging, transporting, negotiating, or soliciting sale, resale, exchange, transportation or transfer of any such animals, but it shall not be construed to include: (1) any railroad or air line transporting animals either interstate or intrastate; (2) any person, association, copartnership or corporation who or which, by dispersal sale, is permanently discontinuing the business of farming, dairying, breeding, or feeding animals; (3) any person, association, copartnership or corporation that sells livestock which has been raised on the premises of such person, association, copartnership or corporation; (4) any butcher, packer or processor to whom animals are delivered and used exclusively for slaughter, or that part of the business of a farmer which consists of buying or receiving animals for breeding, grazing and feeding purposes and the sale or disposal of such animals after the feeding or grazing period of not less than 21 days; (5) terminal livestock markets where agricultural research service of the United States department of agriculture veterinary inspection is daily maintained; (6) occasionally held consignment sales such as breed, 4-H or F.F.A. sales.

(e) "Agent" as used in this act shall mean any person, firm, association, copartnership or corporation buying, receiving, selling, exchanging, transporting, negotiating or soliciting sale, resale, exchange, transportation or transfer of any animals for or on behalf of any dealer or broker.

(f) "Livestock auction" as used in this act shall mean any livestock market where livestock is accepted on consignment and the auction method is used in the marketing of such livestock. A public auction of farm goods by a farmer is not included in this definition of a livestock auction.

(g) "Weighmaster" as used in this act shall mean any person registered under this act who weighs livestock at any livestock market licensed under this act.

HISTORY: Am. 1945, p. 331-332, Act 237, Eff. Sep. 6;—CL 1948, 287.121;—Am. 1957, p. 413, Act 290, Eff. Sep. 27.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

CITED IN OTHER SECTIONS: Sections 287.121 to 287.131 are cited in §§ 287.21a and 287.331.

287.122 Licensing of dealers or brokers.

Sec. 2. No dealer or broker shall engage in or carry on the business of buying, receiving, selling, exchanging, transporting, negotiating or soliciting the sale, resale, exchange, transportation or transfer of any animals within the state unless duly licensed and bonded as hereinafter provided. Such dealer or broker shall be responsible for acts performed or contracts made by any person or individual employed by said dealer or broker in buying, receiving, selling, exchanging, transporting, negotiating or soliciting sale, resale, exchange, transportation or transfer of livestock.

HISTORY: Am. 1945, p. 332, Act 237, Eff. Sept. 6;—CL 1948, 287.122.

287.123 Licensing of livestock dealers or brokers; application, contents, fee; weighmasters; records, bond; transporters, license.

Sec. 3. Each dealer, broker or agent engaged in such business for the purposes aforesaid shall file an application with the department for a license to transact such business. The application shall state the nature of the business, the postoffice address of the applicant and the postoffice address at or from which the business is to be conducted. If the applicant shall operate a livestock yard where livestock is kept and sold at public or private sale the application shall so state. The application may state such additional information as the director of agriculture shall require. The application for license to engage in the business of dealer, broker or agent as herein defined shall be accompanied by a license fee of \$5.00 payable to the director of agriculture and deposited to the general fund. When any livestock is purchased or sold by weight, such licensees shall employ a registered weighmaster who shall be required to do all the weighing. The duties, qualifications and requirements for registration of weighmasters shall be established by the director of agriculture under the provisions of section 9 of this act. The application for such license and bond shall be made to the director of agriculture on or before October first of each year. Each license issued shall be for a period of 1 year commencing October 1 and ending the following September 30. Each dealer, broker or agent operating or conducting a livestock auction shall file with his application for a license and for the period for which such license shall be issued a surety bond by a surety company registered in the state of Michigan to indemnify persons from whom livestock is purchased or for whom livestock is sold; or with such sureties and in such amounts, form and sufficiency as shall be approved by the director of agriculture. The amount of the bond shall be an amount equal to the amount of gross dollar volume of livestock business conducted during the average week of the previous licensing year by the applicant, but in no case less than \$1,500.00. If the average gross weekly livestock business conducted by the applicant during the previous licensing year was greater than \$25,000.00, the bond shall be increased above \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part thereof above \$25,000.00 on the average gross dollar-volume of weekly livestock business conducted during the previous year. A licensee who owns or operates more than 1 livestock yard or livestock auction may file 1 bond in an amount determined by the foregoing formula. Any dealer, broker or agent operating or conducting a livestock yard or livestock auction who has filed a surety bond for such livestock yard or livestock auction which indemnifies persons from whom livestock is purchased or for whom livestock is sold in accordance with the terms of any federal act shall be exempt from the bonding requirements of this section provided the bond is equivalent in amount to that which would be required by this act. The bond shall be for a livestock dealer or broker and his agents in which the department of agriculture shall be the obligee but which shall be for the benefit and purpose of protecting all persons selling or consigning livestock to such licensed dealer, broker or agent against the licensed dealer's, broker's or agent's failure to pay amounts due on livestock purchased by or consigned to them.

Each licensee shall keep such records and shall furnish upon request such information concerning his purchases and sales as may be required by the director for the purpose of establishing the amount of bond required hereunder. The director in fixing the amount of the bond shall take into consideration the dollar volume of livestock business and other information furnished by the livestock dealer, broker or his agent. If a dealer, broker or agent did not operate a livestock auction the previous licensing year, the bond shall be for an amount as shall be established by the director after his consideration of all information available to him on the probable weekly gross dollar volume of business which will be conducted by the dealer, broker or agent during the licensing year. If during any licensing year the bond filed by any licensee becomes less than required by this act because of an increase in gross dollar volume of livestock sales, the director may require the licensee to file an additional bond to cover the increase in gross dollar volume of livestock sales. Failure to comply with the orders of the director shall be reason for suspension or revocation of license. Such bond shall be conditioned upon the faithful performance of his duties as a dealer and on the provisions of law relating to the purchase of livestock by such livestock dealer, and for the payment by said livestock dealer of all livestock purchased by or consigned to such livestock dealer as a dealer in livestock. The fees collected by the director of agriculture shall be turned over to the state treasury and shall be credited to the general fund. The said license shall entitle the holder thereof to conduct the business of dealer or broker as defined in this act at or from the place named in the application: Provided, however, That every business, association, partnership or corporation engaged in the business of transporting livestock, or negotiating or soliciting the transportation or transfer of livestock, and who shall not be engaged in the buying, selling, reselling, exchanging or negotiating or soliciting sale, resale or exchange of such livestock, shall be required to obtain the license provided for in this section but shall not be required to comply with bonding provisions of this act.

Producers' proceeds account, records; sworn statement.

Every dealer, broker or agent shall keep adequate records of the producers' proceeds account as defined in section 3a of this act and of all sales and purchases for a period of 2 years in such manner as shall be required by the director of agriculture, and which records shall be open to inspection by the department of agriculture. Any dealer, broker or agent upon change of address shall notify the director of such change of address within 5 days. Any change in ownership of any livestock auction or market shall be reported to the director within 5 days by the licensee. Each dealer or broker shall file with the director on January 1 of each year a sworn statement of average weekly sales and a statement showing the number and kinds of livestock purchased and sold during the previous year.

HISTORY: Am. 1945, p. 332, Act 237, Eff. Sep. 6;—CL 1948, 287.123;—Am. 1949, p. 297, Act 230, Eff. Sep. 23;—Am. 1957, p. 413, Act 300, Eff. Sep. 27.

287.123a Livestock auction; bond, producers' proceeds account, deposits; record of charges.

Sec. 3a. Each dealer, broker or agent operating a livestock auction, in addition to providing a bond as required by this act, shall maintain a "producers' proceeds account". Within 7 calendar days following each livestock auction the dealer shall deposit in the producers' proceeds account funds which shall be equal to the total amount of money due the livestock sellers or consignors of livestock sold or consigned through the livestock auction. Failure to make such deposits in their entirety shall constitute a violation of this section. The director shall audit from time to time the producers' proceeds account and ascertain whether the provisions of this section are being complied with. All records of the licensed dealer shall be made available to the director for the purposes of auditing the account. The entire sale price of livestock

sold through the auction less commissions, handling charges, service fees and other accepted charges shall be placed in the producers' proceeds account and shall be used to pay the seller or consignor for the livestock and for no other purpose. A record of the commissions, handling charges, service fees and other charges shall be maintained by the licensee and shall be provided to the seller or consignor of the livestock at the completion of the sale.

HISTORY: Add. 1957, p. 415, Act 290, Eff. Sep. 27.

287.124 Dealers or brokers license; revocation, hearing, notice, review; causes for revocation.

Sec. 4. For failure or refusal to obey the provisions of this act, the department may refuse a license or suspend or revoke the license held by such licensee. Whenever the director is satisfied of the existence of any one or more of the reasons for refusing, suspending or revoking the license provided for in this act, before refusing, suspending or revoking the license, the department shall give written notice of a hearing to be had thereon to the licensee affected. The notice shall appoint a time of hearing at the department and shall be mailed by certified or registered mail to the licensee. On the day of the hearing, the licensee may present such evidence to the director as he deems fit regarding the violations charged, and the director shall thereupon render a decision. Any licensee who feels aggrieved at the decision of the director may appeal from said decision within 10 days by writ of certiorari to the circuit court of the county where the licensee resides. The following reasons shall be construed as just cause for refusal, suspension or revocation of a license:

(a) Where the applicant or licensee has failed to pay in full for any amounts due on livestock purchased, or has violated the laws of the state or official regulations promulgated by the director or other competent authority governing the interstate or intrastate movement, shipment or transportation of animals.

(b) Where there have been false or misleading statements to the purchaser as to the health or physical condition of the animal or animals with regard to official tests, ownership, or quantity of animals or misrepresentation in connection therewith, or in the buying or receiving of animals, or receiving, selling, exchanging, soliciting, or negotiating sale, resale, exchange, transport, transfer, weighing, or shipment of animals.

(c) Where the licensee engages in buying or receiving animals, or receiving, selling, exchanging, soliciting, or negotiating the sale, resale, exchange, transport or transfer of animals affected with a communicable disease or diseases that are likely to be transmitted to other animals or human beings: Provided, That subdivision (c) of this section shall not apply to animals which have reacted to any test used for the detection of tuberculosis, and Bang's disease, when said animals are disposed of in conformity with state laws and regulations governing disposal of such animals and when such animals are killed under supervision of a United States department of agriculture research service inspector or a regularly authorized inspector of the state livestock disease control division.

(d) Where the licensee fails to practice measures of sanitation, disinfection, and inspection as required by this act, of premises or vehicles used for the stabling, yarding or transportation of animals.

(e) Where there has been a failure or refusal on the part of the licensee, upon the request of the department, to produce records of transactions in the carrying on of the business for which such license is granted.

HISTORY: CL 1948, 287.124;—Am. 1957, p. 415, Act 290, Eff. Sep. 27.

287.125 Dealers or brokers license; place of keeping license.

Sec. 5. Every dealer, broker, or agent licensed under the provisions of this act and carrying on or conducting business under such license shall at all times keep in or at

the place of business or in each vehicle used by such licensee for the purpose of transporting livestock a copy of such license for inspection by any representative of the department, sheriff, undersheriff, deputy sheriff, Michigan state police or any other law enforcing agency.

HISTORY: CL 1948, 287.125.

287.126 Trucks, yards, pens; requirements as to cleanliness.

Sec. 6. Each dealer, broker or agent leasing, renting, operating or owning any livestock yards, pens, premises or vehicles in which animals are quartered, fed, held or transported shall keep such yards, premises, or vehicles properly cleaned and disinfected as prescribed by the department.

HISTORY: CL 1948, 287.126.

287.127 Inspection of animals; test or treatment, fee; false statements as to physical condition.

Sec. 7. For the purpose of preventing the spread of infection or communicable diseases of livestock, all animals sold, transferred or exchanged from any yards or premises by any dealer, broker, or agent as designated in this act shall be inspected by a representative of the department. The department shall prescribe the proper tests or treatment of any such animal sold when such tests or treatment are deemed necessary to prevent the spread of a communicable disease of livestock. Such test or treatment shall be made by a veterinarian approved by the department, and the fees for such tests or treatment shall be paid by the dealer, broker or agent.

(a) No dealer, broker, agent or owner of any animal shall sell or offer for sale any such animal under an assumed or fictitious name or make any false or misleading statements as to the identity or the physical condition of said animal with regard to any test which is supposed to establish the health status of any animal offered for sale or sold.

HISTORY: CL 1948, 287.127.

287.128 Records of licensee; inspection.

Sec. 8. The department or any of the duly authorized agents shall have authority to inspect the records of any licensee at any time to determine the origin and destination of any livestock handled by the licensee and to determine if any provisions of this act or the rules and regulations promulgated hereunder have been violated.

HISTORY: CL 1948, 287.128.

287.129 Rules and regulations; adoption, promulgation, enforcement.

Sec. 9. The department is authorized to formulate, adopt, promulgate and enforce rules and regulations for the purpose of carrying into effect the provisions of this act.

HISTORY: CL 1948, 287.129.

Sec. 10.

HISTORY: Rep. 1939, p. 842, Act 327, Imd. Eff. June 22.

NOTE: This section provided for an annual appropriation of \$10,000.

287.131 Violation of act; penalty.

Sec. 11. Whoever violates or refuses to comply with any of the provisions of this act shall, upon conviction, be sentenced to pay a fine of not less than 25 dollars nor more than 100 dollars and costs of prosecution, and in default of payment of fine and costs, shall be sentenced to imprisonment for not less than 10 nor more than 30 days, and for each subsequent violation a fine shall be imposed of not less than 100 dollars nor more than 500 dollars, or imprisonment for not more than 6 months, or both, and the costs of prosecution.

HISTORY: CL 1948, 287.131.

Sec. 12. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 134, 1929, p. 303; Imd. Eff. May 7.

AN ACT to provide for the regulation of the sale of live stock and poultry remedies, defining same; to provide for their licensing and registration, labeling, inspection and analyses; to prohibit the sale of fraudulent or adulterated remedies; to provide for guarantees regarding ingredients; to provide for the collection of license fees from manufacturers of or dealers in these remedies; to provide for penalties for the violation of the provisions of this act; to authorize the expenditure of the funds derived from the license fees, and repeal all acts or parts of acts in conflict.

The People of the State of Michigan enact:

287.141 Livestock remedies; defined; remedies excepted.

Sec. 1. The term "live stock remedy" shall be held to include all condimental feeds, medicated stock foods, medicinal stock foods, stock food tonics, stock powders, condition powders, conditioners, animal regulators, proprietary medicines, or any preparations of like nature in either solid or liquid form used for any animal except man, and administered internally for the purported purpose of stimulating, invigorating, curing ailments, or other reasons: Provided, That this act shall not apply to remedies prescribed and used by a veterinarian, regularly licensed in Michigan, for use in connection with his own practice, or to the preparation and sale of remedies by registered pharmacist or registered assistant pharmacists operating in licensed drug stores.

HISTORY: CL 1929, 5218;—Am. 1931, p. 468, Act 283, Eff. Sept. 18;—CL 1948, 287.141.

287.142 Livestock remedies; certificate, contents, filing; sample package, affidavit, filing.

Sec. 2. Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in Michigan any live stock remedies, the manufacturer thereof shall file with the commissioner of agriculture a sworn certificate stating: First, name and principal address of the manufacturer or person responsible for placing such live stock remedy on the market; second, the name, brand, or trade mark under which the remedy is to be sold; third, the minimum net contents of the package, lot or parcel of such live stock remedy (expressed by weight in the case of solids and by measure in the case of liquids); and fourth, the English name of each ingredient used in the manufacture of remedy registered: And it is further provided, That when any of the substances, to-wit: Mineral acids; the following elements or their salts,—copper, mercury, lead, chromium, iodine, arsenic and antimony; the following substances or any of their derivatives or preparations,—opium, belladonna, nux vomica, pilocarpus, santonica, areca nut, wormwood, digitalis, strophanthus, calabar bean, aconite, veratrum, croton oil, ergot, cotton root bark, chenopodium, carbon tetrachloride, carbon disulphide, potassium permanganate, phosphorus, and cantharides are included in the ingredients of a live stock remedy, the percentage of such ingredient or ingredients must be stated on the certificate; also that when such substances as common salt, charcoal, sulphur, earth, humus, elevator dust, coal, ashes, soda, oyster shells, oils, or other like substances are used as a "filler," the maximum percentage of each such substance or substances shall be stated; said sworn certificate to be accompanied, when the commissioner of agriculture or his authorized agent shall so request, by a sealed package of such live stock remedy to be sold, offered or exposed for sale, or distributed in this state, and the company or person furnishing said sample shall thereupon make affidavit that the said sample is representative and a true sample of such live stock remedy offered for registration.

HISTORY: CL 1929, 5219;—CL 1948, 287.142.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

287.143 Livestock remedies; labels; contents, use.

Sec. 3. Every sack, box, carton, bottle or other container of live stock remedy sold, offered or exposed for sale, or distributed within this state, shall have a label affixed thereto in a conspicuous place on the outside thereof bearing a legible and plainly printed statement in the English language clearly and truly certifying: First, the name and principal address of the manufacturer or person responsible for placing such live stock remedy on the market; second, the name, brand, or trade mark under which the live stock remedy is sold; third, the minimum net contents of the sack, box, carton, bottle or other container; and fourth, the English name of each ingredient used in the manufacture of the live stock remedy contained therein, according to the manner required in the sworn certificate as provided in section 2. The United States pharmacopoeia shall be the authority as to terms or standards.

HISTORY: CL 1929, 5220;—CL 1948, 287.143.

287.144 Livestock remedies; license, fees, issuance, term.

Sec. 4. Each and every manufacturer, importer, jobber, firm, association, corporation or person manufacturing, selling or distributing any live stock remedy, as defined in section 1 of this act, shall pay to the commissioner of agriculture on or before the first day of July, A.D. 1929, and annually thereafter, a license fee of 20 dollars for each and every brand or separate live stock remedy sold, offered or exposed for sale, or distributed in this state. Fees so collected shall be paid to the state treasurer and credited to the general fund. Whenever the manufacturer of any live stock remedy shall have complied with the requirements of this section, the commissioner of agriculture shall issue or cause to be issued a license permitting the sale of said live stock remedy which license shall terminate on June the thirtieth following the date of issue.

HISTORY: CL 1929, 5221;—Am. 1933, p. 10, Act 11, Imd. Eff. Feb. 17;—CL 1948, 287.144.

287.145 License; refusal to issue, cancellation; lowering of guaranteed analyses; changing of ingredients.

Sec. 5. The commissioner of agriculture shall have power to refuse license for any live stock remedy under a name, brand or trade-mark which would be misleading or deceptive or which would tend to mislead or deceive as to the materials of which it is composed or for which unfounded prophylactic or curative claims are made or when the specific name of each and every ingredient used in its manufacture is not stated. He shall also have the power to refuse to license more than 1 live stock remedy under the same name or brand. Should any live stock remedy be licensed in this state and it is afterward discovered that such license is in violation of any of the provisions of this act, the commissioner of agriculture shall have the power to cancel such license. The commissioner of agriculture shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analyses or change the ingredients of any brand or separate live stock remedy, of his or their live stock remedies, during the term for which licensed, unless reasons satisfactory to said commissioner of agriculture are presented for making such change or changes.

HISTORY: CL 1929, 5222;—CL 1948, 287.145.

287.146 One fee and one certificate required for each brand.

Sec. 6. Whenever a manufacturer, importer, jobber, firm, association, corporation or person manufacturing, selling or distributing a brand of "live stock remedy," shall have filed the certificate required by section 2 and paid the license fee, as required by section 4 of this act, no other agent, importer, jobber, firm, association, corporation or person shall be required to file such certificate or pay such fee upon such brand.

HISTORY: CL 1929, 5223;—CL 1948, 287.146.

287.147 Right of access; right to take samples; annual analysis.

Sec. 7. Any authorized agent or agents of the commissioner of agriculture shall have free access during reasonable business hours to all places of business, mills, factories, buildings, vehicles, cars, vessels, and parcels of whatsoever kind used in the manufacture, transportation, importation, sale, or storage of any live stock remedy and shall have the power and authority to open any parcel containing, or supposed to contain, any live stock remedy and to take therefrom official sample or samples for analyses. He shall tender therefor the reasonable price for the sample or samples procured in so far as is practicable and the revenue provided by this act may suffice. It shall be the duty of the commissioner of agriculture to annually cause to be analyzed at least 1 sample so taken of every live stock remedy sold, offered or exposed for sale or distributed in this state.

HISTORY: CL 1929, 5224;—CL 1948, 287.147.

287.148 Prosecutions; evidence.

Sec. 8. If it appears that any provisions of this act have been violated, the commissioner of agriculture shall certify the facts to the prosecuting attorney in the county in which the violation occurred, together with a copy of the result of any analysis or other examination which may have a bearing on the case, duly authenticated by the state analyst or other officer making the examination under the oath of such officer. Such prosecuting attorney shall thereupon proceed to file and prosecute such case. In all prosecutions arising under the provisions of this act certificate of the analyst or other officer making the examination or analyses when duly sworn to by such officer may be offered as evidence of the fact or facts therein certified to.

HISTORY: CL 1929, 5225;—CL 1948, 287.148.

287.149 Violation; definition; penalty.

Sec. 9. Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state or who shall take or receive from any firm, association, corporation, or person in the state any order for the sale of any live stock remedy as defined in section 1 of this act or who shall directly or indirectly contract with any manufacturer, importer, jobber, firm, association, corporation, or person in this state for the sale of such live stock remedy to be delivered in this state by common carrier or otherwise, which has not been licensed as required by the provisions of this act or without truly stating the English name of each and every ingredient used in its manufacture as required by section 2 of this act, or who shall impede, obstruct, or hinder said commissioner of agriculture or his authorized agents in the performance of his or their duty in connection with the provisions of this act, or who shall violate any of the rules and regulations promulgated by the commissioner of agriculture as provided herein, shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be sentenced to pay a fine of not less than 100 dollars, nor more than 200 dollars, or to imprisonment of not less than 30 days, nor more than 60 days, in the county jail, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5226;—CL 1948, 287.149.

287.150 Enforcement; regulations.

Sec. 10. The commissioner of agriculture is hereby empowered to enforce the provisions of this act and to prescribe and enforce such rules and regulations relating to the sale and license of live stock remedies as may be deemed necessary to carry into effect the full intent and meaning of this act.

HISTORY: CL 1929, 5227;—CL 1948, 287.150.

Act 227, 1935, p. 378; Eff. Sep. 21.

AN ACT to control and prevent the spread of infectious and communicable diseases among live stock and poultry, the regulation and control of the sale of baby chicks at auctions and auction sale barns, requiring permits to conduct such sales, and prescribing certain requirements to prevent the spread of disease; to prescribe penalties for the violation of the provisions of this act; and to declare an emergency.

The People of the State of Michigan enact:

287.161 Permit to offer baby chicks at certain sales.

Sec. 1. Before any baby chicks are offered for sale at any auction or auction sale barn except public sales conducted by farmers selling baby chicks reared on their own premises, a permit shall be secured to offer such baby chicks for sale from the commissioner of agriculture.

HISTORY: CL 1948, 287.161.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

287.162 Permit to offer baby chicks at certain sales; application, fee, certificate.

Sec. 2. Any person who desires to offer baby chicks for sale at any auction or auction sale barn shall apply for a permit so to do to the commissioner of agriculture, on a form which shall be prescribed and furnished by said commissioner. The application shall be signed by the person who proposes to conduct such sale, together with the person who owns the property in or on which such sale is to be conducted, if the person who proposes to conduct such sale does not own such property. The application shall designate the date of the proposed sale, the number and breed of the chicks which are to be offered for sale and the person by whom they were produced, and shall be accompanied by a fee in the sum of 25 dollars for each and every day or fraction thereof during or on which it is proposed to sell such baby chicks: Provided, That in the case of such sales at fairs approved by the commissioner of agriculture such fee shall be 5 dollars for each and every day or fraction thereof during or on which it is proposed to sell such baby chicks. The commissioner of agriculture is hereby authorized in his discretion to grant or to deny the permit requested in such application, and, if deemed necessary or advisable, to require the applicant to submit a certificate, in such form as the commissioner may prescribe, certifying that the baby chicks which are to be offered for sale are in a healthy condition and free from such diseases as the commissioner of agriculture may designate.

HISTORY: CL 1948, 287.162.

287.163 Label required on container of baby chicks.

Sec. 3. Before any such chicks are offered for sale or sold, each box, crate, coop or other container shall be plainly labeled with appropriate statements designating the kind and number of chicks in each such container, the date on which such chicks were hatched and by whom hatched, and any other representations made at or prior to the time of sale relative to the purity of the breed, the freedom of such chicks from disease and such tests as shall have been made on the parent stock for bacillary white diarrhea, fowl typhoid or tuberculosis.

HISTORY: CL 1948, 287.163.

287.164 Report of sale to commissioner of agriculture.

Sec. 4. Within 3 days after the sale shall have been held, the person who conducted the sale shall send a statement to the commissioner of agriculture giving a complete list of the number and kind of baby chicks sold at such sale, the name and address of each purchaser, together with a copy of the representations and guarantees made in

relation thereto, if any were made by the person who conducted such sale, and the person conducting such sale shall be held to have had full knowledge of the representations and guarantees made at the time of such sale and shall be as fully responsible and liable for any such representations and guarantees as is the person who set forth such representations and guarantees on the containers as provided in section 3 of this act.

HISTORY: CL 1948, 287.164.

287.165 Rules and regulations.

Sec. 5. The commissioner of agriculture is hereby authorized to make such rules and regulations as may be necessary to administer the provisions of this act and to prevent the spread of disease among poultry.

HISTORY: CL 1948, 287.165.

287.166 Expenses.

Sec. 6. The commissioner of agriculture is hereby authorized to incur such expenses as may be necessary in carrying out the provisions of this act. All moneys received under the provisions of this act shall be turned over to the state treasurer and credited to the general fund, and, after the payment of the expenses incurred in the enforcement of this act, shall be available for general fund purposes.

HISTORY: CL 1948, 287.166.

287.167 Definitions.

Sec. 7. The term "baby chick" as used in this act means any domestic fowl under the age of six weeks. The term "person" includes also firms, partnerships and corporations.

HISTORY: CL 1948, 287.167.

287.168 Violation of act; penalty.

Sec. 8. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than 100 dollars.

HISTORY: CL 1948, 287.168.

287.169 Necessity of act.

Sec. 9. This act is declared to be necessary for the preservation of the public health and safety.

HISTORY: CL 1948, 287.169.

Act 213, 1962, p. 456; Eff. Mar. 28, 1963.

AN ACT to encourage the raising of started pullets; to provide for the inspection and certification as to the age, condition and health of started pullets; to define certain terms; to provide authority to establish and collect fees; to impose certain responsibilities on the department of agriculture; to grant authority to make rules and regulations to carry out the purpose of this act; and to prescribe penalties for violation thereof.

The People of the State of Michigan enact:

287.171 Started pullets; definitions.

Sec. 1. As used in this act:

- (a) "Department" means the state department of agriculture.
- (b) "Director" means the director of the state department of agriculture.
- (c) "Started pullet" means any domestic fowl of the species *gallus domesticus* be—

tween the ages of 7 to 24 weeks intended to be used for the purpose of egg production.

(d) "Inspection" means visual examinations, and any laboratory or other tests made.

HISTORY: New 1902, p. 456, Act 213, Eff. Mar. 28, 1903.

287.172 Started pullets; inspection, certificate.

Sec. 2. Any person offering started pullets for sale may request the director to certify as to the age, condition and state of health of the started pullets. Upon completion of the inspections, the director shall issue a certificate of inspection certifying the age, condition and health of the started pullets.

HISTORY: New 1902, p. 456, Act 213, Eff. Mar. 28, 1903.

287.173 Started pullets; inspection fees.

Sec. 3. The fees sufficient to cover expenses incurred under this act shall be charged for each inspection and promptly forwarded to the state treasurer and credited to the general fund and shall be deposited by him in the state treasury, to be disbursed in such manner and for such purposes as are provided by law.

HISTORY: New 1902, p. 456, Act 213, Eff. Mar. 28, 1903.

287.174 Started pullets; rules and regulations for sanitary conditions and disease control.

Sec. 4. The director may promulgate rules and regulations setting forth the sanitary conditions and other disease control requirements under which certified started pullets shall be grown and handled including inspection of necessary records in order for the director to certify as to their age, condition and state of health, and establish fees, including 20% above actual costs, necessary to carry out the provisions of this act. Rules and regulations shall be in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1902, p. 457, Act 213, Eff. Mar. 28, 1903.

287.175 Started pullets; misrepresentations; violation of act or rules; criminal and civil liability.

Sec. 5. Any person who misrepresents the age, condition or state of health of certified started pullets sold or offered for sale, or otherwise violates the provisions of this act or the rules and regulations promulgated hereunder, is guilty of a misdemeanor and shall be liable for twice the loss or damages suffered by the purchaser of the pullets misrepresented.

HISTORY: New 1902, p. 457, Act 213, Eff. Mar. 28, 1903.

287.181-287.191 Repealed. 1959, p. 360, Act 242, Eff. Mar. 19, 1960.

Sections provided for inspection and analysis of commercial feeds and regulation of manufacture and sale thereof.

Act 72, 1929, p. 181; Eff. Aug. 28.

AN ACT to encourage the breeding of horses; to regulate the public service of stallions; to require the registration of stallions; to provide for the compilation and publication of statistics relative to horse breeding; to provide for a lien; to provide penalties for the violation of this act; and to repeal Act No. 256 of the Public Acts of 1911, as amended by Act No. 75 of the Public Acts of 1921.

The People of the State of Michigan enact:

287.201 Stallions; enrollment, certificate; definitions.

Sec. 1. Every person, firm, association or company offering for use for public service any stallion in this state shall cause the name, description, pedigree and physical con-

dition of such stallion to be enrolled by the commissioner of agriculture and shall procure a certificate of such enrollment from said commissioner. The word "stallion" whenever used in this act shall be construed to include "jack." The word "mare" whenever used in this act shall be construed to include "jenny."

HISTORY: CL 1929, 5278;—CL 1948, 287.201.

FORMER ACT: Act 256 of 1911, being CL 1915, 14881-14890.

287.202 Enrollment certificate; procedure to obtain.

Sec. 2. In order to obtain the enrollment certificate hereinafter provided for, the owner of each stallion shall forward to the commissioner of agriculture the stud book, certificate of registration, and any other document that may be necessary to define and describe such stallion, his breeding and ownership. The commissioner of agriculture shall examine and pass upon the merits of such pedigree and shall use as his standard of action the stud books and signatures of the duly authorized officers of the various pedigree registration associations, societies or companies recognized by him. Upon verification of the pedigree or certificate of breeding the commissioner of agriculture shall notify the owner of such stallion to this effect and shall proceed to examine such stallion at the owner's premises to determine the condition of soundness of such stallion. The commissioner of agriculture shall authorize the state veterinarian or his regularly appointed representative, to proceed at the time and place designated in said notice to said owner to make an examination of such stallion and shall certify to the best of his knowledge and belief the physical condition of such stallion, specifying the nature and extent of unsoundness, if any, of such stallion, and shall immediately forward such certificate to the office of said commissioner of agriculture.

HISTORY: CL 1929, 5279;—CL 1948, 287.202;—Am. 1949, p. 257, Act 224, Eff. Sep. 23.

287.203 Advertising stallions.

Sec. 3. Every bill or poster issued by the owner of any stallion licensed under the provisions of this act, or used by him or his agent for the purpose of advertising such stallion, shall contain a copy of the certificate of enrollment of such stallion, and said bills or posters shall not contain illustrations, reference to pedigree or other statements that are untruthful or misleading. Reference to such stallions in newspapers, stock papers and other advertising mediums shall contain the name of such stallion, number of certificate of enrollment, and shall designate in letters not smaller than pica the true breeding of such stallion as given in said certificate of enrollment.

HISTORY: CL 1929, 5280;—CL 1948, 287.203.

287.204 Enrollment certificate; issuance, contents; refusal to issue; posting.

Sec. 4. The commissioner of agriculture shall issue enrollment certificates. Such enrollment certificate shall have a distinctive number and be such as to show the true breeding and physical condition of the stallion enrolled. The commissioner of agriculture may refuse to issue an enrollment certificate for any stallion in which stallion the presence of any 1 of the following named diseases in a transmissible, hereditary or contagious form shall be shown so as to render such stallion unsuitable to improve the horse stock of the state: Cataract; amaurosis (glass eye); periodic ophthalmia (moon blindness); laryngeal hemiplegia (roaring or whistling); pulmonary emphysema (heaves, broken wind); chorea (St. Vitus' dance, crampiness, shivering, string halt); bone spavin; ringbone; side bone; navicular disease; bog spavin; curb, with curby formation of hock; glanders, farcy; maladie du coit; urethral gleet; mange; melanosis; or any contagious or infectious disease. The commissioner of agriculture may refuse to issue an enrollment certificate for any stallion deemed unfit to improve the horse stock of the state. The owner of any stallion to whom an enrollment certificate shall be issued shall post and keep affixed copies of such enrollment certificate in a conspicuous

place both within and upon the outside of every building where such stallion is kept for public service.

HISTORY: CL 1929, 5281;—CL 1948, 287.304;—Am. 1949, p. 257, Act 224, Eff. Sep. 23.

287.205 Enrollment fees; expiration of certificate, renewal; transfer of ownership, fee; death; disposition of fees.

Sec. 5. A fee of 5 dollars shall be paid, by the owner of each stallion offered for enrollment, to the commissioner of agriculture at the time of the first application for a certificate of enrollment. The fee so paid shall be in full for the examination and enrollment of such pedigree, the physical examination of such stallion, and the issuance of a certificate of enrollment. Enrollment certificates shall expire December thirty-first of the year immediately following the year in which issued. The owner of any stallion whose certificate of enrollment has expired may make application for a new certificate of enrollment by filing with the commissioner of agriculture the last issued certificate of enrollment and paying a fee of 3 dollars on or before March fifteenth, in the year following such expiration, and a new certificate of enrollment shall be issued by the commissioner of agriculture to the owner of such stallion. Such certificate of enrollment shall expire December thirty-first of the year immediately following the year in which issued. Upon transfer of ownership of any stallion enrolled under the provisions of this act, the certificate of enrollment must be transferred to the new owner by the commissioner of agriculture upon submittal of satisfactory proof of such transfer of ownership and upon the payment of a fee by the owner of such stallion of 1 dollar. In case of death or change of ownership of any stallion enrolled under the provisions of this act, the owner of the same shall immediately inform the state commissioner of agriculture. All fees received by the commissioner of agriculture under the provisions of this act shall be paid into the state treasury to be credited to the general fund.

HISTORY: CL 1929, 5282;—CL 1948, 287.305.

287.206 Powers of commissioner.

Sec. 6. The commissioner of agriculture is hereby authorized to provide for official examination of pedigrees and certificates of breeding and ownership, to issue license certificates for stallions enrolled under this act, to compile and publish statistics relative to horse breeding in Michigan and other information of value to the horse breeders of this state, and to incur such other reasonable expenses as may be necessary to carry out and enforce the provisions of this act.

HISTORY: CL 1929, 5283;—CL 1948, 287.306.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 235.1.

287.207 Complaint; revocation of certificate; use of unenrolled stallion prohibited; exception.

Sec. 7. The commissioner of agriculture shall have the right at any time to take cognizance of any complaint reporting unsoundness of any stallion enrolled under the provisions of this act, and to examine such stallion if deemed necessary. In case any such stallion upon such examination shall be found to be unsound or not suitable to improve the horse stock of this state, the commissioner of agriculture shall revoke the certificate of enrollment issued to the owner of such stallion. No person, firm, company or association shall offer for use for public service, in this state any stallion which is not enrolled under the provisions of this act. The breeding of any mare with any stallion or jack shall be construed as offering said stallion or jack for public service: Provided, That nothing in this act shall be construed to prevent the individual owner of any unlicensed stallion or jack from breeding any mares kept on his own premises and of which mares he is the bona fide and sole owner.

HISTORY: CL 1929, 5284;—Am. 1935, p. 371, Act 223, Imd. Eff. Jun. 8;—CL 1948, 287.307;—Am. 1949, p. 258, Act 224, Eff. Sep. 23.

287.208 Stallions imported; examination, certification, fee.

Sec. 8. Every stallion brought into this state from another state or from a foreign country to be offered for sale or for public service shall, before any such sale or use is made, be examined by the state veterinarian, or his official representative, and certified by said state veterinarian, or his representative, that said stallion is free from hereditary, contagious, or transmissible unsoundness or disease and is of good formation and breed type and suitable to improve the horse stock of this state. A fee of 5 dollars shall be paid therefor before such examination is conducted: Provided, If application is made for enrollment before such examination is made said 5 dollars will also cover fee for enrollment.

HISTORY: CL 1929, 5285;—CL 1948, 287.208.

287.209 Violation of act; penalty.

Sec. 9. Any person, firm, company or association violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than 25 dollars nor more than 100 dollars, or by imprisonment in the county jail not more than 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5286;—CL 1948, 287.209.

287.210 Lien for service of stallion, filing; sale of mare or foal; lien.

Sec. 10. Having complied with the provisions of this act, the owner of any stallion shall have a lien for the sum stipulated to be paid for the service thereof, upon the mare served by any such stallion in breeding thereof, and upon the offspring of such stallion by filing at any time within 18 months after the date of service, a statement of the account thereof, together with a description as to color, and white markings of the female served, and the name of the owner at the date of service, in the office of the register of deeds of the county wherein the owner of said female resided at the time of service. Such lien shall exist for a period of 1 year from the date of foaling of said colt, or if credit is given, from the expiration of the credit, and shall have priority over all other liens and encumbrances upon the offspring. Neither the mare nor the foal shall be sold within 18 months after the date of service, unless the service fee shall be paid, unless such sale shall be agreed to and approved in writing by the owner of the stallion at the time of the sale or transfer of the mare or foal. At any time after the offspring shall have been foaled, any person having such lien may enforce the same by the same proceedings and in the same manner as is provided by sections 13189 to 13192, inclusive, of the Compiled Laws of 1929: Provided, however, That the owner of any such stallion may institute suit to collect the lien in the county in which the mare is served.

HISTORY: CL 1929, 5287;—Am. 1935, p. 370, Act 223, Imd. Eff. June 8;—Am. 1939, p. 158, Act 96, Eff. Sept. 29;—CL 1948, 287.210.

NOTE: CL 1929, 13189-13192, above referred to, are Compilers' §§ 570.188 to 570.191.

OTHER LIENS: See Compilers' § 570.1.

Sec. 11. (This was a repeal section.)

HISTORY: CL 1929, 5288;—Rep. 1945, p. 407, Act 287, Imd. Eff. May 25.

Act 150, 1966, p. 172; Eff. Jan. 1, 1967.

AN ACT to authorize the department of agriculture to recognize breeding associations for identifying and certifying livestock; to define livestock; and to provide a fee for such certification.

The People of the State of Michigan enact:

287.211 Livestock certification; definitions.

Sec. 1. For the purposes of this act:

(a) "Livestock" means horses, cattle, sheep or swine.

(b) "Department" means the state department of agriculture.

HISTORY: New 1906, p. 172, Act 150, Eff. Jan. 1, 1907.

287.212 Livestock; certification for identification; registration; forms; contents.

Sec. 2. Every person, firm, association or corporation desiring to have any livestock certified for identification purposes, shall register the name, description, pedigree and physical condition of such animal with the department of agriculture on forms prescribed by the department.

HISTORY: New 1906, p. 172, Act 150, Eff. Jan. 1, 1907.

287.213 Examination and passing upon pedigree's validity.

Sec. 3. The department may examine and pass upon the validity of the pedigree.

HISTORY: New 1906, p. 172, Act 150, Eff. Jan. 1, 1907.

287.214 Certification of identification certificate; fee.

Sec. 4. A fee of \$5.00 shall be paid by the owner of each animal offered for certification of identification at the time of such request. The fee paid shall be for the certification of identification certificate issued by the authorized breeding association and shall be paid into the general fund.

HISTORY: New 1906, p. 172, Act 150, Eff. Jan. 1, 1907.

287.215 Recognition of breeding associations; promulgation of rules and regulations.

Sec. 5. The department may promulgate rules and regulations relative to recognizing breeding associations for the purposes of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1906, p. 172, Act 150, Eff. Jan. 1, 1907.

287.216 Effective date.

Sec. 6. This act shall take effect on January 1, 1967.

HISTORY: New 1906, p. 172, Act 150, Eff. Jan. 1, 1907.

Act 122, 1883, p. 114; Imd. Eff. May 25.

AN ACT to provide for marking and branding live-stock.

The People of the State of Michigan enact:

287.221 Ear mark or brand; recording, dissimilarity.

Sec. 1. That every person who has cattle, horses, hogs, sheep, goats, or any other domestic animals, may adopt an ear mark or brand, which ear mark or brand may be recorded in the office of the county clerk of the county where such cattle, horses, hogs, sheep, goats, or other domestic animals shall be: Provided, That the mark or brand so adopted and recorded shall be different from all other marks or brands, adopted and recorded in such county.

HISTORY: How. 2074a;—CL 1897, 5080;—CL 1915, 7350;—CL 1929, 5290;—CL 1948, 287.221.

287.222 Record book of county clerk; recording fee.

Sec. 2. It shall be the duty of the county clerks of the several counties of this state, to keep a book in which they shall record the mark or brand adopted by each person who may apply to them for that purpose, for which they shall be entitled to demand and receive 25 cents.

HISTORY: How. 2074b;—CL 1897, 5661;—CL 1915, 7351;—CL 1929, 5291;—CL 1948, 287.222.

Sec. 3.

HISTORY: How. 2074c;—CL 1897, 5662;—CL 1915, 7352;—CL 1929, 5292;—Rep. 1931, p. 742, Act 328, Eff. Sept. 18.

This section was a penalty section. See Compilers' § 750.68.

Act 226, 1929, p. 562; Imd. Eff. May 21.

AN ACT to promote the health, safety and welfare of the people by regulating the business of disposing of the bodies of dead animals or parts of bodies thereof by burying, burning or cooking; and to provide penalties for the violation of the terms hereof. Am. 1964, p. 199, Act 162, Eff. Aug. 28.

The People of the State of Michigan enact:

287.231 Bodies of dead animals; business of transporting or disposing; license; definition.

Sec. 1. Any person, partnership, firm or corporation, desiring to engage or to continue in the business of transporting the bodies of dead animals or any parts thereof or of disposing of such bodies or any parts thereof by burying, burning or cooking, or desiring to establish transfer stations where the bodies of dead animals or the parts thereof may be transferred from 1 conveyance to another for direct movement to a licensed rendering plant shall first procure from the state department of agriculture a license, which shall be for a period of 1 year and no longer. For the purposes of this act, the bodies of dead animals or any parts thereof shall be deemed to be the bodies, or any part or portion thereof, of animals which have been slaughtered or have died from any other cause, the carcasses or parts of which are not intended for human food.

HISTORY: CL 1929, 5293;—CL 1948, 287.231;—Am. 1952, p. 48, Act 49, Eff. Sep. 18;—Am. 1964, p. 199, Act 162, Eff. Aug. 28.

287.232 Bodies of dead animals; application for license, fee, transfer station, truck or conveyance, fee; inspections.

Sec. 2. Any person, partnership, firm or corporation desiring a license to engage in such business shall file an application with the state department of agriculture for such license. Such applicant shall, at the time he files such application, pay to the state department of agriculture the sum of \$25.00 annual license fee for each place of business where he intends to dispose of the bodies of dead animals or any parts thereof by burying, burning or cooking; the sum of \$10.00 annual license fee for each transfer station established; and the sum of \$5.00 annual license fee for each truck or conveyance used to transport bodies or any parts thereof of dead animals, payable on or before July 1 of each year. The state department of agriculture shall within a reasonable time inspect the place where such applicant desires to conduct such business, and shall ascertain whether or not such applicant is a responsible and suitable person, partnership, firm or corporation to be intrusted with a license to conduct such business. If the state department of agriculture finds that such applicant is a responsible and suitable person, partnership, firm or corporation to conduct such business and that the place where such business is to be conducted is a suitable and sanitary place in which to dispose of the bodies of dead animals or any parts thereof, and that the same conforms to the rules and regulations by it made, it shall issue a license to such applicant. In case the state department of agriculture shall find that the place where such applicant proposes to

conduct such business is not a suitable and sanitary place in which to carry on such business, it shall notify the applicant in what particulars such place fails to meet the requirements of this act and the rules and regulations by it made. Upon being notified by the applicant that the defects in such place have been remedied and that he believes that such place conforms to the requirements of the act and to said rules and regulations, the state department of agriculture shall make a second inspection as above provided, but shall not be required to make more than 2 inspections in the same place under 1 application. In case such applicant is refused a license, no part of the fee paid by him shall be repaid to him, but the same shall belong to the state. All moneys received under the provisions of this act shall be paid promptly into the state treasury to be credited to the general fund.

HISTORY: CL 1929, 5294;—Am. 1935, p. 296, Act 189, Eff. Sep. 21;—CL 1948, 287.232;—Am. 1952, p. 48, Act 49, Eff. Sep. 18;—Am. 1964, p. 199, Act 162, Eff. Aug. 26.

287.232a Bodies of dead animals; hauling, transportation, transfer, disposal; advertisement; restrictions, exceptions.

Sec. 2a. No person, partnership, firm or corporation, except one holding a license, or who is otherwise excepted by this act, shall either haul or transport over any highway of this state, or dispose of to any person, partnership, firm or corporation, the bodies of any dead animals or any parts thereof in any manner herein described, or in any other manner not permitted by law.

Any person, partnership, firm or corporation, except one holding a license to transport the bodies of dead animals or any parts thereof or to operate a disposal plant or transfer station in this state, or who is otherwise excepted by this act, who shall advertise either in any newspaper having a general circulation in any county of this state, wheresoever published, or in any manner by written, printed, typed or painted matter of any character, or by signs or any kind of other devices, whereby he shall indicate that he is engaged in transporting and disposing of dead animals or any parts thereof in any manner and for any purpose not excepted in this act; or who shall obtain from any other person, by purchase or otherwise, the body of any such dead animal, in whole or in any part, for the purpose of transporting the same over any highway of this state and of disposing of the carcass, or the grease, or other products, of such dead animal or any parts thereof, to any person or by any method designed to effect a profit therefrom for himself, shall be guilty of violating this act, and shall be subject to all the penalties of this act.

No person, partnership, firm or corporation, except as herein provided, may operate transfer stations or haul or transport over the highways of this state, the bodies of any dead animals or any parts thereof, except those that have been slaughtered and are intended for human food, without first obtaining and holding a license issued under the provisions of this act. The provisions of this act shall not prevent the original owner at the time of death of the animal from transporting such animal over the highways of this state to a transfer station or rendering plant licensed under this act.

HISTORY: Add. 1937, p. 224, Act 145, Imd. Eff. Jul. 2;—CL 1948, 287.232a;—Am. 1952, p. 48, Act 49, Eff. Sep. 18;—Am. 1964, p. 200, Act 162, Eff. Aug. 26.

287.233 Disposal plant; specifications, drainage, sanitation; burial, burning; vehicles; transfer stations.

Sec. 3. No place shall be deemed a suitable or sanitary place for disposing of the bodies of dead animals or any parts thereof unless it conforms to the following specifications:

A building adapted to the purpose intended, provided with concrete or cement floors and provided with good drainage and thoroughly sanitary and properly equipped with steel tanks, enclosed driers and condensers, so that there may be no escape of odors in the air. All carcasses or any parts thereof so disposed of shall be re-

duced by steam. All tanks shall be air tight, except proper escapes for live steam used in cooking, such steam to be disposed of so as not to cause unnecessary annoyance or a nuisance. All skinning and dismembering of bodies shall be done within such building, so that no annoyance shall be caused by the unsightly appearance of such bodies. Such place shall be so situated, arranged and conducted as not to interfere with the comfortable enjoyment of life and property of the citizens of this state.

The floor space in a reduction plant where dead animals are skinned and dismembered shall be thoroughly washed and cleaned at the end of each day's operation. The interior of the plant, including equipment, shall be kept clean and free from accumulated filth. Sewers and drains shall be flushed and cleaned regularly to insure proper drainage. All unloading platforms that extend any distance out from main buildings shall be so constructed as to insure proper cleaning and drainage. Drainage shall not be out onto the surrounding surface. All buildings shall be kept in good repair at all times.

In case such bodies or any parts thereof are disposed of by burying, they shall be buried to such a depth that no part of any such body shall be nearer than 4 feet to the natural surface of the ground and every part of such body or carcass shall be covered with quicklime and by at least 4 feet of earth. In case such bodies or any parts thereof are disposed of by burning, the place for such burning shall be so located, constructed and arranged as to cause no annoyance to any of the citizens of this state by such burnings and so as not to interfere with the comfortable enjoyment of life or property. All parts of such bodies not entirely consumed by such burning shall be disposed of by burying as above provided, or in such other manner as may be directed by the state department of agriculture. All carcasses or any parts thereof of animals dying from disease or accident shall be disposed of in the manner above provided within 24 hours. Nothing in this act shall prohibit the person owning any animals at the time of the death of such animals from skinning the body of such animals in the open and on his own premises, provided it is done without annoyance to the public.

All trucks or vehicles used for the handling or hauling of dead animals, or any part thereof, the disposition of which comes within the meaning of this act, shall be equipped with bodies made of nonabsorbent material and so constructed as to prevent a leakage or a seepage of any material from the aforesaid truck or vehicle at any time. Three sides of the truck body shall extend upwards not less than 24 inches in height and the tail gate attached to the truck body when closed shall extend upwards not less than the same height as the sides. The rear end of the floor of the truck body shall be flanged upward, and welded to the floor, to a height of not less than 2 inches. Suitable coverings or tarpaulins shall be carried and used to completely cover the truck body and load at all times when the truck is loaded or in transit to the point of destination.

All trucks, vehicles, containers and tarpaulins, used in connection with the handling or transportation of dead animals or any parts thereof or material for rendering, shall be kept cleaned and properly disinfected. When such trucks or vehicles have been used to haul or handle any animals or parts of animals which have died or have been killed as the result of an infectious or contagious disease, such truck or vehicle shall be cleaned and thoroughly disinfected after unloading at point of destination, and before going on to any highway or premises other than those where such animals or parts of animals are delivered.

The transfer of the dead bodies of animals or parts thereof, except those parts contained in drums or similar containers, from 1 conveyance to another shall be done at a transfer station. The transfer station shall be so situated as to not create an annoyance or a nuisance to the citizens of the state of Michigan. The transfer station loading platform shall be provided with a concrete or cement platform and be provided with good

drainage. There shall be running water available at the transfer station so that the platform and equipment may be thoroughly cleaned and kept in a sanitary condition. The drainage shall be connected to a sewer line which passes through a sewage disposal plant or to a cesspool or septic tank, such cesspool or septic tank to be provided with adequate drainage beds. Drainage from the transfer station shall not be discharged on the surface of the ground nor directly in any stream. It shall be illegal for transfer stations to have refrigeration units or walk-in coolers on their premises.

HISTORY: CL 1929, 5295;—Am. 1935, p. 298, Act 189, Eff. Sep. 21;—CL 1948, 287.233;—Am. 1952, p. 49, Act 49, Eff. Sep. 18;—Am. 1964, p. 300, Act 162, Eff. Aug. 28.

287.234 Rules for conduct of business.

Sec. 4. The state department of agriculture shall make such reasonable rules and regulations for the carrying on and conducting of such business as may to it seem best; and all persons, firms, and corporations desiring to engage in such business or being in such business, shall conform to and obey such rules and regulations.

HISTORY: CL 1929, 5296;—CL 1948, 287.234.

287.235 Inspection before license issued.

Sec. 5. Before the state department of agriculture shall issue to any person, firm or corporation a license under the provisions of this act it shall inspect the place where such business is to be conducted and shall see that such place conforms to the specifications provided for in this act and to the rules made thereunder.

HISTORY: CL 1929, 5297;—CL 1948, 287.235.

287.236 Annual inspection; suspension or revocation of license; notice, hearing.

Sec. 6. The state department of agriculture shall inspect each place licensed under this act at least once each year and as often as it deems necessary, and shall see that the licensee conducts the business in conformity to this act and to the rules and regulations by it made and established. For a failure or refusal to obey the provisions of the act or said rules and regulations by any licensee, the state department of agriculture shall suspend or revoke the license held by such licensee. Before revoking any license, the commissioner of agriculture shall give written notice to the licensee affected, stating that he contemplates the revocation of the same and giving his reasons therefor. Said notice shall appoint a time of hearing before said commissioner and shall be mailed by registered mail to the licensee. On the day of hearing, the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the commissioner shall decide the question in such manner as to him appears just and right. Any licensee who feels aggrieved at the decision of the commissioner may appeal from said decision within 10 days by writ of certiorari to the circuit court of the county where licensee resides.

HISTORY: CL 1929, 5298;—Am. 1935, p. 297, Act 189, Eff. Sept. 21;—CL 1948, 287.236.

287.237 Blank applications.

Sec. 7. Proper blank applications for license of the state department of agriculture shall be provided and furnished free to applicant by the state department of agriculture.

HISTORY: CL 1929, 5299;—CL 1948, 287.237.

287.238 License required before engaging in business.

Sec. 8. No person, firm or corporation shall engage in the business of disposing of the bodies of dead animals or any parts thereof without first obtaining a license so to do, in the manner and upon the terms and conditions provided in this act.

HISTORY: CL 1929, 5300;—CL 1948, 287.238;—Am. 1964, p. 202, Act 162, Eff. Aug. 28.

287.239 Transportation of hog carcasses.

Sec. 9. Any person, firm or corporation holding a license under the provisions of this act may haul and transport the carcasses of hogs or any parts thereof, that have died, in a covered wagon, bed or tank which is water tight and is so constructed that no drippings or seepings from such carcasses of hogs can escape from such wagon, bed or tank. Such wagon, bed or tank shall be so constructed and operated as to conform to the rules and regulations that may be established by the state department of agriculture and shall not leave a public highway for the purpose of receiving or collecting hog carcasses or any parts thereof, shall not be moved from said wagon, bed or tank except at the place of final disposal.

HISTORY: CL 1929, 5301;—CL 1948, 287.239;—Am. 1964, p. 202, Act 162, Eff. Aug. 28.

287.240 Scope of act.

Sec. 10. Any person, firm or corporation who shall advertise in any newspaper of general circulation or by printed matter of any kind as cards, handbills or posters, that he is engaged in the business of disposing of dead animals or any parts thereof, or who shall obtain from any other person, firm or corporation by purchase or otherwise the body of any animal or any parts thereof for the purpose of obtaining the hide, skin, bones or grease of such animal, or for the purpose of disposing of the carcass or any parts thereof of such animal in any way whatsoever, shall be deemed to have engaged in the business of disposing of the bodies and any parts thereof of such animals and shall be subject to the provisions and penalties of this act.

HISTORY: CL 1929, 5302;—CL 1948, 287.240;—Am. 1964, p. 202, Act 162, Eff. Aug. 28.

287.240a Repealed. 1964, p. 202, Act 162, Eff. Aug. 28.

Section provided that dead animals act should not apply to fox raisers or to agent thereof who should transport dead animals to any place where foxes were kept for feeding purposes.

287.241 Violation of act; penalty.

Sec. 11. Any person, firm or corporation who shall violate any 1 or more of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than 100 dollars, or by imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment in the discretion of the court; and for a second offense shall be punished by a fine of not more than 500 dollars, or by imprisonment in the county jail for not more than 6 months, or both, in the discretion of the court.

HISTORY: CL 1929, 5304;—CL 1948, 287.241.

Sec. 12. (This was a repeal section.)

HISTORY: CL 1929, 5305;—Rep. 1945, p. 407, Act 287, Imd. Eff. May 25.

Act 339, 1919, p. 603; Eff. Aug. 14.

AN ACT relating to dogs and the protection of live stock and poultry from damage by dogs; providing for the licensing of dogs; regulating the keeping of dogs, and authorizing their destruction in certain cases; providing for the determination and payment of damages done by dogs to live stock and poultry; imposing powers and duties on certain state, county, city and township officers and employes, and to repeal Act No. 347 of the Public Acts of 1917, and providing penalties for the violation of this act.

The People of the State of Michigan enact:

287.261 Dog law of 1919; short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "dog law of 1919 of the state of Michigan".

(2) For the purpose of this act:

(a) "Live stock" means horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine, and fur-bearing animals being raised in captivity.

(b) "Poultry" means all domestic fowl, ornamental birds and game birds possessed or being reared under authority of a breeder's license pursuant to Act No. 191 of the Public Acts of 1929, as amended, being sections 317.71 to 317.85 of the Compiled Laws of 1948.

(c) "Owner" when applied to the proprietorship of a dog means every person having a right of property in the dog, and every person who keeps or harbors the dog or has it in his care, and every person who permits the dog to remain on or about any premises occupied by him.

(d) "Kennel" means any establishment wherein or whereon dogs are kept for the purpose of breeding, sale, or sporting purposes.

(e) "Police officer" means any person employed or elected by the people of the state of Michigan, or by any municipality, county or township, whose duty it is to preserve peace or to make arrests or to enforce the law, and includes game, fish and forest fire wardens and members of the state police.

HISTORY: CL 1929, 5245.—CL 1948, 287.261.—Am. 1959, p. 45, Act 42, Eff. Mar. 19, 1960.

CITED IN OTHER SECTIONS: Sections 287.261 to 287.290 are cited in §§ 287.394 and 600.8511.

287.262 Dogs; licensing, tags, leashes.

Sec. 2. It shall be unlawful for any person to own any dog 6 months old or over, unless the dog is licensed as hereinafter provided, or to own any dog 6 months old or over that does not at all times wear a collar with a tag approved by the director of agriculture, attached as hereinafter provided, except when engaged in lawful hunting accompanied by its owner or custodian; or for any owner of any female dog to permit the female dog to go beyond the premises of such owner when she is in heat, unless the female dog is held properly in leash; or for any person except the owner or authorized agent, to remove any license tag from a dog; or for any owner to allow any dog, except working dogs such as leader dogs, guard dogs, farm dogs, hunting dogs, and other such dogs, when accompanied by their owner or his authorized agent, while actively engaged in activities for which such dogs are trained, to stray unless held properly in leash.

HISTORY: Am. 1965, p. 496, Act 322, Eff. Aug. 27;—CL 1929, 5246;—CL 1948, 287.262;—Am. 1951, p. 222, Act 173, Imd. Eff. Jun. 8;—Am. 1969, p. 378, Act 195, Eff. Mar. 20, 1970.

287.263 Repealed. 1969, p. 378, Act 195, Eff. Mar. 20, 1970.

Section provided that every dog shall at all times between sunset of each day and sunrise of the following day be confined upon premises of owner or custodian, except when said dog is otherwise under reasonable control of some person.

287.264 Supervision and enforcement; citations.

Sec. 4. The state livestock sanitary commission shall have the general supervision over the licensing and regulation of dogs and the protection of livestock and poultry from dogs, and may employ all proper means for the enforcement of this act and all police officers of the state, county, municipality or township shall be at its disposal for that purpose. Any dog warden and deputy dog warden and any law enforcement officer of the state shall issue a citation to the owner of any dog over 6 months of age without a valid dog license.

HISTORY: CL 1929, 5248;—CL 1948, 287.264;—Am. 1969, p. 378, Act 195, Eff. Mar. 20, 1970.

287.265 Tags, blanks and license forms.

Sec. 5. It shall be the duty of the state live stock sanitary commission to purchase from time to time, as may be necessary, a sufficient number of tags for the state of Michigan, which tags shall be purchased from such commission by the treasurers of

the counties as the same may be needed to comply with the provisions of this act. Such tags shall be sold at cost to the said treasurers. The state treasurer is hereby authorized to advance to the said commission, out of any funds of the state, such sum of money as may be necessary from time to time to pay for the tags so purchased by the state live stock sanitary commission, which sum shall be repaid to the state treasurer from the money collected from the county treasurers in payment for the tags. The said commission is hereby authorized to extend 30 days' credit to any county treasurer for tags so purchased. The commission shall also furnish to each county treasurer, on or before November fifteenth of each year, a book containing proper forms for issuing dog licenses required in his county, together with the necessary blanks for the use of the supervisors and assessors of such county; such books and blanks shall be furnished to said commission by the board of state auditors without cost to said commission. The tags required by this act shall be not more than 1 ½ inches in length and uniform in shape throughout the state, the general shape of which shall be changed from year to year; such tags shall have impressed upon them the calendar year for which they are issued and shall bear the name of the county issuing them and shall be numbered consecutively.

HISTORY: CL 1929, 5249;—CL 1948, 287.265.

NOTE: See note under preceding section.

287.266 Dog license; application, contents, proof of vaccination; fee, powers of supervisors; fee increase.

Sec. 6. On or before March 1 of each year the owner of any dog 6 months old or over, except as provided in section 14, shall apply to the county, township or city treasurer or his authorized agent, where the owner resides, in writing, for a license for each dog owned or kept by him. The board of supervisors of any county of this state may by resolution extend the time for application for license until June 1 of any year, and wherever the date of March 1 is used in this section, the same shall be June 1 as applied to such county. Such application shall state the breed, sex, age, color and markings of such dog, and the name and address of the last previous owner. Such application for a license shall be accompanied by proof of vaccination of the dog for rabies by a certificate of vaccination for rabies, with a vaccine licensed by the United States department of agriculture, signed by an accredited veterinarian, the expiration date of the certificate of vaccination shall not be earlier than December 31 of the year for which the dog license is issued.

The board of supervisors shall require, by resolution of a majority of the board, that at the time of making the application the owner shall pay the following license fee: If the application is made before March 1, the same shall be accompanied by a license fee of \$1.00 for each male dog or unsexed dog; and \$2.00 for each female dog; if the application if [sic] made on or after March 1, the same shall be accompanied by a license fee of \$2.00 for each male dog or unsexed dog; and \$4.00 for each female dog. The board of supervisors of any county in this state in which the collections of the fees hereinbefore prescribed shall exceed the amount of money necessary to pay the necessary fees and damages caused by dogs, as provided in this act, in such county, by resolution, may reduce such fees to an amount deemed necessary by the board to bring in sufficient funds to pay the damages caused by dogs, as provided in this act, in such county. The board of supervisors of any county in this state in which the collections of the fees hereinbefore prescribed shall not be sufficient to pay the necessary fees and damages caused by dogs, as provided in this act, in such county, by resolution, may increase such fees to an amount deemed necessary by the board to bring in sufficient funds to pay the damages caused by dogs, as provided in this act, in such county.

HISTORY: Am. 1925, p. 486, Act 322, Eff. Aug. 27;—Am. 1927, p. 65, Act 53, Eff. Sep. 5;—CL 1929, 5250;—Am. 1933, p. 93, Act 79, Imd. Eff. May 19;—Am. 1935, p. 29, Act 17, Eff. Sep. 21;—Am. 1937, p. 60, Act 47, Imd. Eff. May 18;—Am. 1947, p. 239, Act 171, Eff. Oct. 11;—

CL 1948, 287.266.—Am. 1949, p. 29, Act 35, Eff. Sep. 23;—Am. 1953, p. 309, Act 172, Imd. Eff. Jun. 4;—Am. 1969, p. 378, Act 195, Eff. Mar. 20, 1970.

287.266a Repealed. 1969, p. 378, Act 195, Eff. Mar. 20, 1970.

Section required proof of dog's vaccination with modified live rabies virus of chick embryo origin within 2 years preceding date of application for license to comply with sections 6 and 30 of animal industry act.

287.267 Dog license; tag, approval; kept on dog.

Sec. 7. The county treasurer shall then deliver to said owner a license and also 1 of the tags approved by the director of agriculture, before mentioned, such tag to be affixed to a substantial collar to be furnished by the owner, which with the tag attached, shall at all times be kept on the dog for which the license is issued, except when such dog is engaged in lawful hunting accompanied by its owner or custodian.

HISTORY: CL 1929, 5251;—CL 1948, 287.267;—Am. 1951, p. 222, Act 173, Imd. Eff. Jun. 8.

287.268 Dog license; unlicensed and young dogs; application, half fee after certain date.

Sec. 8. Any person becoming the owner, after the first day of March, 1926, or any year thereafter, of any dog 4 months old or over, which has not already been licensed, or any person owning a dog which becomes 4 months old at any time after the first day of March of any year, shall forthwith apply for and secure a license for such dog, and in case of application made at any time after the tenth day of July of any year, the license fee shall be 1/2 the amount fixed as the annual license fee for such dog.

HISTORY: Am. 1925, p. 487, Act 322, Eff. Aug. 27;—CL 1929, 5252;—CL 1948, 287.268.

287.269 Dog license; contents.

Sec. 9. Each license issued shall be dated and shall bear a serial number corresponding to the number on the metal tag furnished to said owner; it shall also bear the name of the county issuing the same and a full description of the dog licensed.

HISTORY: CL 1929, 5253;—CL 1948, 287.269.

287.270 Kennel; definition; license; fee, tags; inspection, rules; exception.

Sec. 10. For the purposes of this act, a kennel shall be construed as an establishment wherein or whereon 3 or more dogs are confined and kept for sale, boarding, breeding or training purposes, for remuneration, and such kennel facility shall be so constructed as to prevent the public or stray dogs from obtaining entrance thereto and gaining contact with dogs lodged in the kennel. Any person who keeps or operates a kennel may, in lieu of individual license required under this act, apply to the county treasurer for a kennel license entitling him to keep or operate a kennel. Proof of vaccination of dogs against rabies shall not be required with such application. Such license shall be issued by the county treasurer on a form prepared and supplied by the director of the department of agriculture, and shall entitle the licensee to keep any number of dogs 6 months old or over not at any time exceeding a certain number to be specified in the license. The fee to be paid for each kennel license shall be \$10.00 for 10 dogs or less, and \$25.00 for more than 10 dogs. A fee of double the original license fee shall be charged for each previously licensed kennel, whose kennel license is applied for after June 1. With each kennel license the county treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. All such tags shall bear the name of the county issuing it, the number of the kennel license, and shall be readily distinguishable from the individual license tags for the same year.

The county treasurer or county dog warden shall not issue a kennel license for a new kennel under the provisions of this act unless the applicant furnishes an inspection certificate signed by the director of the department of agriculture, or his authorized representative, stating that the kennel to be covered by the license complies with the reasonable sanitary requirements of the department of agriculture, and that the dogs therein are properly fed and protected from exposure commensurate with the

breed of the dog. The director of the department of agriculture shall promulgate reasonable rules with respect to any such inspections in the manner prescribed by law. The inspection shall be made not more than 30 days before filing the application for license. The provisions of this act shall not be effective in the counties of this state that are operating under the provisions of section 16 wherein the board of supervisors have appointed a county dog warden with certain powers and duties, unless such counties by a resolution duly adopted by the board of supervisors accept the provisions of this act.

HISTORY: Am. 1925, p. 487, Act 322, Eff. Aug. 27;—CL 1929, 5254;—Am. 1933, p. 93, Act 79, Imd. Eff. May 19;—Am. 1945, p. 341, Act 245, Eff. Sep. 6;—CL 1948, 287.270;—Am. 1953, p. 210, Act 172, Imd. Eff. Jun. 4;—Am. 1969, p. 377, Act 195, Eff. Mar. 20, 1970.

287.270a Repealed. 1969, p. 378, Act 195, Eff. Mar. 20, 1970.

Section required that any dog, 6 months old or over, sold by licensed kennel to new owner residing in any county where proof of vaccination is required with application for dog license, shall be vaccinated by such kennel.

287.270b Kennel licenses; issuance by dog warden.

Sec. 10b. Any city, township or village having in its employment a full time dog warden may adopt an ordinance providing for the issuance of kennel licenses by the dog warden on the same terms, conditions and fees as is provided in section 10. Upon the adoption of such an ordinance the city, township or village shall be excepted from the provisions of sections 10, 10a and 11 of this act.

HISTORY: Add. 1968, p. 157, Act 132, Eff. Mar. 10, 1967.

287.271 Rules governing kennel dogs.

Sec. 11. The licensee of a kennel shall, at all times, keep 1 of such tags attached to a collar on each dog 4 months old or over kept by him under a kennel license. No dog bearing a kennel tag shall be permitted to stray or be taken anywhere outside the limits of the kennel. This section does not prohibit the taking of dogs having a kennel license outside the limits of the kennel temporarily and in leash, nor does it prohibit the taking of such dogs out of the kennel temporarily for the purpose of hunting, breeding, trial or show.

HISTORY: CL 1929, 5255;—CL 1948, 287.271.

287.272 Lost tags.

Sec. 12. If any dog tag is lost, it shall be replaced without cost by the county treasurer, upon application by the owner of the dog, and upon production of such license and a sworn statement of the facts regarding the loss of such tag.

HISTORY: CL 1929, 5256;—CL 1948, 287.272.

287.273 License and tag; transferability.

Sec. 13. No license or license tag issued for 1 dog shall be transferable to another dog. Whenever the ownership or possession of any dog is permanently transferred from 1 person to another within the same county, the license of such dog may be likewise transferred, upon notice given to the county treasurer who shall note such transfer upon his record. This act does not require the procurement of a new license, or the transfer of a license already secured, when the possession of a dog is temporarily transferred, for the purpose of hunting game, or for breeding, trial, or show, in the state of Michigan.

HISTORY: CL 1929, 5257;—CL 1948, 287.273.

287.274 Duties of township or city treasurer; fees; performance of duties by city clerk.

Sec. 14. Every township or city treasurer in the state shall, on or before December first, 1925, and of each year thereafter, make application to the county treasurer for the necessary license blanks and tags for the ensuing year and after receipting therefor may issue dog licenses and tags in like manner, and upon like application as prescribed for the issuing of licenses by the county treasurer. Each township or city treasurer

shall not later than March first of each year return to the county treasurer all unused tags, together with the book or books from which he has issued dog licenses, with the stubs therein contained properly filled out, and showing the names of each license and the number of each license issued to him and a full description of each dog licensed by him. He shall also on or before March first of each year pay over all moneys received by him for issuing licenses less 15 cents for each license issued, to pay him for issuing and recording the same. Any city may, by resolution of its legislative body, provide that its clerk shall perform the duties by this act imposed on its treasurer. Upon the adoption of such a resolution, the treasurer of such city shall not be required to issue licenses under this act but the clerk of such city shall thereupon perform, in like manner and under like terms and conditions, and with like compensation, all of the duties imposed upon city treasurers by this act.

HISTORY: Am. 1921, p. 575, Act 310, Eff. Aug. 18;—Am. 1925, p. 487, Act 322, Eff. Aug. 27;—CL 1929, 5258;—Am. 1933, p. 94, Act 79, Imd. Eff. May 19;—Am. 1947, p. 235, Act 168, Eff. Oct. 11;—CL 1948, 287.274.

287.275 County treasurer's record; inspection.

Sec. 15. The county treasurer shall keep a record of all dog licenses, and all kennel licenses, issued during the year in each city and township in his county. Such record shall contain the name and address of the person to whom each license is issued. In the case of an individual license, the record shall also state the breed, sex, age, color, and markings of the dog licensed; and in the case of a kennel license, it shall state the place where the business is conducted. The record shall be a public record and open to inspection during business hours. He shall also keep an accurate record of all license fees collected by him or paid over to him by any city or township treasurer.

HISTORY: CL 1929, 5259;—CL 1948, 287.275.

287.276 Listing of dogs; report to county treasurer; fees; dog wardens, term, compensation.

Sec. 16. The supervisor of each township and the assessor of every city, annually, on taking his assessment of property as required by law, may make diligent inquiry as to the number of dogs owned, harbored or kept by all persons in his assessing district; and on or before June 1, make a complete report to the county treasurer, for his county, on a blank form furnished by the director of agriculture, setting forth the name of every owner, or keeper, of any dog, subject to license under this act, how many of each sex are owned by him, and if a kennel license is maintained such fact shall be also stated. Every supervisor or assessor shall receive for his services in listing such dogs at a rate determined by the board of supervisors for each dog so listed, which sums shall be paid out of the general fund of the county. In any city having a population of 5,000 or more, the county board of supervisors may by resolution appoint for a term of 2 years, a dog warden, who shall perform in and for the city all the duties which this act prescribes for the supervisors of townships, and who shall receive the same compensation as is herein provided for supervisors. The board of supervisors of any county may, by resolution, appoint for the county for a term of 2 years a dog warden or dog wardens whose duties and compensation shall be such as shall be prescribed by the board of supervisors and who may be delegated the duties required by this section to be performed by the supervisors and assessors without extra compensation.

HISTORY: Am. 1925, p. 488, Act 322, Eff. Aug. 27;—Am. 1925, p. 493, Act 327, Imd. Eff. May 26;—CL 1929, 5260;—Am. 1933, p. 94, Act 79, Imd. Eff. May 19;—Am. 1941, p. 482, Act 278, Eff. Jan. 10, 1942;—Am. 1947, p. 235, Act 168, Eff. Oct. 11;—CL 1948, 287.276;—Am. 1967, p. 271, Act 197, Eff. Nov. 2;—Am. 1968, p. 68, Act 38, Eff. Jan. 1, 1969.

287.277 Comparison of dog lists and license records; killing of unlicensed dogs.

Sec. 17. On June 15 of each year the county treasurer may make a comparison of his records of the dogs actually licensed in each city or township of his county with the re-

port of the supervisor of said township or assessor of said city or county dog warden, to determine and locate all unlicensed dogs. On and after June 15 of each year every unlicensed dog, subject to license under the provisions of this act, is declared to be a public nuisance and the county treasurer shall immediately thereafter list all such unlicensed dogs, as shown by the returns in his office of the supervisors and assessors, and shall deliver copies of such lists to the sheriff and prosecuting attorney of said county and to the commissioner of agriculture. On receiving from the county treasurer the name of any owner of any unlicensed dog, the prosecuting attorney shall at once commence the necessary proceedings against the owner of said dog, as required by the provisions of this act. It shall also be the duty of the sheriff or any member of the state constabulary to locate and kill, or cause to be killed, all such unlicensed dogs. Failure, refusal or neglect on the part of any sheriff to carry out the provisions of this section shall constitute nonfeasance in office.

HISTORY: Am. 1925, p. 488, Act 322, Eff. Aug. 27;—CL 1929, 5261;—Am. 1933, p. 94, Act 79, Imd. Eff. May 19;—CL 1948, 287.277;—Am. 1967, p. 271, Act 197, Eff. Nov. 2;—Am. 1968, p. 67, Act 38, Eff. Jan. 1, 1969.

287.278 Killing of dogs; duty of officer; fee.

Sec. 18. It shall be the duty of every police officer, on complaint, to kill any dog or dogs which are found outside of an incorporated city, running at large and unaccompanied by owner or keeper. For killing and burying dogs herein described, the sheriff or other police officer shall be entitled to a fee of 1 dollar for each dog killed and buried.

HISTORY: Am. 1925, p. 489, Act 322, Eff. Aug. 27;—CL 1929, 5262;—CL 1948, 287.278.

287.279 Killing of dogs; justification.

Sec. 19. Any person may kill any dog which he sees in the act of pursuing, worrying or wounding any live stock or poultry or attacking persons, and there shall be no liability on such person in damages or otherwise, for such killing. Any dog that enters any field or enclosure which is owned by or leased by a person producing live stock or poultry, outside of an incorporated city, unaccompanied by his owner or his owner's agent, shall constitute a private nuisance, and the owner or tenant of such field or other enclosure, or his agent or servant, may kill such dog while it is in the field or other enclosure without liability for such killing. Except as provided in this section, it shall be unlawful for any person, other than a police officer, to kill or injure or attempt to kill or injure any dog which bears a license tag for the current year.

HISTORY: CL 1929, 5263;—CL 1948, 287.279;—Am. 1959, p. 46, Act 42, Eff. Mar. 19, 1960.

287.280 Damage to livestock or poultry by dogs; remedy; complaint; proceedings; liability.

Sec. 20. Whenever any person sustains any loss or damage to any livestock or poultry by dogs, or whenever any livestock of any person is necessarily destroyed because of having been bitten by a dog, such person or his agent or attorney, may complain to the township supervisor or appointed trustee of the township within which the damage occurred. The complaint shall be in writing, signed by the person making it, and shall state when, where, what and how much damage was done, and, if known, by whose dog or dogs. The township supervisor or a township trustee appointed by the township board shall at once examine the place where the alleged damage was sustained and the livestock or poultry injured or killed, if practicable. He shall also examine under oath, or affirmation, any witness called before him. After making diligent inquiry in relation to the claim, the township supervisor or appointed trustee shall determine whether any damage has been sustained and the amount thereof, and, if possible, who was the owner of the dog or dogs by which the damage was done. If during the course of the proceedings it shall appear who is the owner of the dog causing the loss or damage to the livestock, the township supervisor or appointed trustee shall

request the district court judge to forthwith issue a summons against the owner commanding him to appear before the township supervisor or appointed trustee and show cause why the dog should not be killed. The summons may be served anyplace within the county in which the damage occurred, and shall be made returnable not less than 2 nor more than 6 days from the date therein and shall be served at least 2 days before the time of appearance mentioned therein. Upon the return day fixed in the summons the township supervisor or appointed trustee shall proceed to determine whether the loss or damage to the livestock was caused by said dog, and if he shall so find he shall forthwith notify the sheriff or the dog warden of the county of that fact whereupon it shall be the duty of the sheriff or the dog warden to kill the dog wherever found. Any owner or keeper of the dog or dogs shall be liable to the county in a civil action for all damages and costs paid by the county on any claims as hereinafter provided.

HISTORY: CL 1929, 5264;—Am. 1937, p. 60, Act 47, Imd. Eff. May 18;—CL 1948, 287.280;—Am. 1968, p. 67, Act 38, Eff. Jan. 1, 1969.

287.281 Damage to livestock or poultry by dogs; report of justice to supervisors.

Sec. 21. Upon making the examination required in the preceding section, if the justice of the peace shall determine that any damage has been sustained by the complainant, he shall, upon payment to him of his costs up to that time, by the complainant, deliver his report of such examination, and all papers relating to the case to the board of supervisors of the county in which the loss was sustained, which report shall be filed in their office. In case the complainant has not paid the costs the justice shall so state in said report and the amount thereof.

HISTORY: Am. 1929, p. 300, Act 131, Eff. Aug. 28;—CL 1929, 5265;—CL 1948, 287.281.

287.282 Damage to livestock or poultry by dogs; fees of justice, inclusion in damages.

Sec. 22. Justices of the peace, for the services rendered under this act, shall receive \$4.00 for each case, and 10 cents per mile for each mile traveled, to be paid by the claimant in each case. In all cases where damages are awarded, the fees paid by claimants shall be included in the amount of such damages.

HISTORY: CL 1929, 5266;—CL 1948, 287.282;—Am. 1958, p. 29, Act 26, Eff. Sep. 13.

287.283 Damage to livestock or poultry by dogs; payment by county; procedure; amount.

Sec. 23. Upon the board of supervisors of the county receiving such report, if it appears thereby that a certain amount of damage has been sustained by the claimant, they shall immediately draw their order on the treasurer of the county in favor of the claimant for the amount of loss or damage such claimant has sustained, together with his necessary and proper costs incurred: Provided, That where the claim filed with the said board appears from the report filed to be illegal or unjust, the said board may make an investigation of the case and make its award accordingly: Provided further, That in case the report states that the fees of the justice have not been paid, then the amount thereof shall be paid to him instead of the claimant. Such amount shall be paid by the county out of its general fund. No payment shall be made for any item which has already been paid by the owner of the dog or dogs doing the injury. When any payment is made by the county for any live stock or poultry bitten by a dog or dogs, such payment shall not exceed the amount allowed by the board of supervisors.

HISTORY: Am. 1925, p. 39, Act 31, Eff. Aug. 27;—Am. 1927, p. 64, Act 52, Eff. Sept. 5;—Am. 1929, p. 300, Act 131, Eff. Aug. 28;—CL 1929, 5267;—Am. 1931, p. 478, Act 286, Eff. Sept. 18;—Am. 1945, p. 327, Act 233, Eff. Sept. 6;—CL 1948, 287.283.

287.284 Damage to livestock or poultry by dogs; duty of county auditors.

Sec. 24. In counties having a board of county auditors, such board shall receive, audit and determine all claims for damages under this act and when such claims are found to be legal and just said board of county auditors shall order their payment out

of the general fund of the county. Justices of the peace in such counties shall deliver their report of investigation under this act to such board of county auditors.

HISTORY: CL 1929, 5268;—CL 1948, 287.284.

287.285 Saving clause; disposition of dog fund; expense of dog department in cities, payment.

Sec. 25. Any valid claims for loss or damage to live stock which have accrued under any general or local laws, prior to the taking effect of this act, shall not abate by reason of the repeal of such laws by the operation of this act, but all such claims, and all claims arising under this act and all expense incurred in any county in enforcing the provisions of this act shall be paid out of the general fund of the county. At the time this act takes effect, all moneys then in the "dog fund" in the hands of township or city treasurers, derived from the taxation of dogs under existing laws, shall be turned into the county general fund: Provided, In all cities having a well regulated dog department, the reasonable expense of maintaining the same, shall be borne by said county, duly audited by the board of supervisors, and in any county having a board of county auditors, said board of county auditors shall audit said reasonable bills, to be paid out of the general fund of the county.

HISTORY: CL 1929, 5269;—CL 1948, 287.285.

287.286 Penalties; disposition of fines.

Sec. 26. Any person or police officer, violating or failing or refusing to comply with any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall pay a fine not less than \$10.00 nor more than \$100.00, or shall be imprisoned in the county jail for not exceeding 3 months, or both such fine and imprisonment. Any person presenting a false claim, knowing it to be false, or receiving any money on such false claim, shall be guilty of a misdemeanor and upon conviction, shall pay a fine of not less than \$10.00 nor more than \$100.00, or shall be imprisoned in the county jail for not exceeding 3 months, or both such fine and imprisonment. All fines collected under the provisions of this act shall be paid to the treasurer of the county to be credited to the library fund of the county.

HISTORY: CL 1929, 5270;—CL 1948, 287.286;—Am. 1969, p. 377, Act 195, Eff. Mar. 20, 1970.

287.286a Complaint to justice of certain facts, issuance of summons; hearing, judgment; disobedience, penalty; costs; services of officers, payment.

Sec. 26-a. On sworn complaint to any justice of the peace of the county that any 1 of the following facts exist:

1. That after January tenth and before June fifteenth in each year any dog over 4 months old is running at large, unaccompanied by its owner, or engaged in lawful hunting and not under the reasonable control of its owner, without license attached to the collar on such dog;
2. That any dog at any time licensed or unlicensed, has destroyed property or habitually trespasses in a damaging way on property of persons other than the owner;
3. That any dog at any time, licensed or unlicensed, has attacked or bitten a person;
4. That any dog shows vicious habits and molests passersby when lawfully on the public highway;
5. That any dog duly licensed and wearing license tag, is running at large contrary to the provisions of this act.

Such justice of the peace shall issue summons similar to that provided in section 20 of this act, to show cause why such dog should not be killed. Upon such hearing the justice may either order the dog killed, or may order him confined to the premises of the owner. If the owner disobeys such an order he shall be liable to be punished under section 26 of this act. Costs as in a civil case shall be taxed against the owner of the

dog, and collected by the county. The board of supervisors shall audit and pay claims for services of officers rendered under this section, unless the same are paid by the owner of the dog.

HISTORY: Add. 1927, p. 152, Act 114, Eff. Sept. 5;—CL 1929, 5271;—CL 1948, 287.286a.

287.286b Penalty for stealing or confining licensed dog.

Sec. 26b. Any person who shall steal, or confine and secrete any dog licensed under this act or kept under a kennel license, unless legally authorized to do so, or unless such confining be justifiable in the protection of person, property or game, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$50.00 nor more than \$100.00, or imprisonment in the county jail for not less than 60 nor more than 90 days, or both in the discretion of the court.

HISTORY: Add. 1939, p. 30, Act 17, Eff. Sept. 29;—CL 1948, 287.286b.

287.287 Recovery of value of dog illegally killed.

Sec. 27. Nothing in this act shall be construed to prevent the owner of a licensed dog from recovery, by action at law, from any police officer or other person, the value of any dog illegally killed by such police officer or other person.

HISTORY: CL 1929, 5272;—CL 1948, 287.287.

287.288 Common law liability.

Sec. 28. Nothing in this act contained shall be construed as limiting the common law liability of the owner of a dog for damages committed by it.

HISTORY: CL 1929, 5273;—CL 1948, 287.288.

287.289 Dogs imported temporarily.

Sec. 29. None of the provisions of this act shall be construed to require the licensing of any dog imported into this state, for a period not exceeding 30 days, for show, trial, breeding or hunting purposes.

HISTORY: CL 1929, 5274;—CL 1948, 287.289.

287.290 Cities, villages, and townships excepted from dog law of 1919; ordinances; vaccination proof.

Sec. 30. All cities in this state having a population of 250,000 or more, and all cities and villages located within 20 miles of the corporate limits of such cities of 250,000 or more, and townships having an ordinance or ordinances regulating the licensing of dogs, payment of claims and providing for the enforcement of such ordinances, with the exception of the provisions in sections 10, 10a and 11, are excepted from the other provisions of this act. Any city, village or township in a county of 150,000 population or more shall be authorized by action of the city or township governing body to adopt an ordinance or ordinances regulating the licensing of dogs, payment of claims and providing for the enforcement of such ordinances. Any city, village or township adopting a dog licensing ordinance or ordinances shall also require that such application for a license, except kennel licenses, shall be accompanied by proof of vaccination of the dog for rabies by a certificate of vaccination for rabies, with a vaccine licensed by the United States department of agriculture, signed by an accredited veterinarian, the expiration date of which shall not be earlier than December 31 of the year for which the dog license is issued.

HISTORY: Am. 1921, p. 576, Act 310, Eff. Aug. 18;—Am. 1929, p. 582, Act 329, Eff. Aug. 28;—CL 1929, 5275;—Am. 1933, p. 287, Act 35, Imd. Eff. Jun. 28;—Am. 1941, p. 498, Act 288, Eff. Jan. 10, 1942;—Am. 1943, p. 340, Act 209, Imd. Eff. Apr. 17;—CL 1948, 287.290;—Am. 1949, p. 19, Act 22, Eff. Sep. 23;—Am. 1952, p. 142, Act 125, Eff. Sep. 18;—Am. 1953, p. 210, Act 172, Imd. Eff. Jun. 4;—Am. 1959, p. 312, Act 211, Eff. Mar. 19, 1960;—Am. 1969, p. 377, Act 195, Eff. Mar. 20, 1970.

287.291 Leader dog of a blind person; exempt from licensing fees.

Sec. 1. Notwithstanding any other provisions to the contrary, a dog which is used as a leader dog for a blind person shall not be subject to any fee for licensing.

HISTORY: New 1970, p. 585, Act 207, Imd. Eff. Aug. 25.

Sec. 31. (This was a severing clause section.)

HISTORY: CL 1929, 5276;—Rep. 1945, p. 413, Act 287, Imd. Eff. May 25.

Sec. 32. (This was a repeal section.)

HISTORY: CL 1929, 5277;—Rep. 1945, p. 405, Act 287, Imd. Eff. May 25.

ACT REPEALED: Act 347, 1917.

Act 309, 1939, p. 749; Eff. Sep. 29.

AN ACT to provide for the regulation, registration, identification and licensing of dogs; to prescribe the powers and duties of the commissioner of agriculture with respect thereto; to prescribe penalties for violation of the provisions of this act; and to declare the effect of this act.

The People of the State of Michigan enact:

287.301 Dogs; tattooing of serial number; application, fee.

Sec. 1. From and after the first day of January, 1940, any person may have any dog tattooed with a registration number, as hereinafter provided. The owner of any such dog shall apply to the commissioner of agriculture, on blanks furnished by such commissioner, for the registration of any such dog. Upon satisfying the commissioner of agriculture that the applicant is the owner of such dog, the commissioner of agriculture shall assign a specific number (which shall not permit duplication) of the ownership of such dog, such number to be tattooed on and through the ear of the animal and on the inside and through the skin of a rear leg,—such tattooing to be done by such persons as shall be designated by the commissioner of agriculture, and shall be made by the use of permanent tattoo ink, such person so tattooing any dog to receive such fee therefor as shall be designated by the commissioner of agriculture. The application for registration shall be accompanied by a fee of \$1.00.

HISTORY: CL 1948, 287.301.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

287.302 Dogs; assignment of title; filing; issuance of title to purchaser.

Sec. 2. The specific number of ownership assigned to such dog shall constitute a title to the owner of such dog and upon the sale of such dog by such owner he shall make an assignment of title and the purchaser shall immediately cause such assignment to be transmitted to the commissioner of agriculture, who shall issue a title in the name of the purchaser of such assignment, to be accompanied by a fee of \$1.00.

HISTORY: CL 1948, 287.302.

287.303 Identification certificate; issuance to owner.

Sec. 3. Upon the registration or assignment of title the commissioner of agriculture shall issue to the owner of such dog an identification certificate.

HISTORY: CL 1948, 287.303.

287.304 Record of dog and owner kept by commissioner of agriculture.

Sec. 4. It shall be the duty of the commissioner of agriculture to keep a permanent record of the name and address of the owner of every dog so registered, the title number, name, breed, sex and color of each dog so registered, and furnish any law-enforcing agency a true copy of such records upon request.

HISTORY: CL 1948, 287.304.

287.305 Lost dog; finder entitled to fee for keeping.

Sec. 5. Any person finding a dog registered under the provisions of this act shall be entitled to the sum of 25 cents per day for boarding such dog, such board to be paid by the owner. The commissioner of agriculture shall furnish such finder with the name and address of the owner, upon request.

HISTORY: CL 1948, 287.305.

287.306 Fees credited to general fund.

Sec. 6. All fees received by the department of agriculture under the provisions of this act for the registration or assignment of titles of such dogs shall be paid to the commissioner of agriculture and by the commissioner of agriculture turned into the state treasury and any accumulated balance as of June 30, 1949, shall be credited to the general fund.

HISTORY: CL 1948, 287.306;—Am. 1949, p. 140, Act 132, Imd. Eff. May 20.

287.307 Mutilating of serial number prohibited; penalty.

Sec. 7. No person, corporation, club or organization shall tattoo any number over or upon the number tattooed on any dog by the authorized agent of the commissioner of agriculture so as to deface the same and prevent identification by the owner of such dog, nor shall such person, corporation, club or organization duplicate any number used by the commissioner of agriculture. Upon proof of such mutilation of such number, such person, corporation, club or organization shall be deemed guilty of a misdemeanor and shall be punished in accordance with the laws of the state.

HISTORY: CL 1948, 287.307.

287.308 Stealing or holding dog in possession; penalty.

Sec. 8. Any person who shall steal or take without the consent of the owner and without lawful authority, any dog registered under the provisions of this act, or any person excepting dog wardens who shall harbor or hold in his possession any stray dog of which he is not the owner and does not report such possession to the sheriff of the county or the police department of the city in which he is holding such dog within 48 hours after such person came in possession of said dog, where the value of such dog shall not be in excess of \$100.00, shall be guilty of a misdemeanor, and where the value of such dog shall be in excess of \$100.00, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$50.00 nor more than \$500.00, or imprisoned in the county jail for not more than 1 year, or both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1943, p. 186, Act 146, Eff. July 30;—Am. 1945, p. 10, Act 11, Eff. Sept. 6;—CL 1948, 287.308.

Act 287, 1969, p. 528; Eff. Mar. 20, 1970.

AN ACT to regulate pet shops, dog pounds and animal shelters.

The People of the State of Michigan enact:

287.331 Pet shops, dog pounds, animal shelters; definitions.

Sec. 1. As used in this act:

(a) "Dog pound" means any facility operated by a county, city, village or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village or township or state law.

(b) "Pet shop" means any place where animals of any species or combination of species are sold or offered for sale, exchange or transfer.

(c) "Animal" means any mammal except rodents and livestock as defined in Act No.

284 of the Public Acts of 1937, as amended, being sections 287.121 to 287.131 of the Compiled Laws of 1948.

(d) "Animal shelter" means a facility operated by a person, humane society, a society for the prevention of cruelty to animals or any other nonprofit organization for the care of homeless animals.

HISTORY: New 1969, p. 528, Act 287, Eff. Mar. 20, 1970.

287.332 Rules, promulgation.

Sec. 2. The agriculture department shall issue rules to accomplish the purposes of this act and to establish minimum standards for housing, care and handling of animals to insure the humane care and handling of animals. The rules shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 528, Act 287, Eff. Mar. 20, 1970.

287.333 License required.

Sec. 3. No person shall operate a pet shop unless he has first received a license from the department of agriculture under the provisions of this act.

HISTORY: New 1969, p. 528, Act 287, Eff. Mar. 20, 1970.

287.334 Application for licenses; fee.

Sec. 4. Applications shall be on a form as provided by the director of agriculture and accompanied by a fee of \$150.00 for pet shops.

HISTORY: New 1969, p. 528, Act 287, Eff. Mar. 20, 1970.

287.335 Inspection of pet shop premises.

Sec. 5. The director of agriculture shall not issue a license to operate a pet shop until he has inspected the premises to assure that it complies with the provisions of this act and the rules of the department of agriculture.

HISTORY: New 1969, p. 528, Act 287, Eff. Mar. 20, 1970.

287.336 Dog pound, animal shelter; registration.

Sec. 6. No county, city, village or township shall operate a dog pound unless they first register the dog pound with the department of agriculture. No person, humane society, a society for the prevention of cruelty to animals or any other nonprofit organization shall operate an animal shelter unless they first register with the department of agriculture.

HISTORY: New 1969, p. 528, Act 287, Eff. Mar. 20, 1970.

287.337 Dog pound, animal shelter; registration application.

Sec. 7. Application for registration of a dog pound or animal shelter shall be on such forms as approved by the department of agriculture.

HISTORY: New 1969, p. 529, Act 287, Eff. Mar. 20, 1970.

287.338 Dog pound, animal shelter; inspection.

Sec. 8. The department of agriculture shall not register any dog pound or animal shelter unless they first inspect it to assure that it complies with the provisions of this act and the rules of the department of agriculture.

HISTORY: New 1969, p. 529, Act 287, Eff. Mar. 20, 1970.

287.339 Animal breeders and animal researchers; applicability of act.

Sec. 9. This act does not apply to any person who breeds his own animals, or to any person subject to the provisions of Act No. 282 of the Public Acts of 1966, being sections 287.361 to 287.375 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 529, Act 287, Eff. Mar. 20, 1970.

287.340 Violations; penalty.

Sec. 10. Any person who violates the provisions of this act or any rule of the department of agriculture promulgated under the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1969, p. 589, Act 287, Eff. Mar. 20, 1970.

Act 73, 1939, p. 132; Imd. Eff. May 4.

AN ACT providing for the recovery of damages by persons bitten by dogs; and creating a liability of the owners of such dogs.

The People of the State of Michigan enact:

287.351 Injury by dog; liability of owner.

Sec. 1. The owner of any dogs which shall without provocation bite any person while such person is on or in a public place, or lawfully on or in a private place, including the property of the owner of such dog, shall be liable for such damages as may be suffered by the person bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness.

A person is lawfully upon the private property of such owner within the meaning of this act when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws or postal regulations of the United States of America, or when he is on such property as an invitee or licensee of the person lawfully in possession of the property.

HISTORY: CL 1948, 287.351.

287.361-287.375 Repealed. 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

Sections related to dogs and cats; use for research purposes; licensing program.

CITED IN OTHER SECTIONS: Sections 287.361 to 287.375 are cited in § 287.339.

Act 224, 1969, p. 401; Eff. Mar. 20, 1970.

AN ACT to license and regulate dealers in and research facilities using dogs and cats for research purposes; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

287.381 Regulation of dealers and facilities using animals in research; definitions.

Sec. 1. When used in this act:

- (a) "Person" includes any individual, partnership, association or corporation.
- (b) "Director" means the director of the department of agriculture.
- (c) "Cat" means any live domestic cat (*felis catus*) for use or intended to be used for research, tests or experiments at research facilities.
- (d) "Dog" means any live dog of the species *canis familiaris* for use or intended to be used for research tests or experiments at research facilities.
- (e) "Research facility" means any school, hospital, laboratory, institution, organization or person that uses or intends to use dogs or cats in research, tests or experiments, and that (1) purchases or transports such animals, or (2) receives any funds from the state or local government or any agency or instrumentality thereof to finance its operations by means of grants, loans or otherwise.
- (f) "Dealer" means any person who for compensation or profit delivers for transport

tation, transports, boards, buys or sells dogs or cats for research purposes and does not mean a person who breeds or raises dogs or cats for sale to a research facility.

HISTORY: New 1969, p. 401, Act 224, Eff. Mar. 20, 1970.

287.382 License; application, fee.

Sec. 2. An application for a license shall be accompanied by a \$25.00 fee to be deposited by the director into the general fund.

HISTORY: New 1969, p. 401, Act 224, Eff. Mar. 20, 1970.

287.383 License, issuance; qualifications.

Sec. 3. The director of agriculture shall issue a license to an applicant after determining:

(a) The applicant or the officers and directors thereof are of good moral character.

(b) The applicant or any officer or director thereof has never been convicted of cruelty to animals or a violation of this act.

(c) An inspection has been made of the premises and it conforms to the provisions of this act and the rules and regulations of the agriculture commission, and is a suitable place in which to conduct the business.

(d) The business is to be conducted in a permanent structure or building.

HISTORY: New 1969, p. 401, Act 224, Eff. Mar. 20, 1970.

287.384 Unlawful sale or transportation of animals; dealers' licenses needed.

Sec. 4. It shall be unlawful for any dealer to sell or offer to sell or to transport to any research facility any dog or cat, or to buy, sell, offer to buy or sell, transport or offer for transportation to another dealer under this act any such animal, unless and until such dealer shall have obtained a license from the director in accordance with this act and such rules as the director may prescribe pursuant to this act, and such license shall not have been suspended or revoked.

HISTORY: New 1969, p. 401, Act 224, Eff. Mar. 20, 1970.

287.385 Rules; promulgation.

Sec. 5. The director is authorized to promulgate rules in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as are necessary to govern the handling of dogs and cats by dealers and research facilities, to promote their health, well-being and safety.

HISTORY: New 1969, p. 401, Act 224, Eff. Mar. 20, 1970.

287.386 Identification or marking of dogs and cats.

Sec. 6. All dogs and cats delivered for transportation, transported, purchased or sold to research facilities shall be marked or identified in such manner as the director may prescribe.

HISTORY: New 1969, p. 401, Act 224, Eff. Mar. 20, 1970.

287.387 Records of purchases, sales, transportation.

Sec. 7. Research facilities and dealers shall make and keep such records with respect to their purchase, sale, transportation and handling of dogs and cats, as the director may prescribe.

HISTORY: New 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

287.388 Disposal of animal; holding period.

Sec. 8. Neither a dealer nor a county, city, village or township operating a dog pound or animal shelter shall sell or otherwise dispose of any dog or cat within a period of 5 business days after the acquisition of such animal.

HISTORY: New 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

287.389 Sales by public auction or by weight; disposal of unclaimed dogs and cats, maximum price.

Sec. 9. Dogs and cats shall not be offered for sale or sold to a research facility at public auction or by weight; or purchased by a research facility at public auction or by weight. A research facility shall not purchase any dogs or cats except from a licensed dealer, public dog pound, humane society, or from a person who breeds or raises dogs or cats for sale. Any county, city, village or township operating a dog pound or animal shelter may sell for an amount not to exceed \$10.00 per animal or otherwise dispose of unclaimed or unwanted dogs and cats to a Michigan research facility.

HISTORY: New 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

287.390 License; suspension or revocation; grounds, notice, reinstatement.

Sec. 10. (1) The license may be suspended or revoked by the director of agriculture for any of the following reasons:

- (a) The incompetence or untrustworthiness of the holder.
- (b) Wilful falsification of any matter or statement contained in the application.
- (c) The licensee or any director or officer thereof has been convicted of cruelty to animals or a violation of the provisions of this act.
- (d) The licensee does not conform to the provisions of this act or the rules of the agriculture commission.

(2) Written notice of the suspension or revocation shall be given by the director of agriculture within 10 days to the licensee.

(3) A person whose license has been suspended may apply, after 90 days from the date of the suspension, for reinstatement of the license.

HISTORY: New 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

287.391 Bill of sale; form.

Sec. 11. The purchase of any dog or cat by the licensee or research facility shall be evidenced by a bill of sale signed by the seller. The bill of sale shall be a form approved by the director of agriculture and shall certify that the seller is the lawful owner of the dog or cat and that ownership is transferred to the licensee or research facility.

HISTORY: New 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

287.392 Violations, penalty.

Sec. 12. Any person who violates any of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

287.393 Dealers or facilities; responsible for acts of agents or employees.

Sec. 13. When construing or enforcing the provisions of this act, the act, omission or failure of any individual acting for or employed by a research facility or a dealer within the scope of his employment or office shall be deemed the act, omission or failure of such research facility or dealer as well as of such individual.

HISTORY: New 1969, p. 402, Act 224, Eff. Mar. 20, 1970.

287.394 Effect on other acts.

Sec. 14. The provisions of this act shall be in addition to and not in contravention of the provisions of Act No. 339 of the Public Acts of 1919, as amended, being sections 287.261 to 287.290 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 402, Act 224, Eff. Mar. 20, 1970.

287.395 Repeal.

Sec. 15. Act No. 282 of the Public Acts of 1966, being sections 287.361 to 287.375 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1966, p. 402, Act 224, Eff. Mar. 20, 1970.

Act 173, 1953, p. 211; Eff. Oct. 2.

AN ACT to provide for the regulation of garbage and the feeding of garbage to swine; to provide for the powers and duties of the Michigan department of agriculture with respect thereto; and to prescribe penalties for the violations of the provisions of this act.

The People of the State of Michigan enact:

287.401 Regulation and feeding of garbage to swine; definitions.

Sec. 1. (a) "Garbage" means putrescible animal, poultry, fish and vegetable wastes resulting from the slaughter, processing, handling, preparation, cooking or consumption of foods including animal, poultry and fish carcasses or parts thereof.

(b) "Person" means the state, any municipality, political subdivision, including state and all other government institutions, public or private corporations, individual, partnership or other entity.

(c) "Director" means the director of the Michigan department of agriculture.

(d) "Department" means the Michigan department of agriculture.

HISTORY: New 1953, p. 211, Act 173, Eff. Oct. 2;—Am. 1966, p. 77, Act 51, Eff. Mar. 10, 1967.

287.402 License, securing, renewal; exemption.

Sec. 2. (a) No person shall feed garbage to swine, without first securing a license therefor from the director or his authorized representative. A license shall be renewed on May 1 of each year.

(b) The licensing provisions of this act shall not apply to any individual who feeds garbage from only his own domestic household to swine.

HISTORY: New 1953, p. 211, Act 173, Eff. Oct. 2;—Am. 1966, p. 77, Act 51, Eff. Mar. 10, 1967.

287.403 Application for license and renewal, fee, disposition.

Sec. 3. Any person desiring to obtain a license to feed garbage to swine shall make written application therefor to the Michigan department of agriculture and said person shall make written application for each annual renewal of such license issued.

At the time of filing such application for license and for each annual renewal the applicant shall pay to the Michigan department of agriculture a license fee in the sum of \$5.00. All such fees collected by the director shall be turned over to the state treasurer and credited to the general fund.

HISTORY: New 1953, p. 211, Act 173, Eff. Oct. 2.

287.404 Suspension or revocation of license; hearing, notice, time, evidence presented; filing notice.

Sec. 4. For failure or refusal to operate under the provisions of this act or any rules, regulations, quarantine or order of the director, the director may suspend, revoke or withhold a license. Whenever the director is satisfied of the existence of any 1 or more

reasons for suspending, revoking or withholding a license provided for in this act, before suspending, revoking or withholding said license the director shall give written notice of the hearing to be held thereon to the licensee affected. Said notice shall appoint a time of hearing at the department and shall be mailed by registered mail to the licensee. On the day of the hearing the licensee may present such evidence to the director as he deems satisfactory regarding the violations charged and the director shall thereupon render a decision.

Any licensee or applicant for a license who feels aggrieved at the decision of the director may file notice with the director within 5 days that he desires a hearing as in a contested case as defined in Act No. 197 of the Public Acts of 1952, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948, and thereafter all proceedings in regard to the finality of the decision of the director shall be had in accordance with the provisions of that act.

HISTORY: New 1953, p. 212, Act 173, Eff. Oct. 2.

287.405 Treatment of garbage before fed to swine; transportation, regulating.

Sec. 5. All garbage, regardless of previous processing, shall before being fed to swine be thoroughly heated to at least 212 degrees Fahrenheit for at least 30 minutes, unless treated in some other manner which shall be approved by the director or his authorized representative as being equally effective for the public interests and for the protection of the health of swine.

No person shall transport, receive or cause to be transported or received any garbage to be fed to swine unless, prior to the feeding, such garbage has received minimum heat treatment or has otherwise been treated in a manner approved by the director.

A person transporting garbage shall not make or agree to make delivery thereof to any person with knowledge of the intent or customary practice of such person to feed to swine garbage which has not been subjected to the minimum heat treatment or an approved method.

HISTORY: New 1953, p. 212, Act 173, Eff. Oct. 2.

287.406 Inspection of property; examination and submission of records; sale prohibited.

Sec. 6. (a) Any authorized representative of the Michigan department of agriculture shall have the authority to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the treating of garbage to be fed to swine as required by this act.

(b) Any authorized representative of the Michigan department of agriculture may examine any records or memoranda of the licensee pertaining to the cooking and feeding of garbage to swine. The director of said department may require maintenance of records relating to the operation of equipment for and procedure of treating garbage to be fed to swine. Copies of such records shall be submitted to the Michigan department of agriculture on request.

(c) When deemed necessary the director may prohibit the sale and/or removal of any swine from any or all garbage feeding lots or premises except such swine as shall be accompanied by a certificate of health, on forms provided by the department, issued as the result of inspection of all swine on the garbage feeding lot or premises by an approved veterinarian showing said swine to be free from any symptoms or other physical evidence of infectious and contagious diseases within 24 hours immediately preceding the removal of the swine from such garbage feeding lot or premises.

HISTORY: New 1953, p. 212, Act 173, Eff. Oct. 2.

287.407 Enforcement of act; rules and regulations.

Sec. 7. The Michigan department of agriculture is hereby charged with administration and enforcement of provisions of this act and is authorized to make and enforce all rules and regulations which the director of said department may deem necessary to carry out the purpose of the act.

HISTORY: New 1953, p. 212, Act 173, Eff. Oct. 2.

287.408 Violations, penalty.

Sec. 8. Any person who shall violate any provision of, or who fails to perform any duty imposed by, this act, or who violates any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25.00 nor more than \$100.00, or by imprisonment for a term of not more than 90 days, or by both such fine and imprisonment. In addition thereto, such person may be enjoined from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation.

HISTORY: New 1953, p. 213, Act 173, Eff. Oct. 2.

287.409 Payments for destruction of swine; ineligibility.

Sec. 9. No person required to be licensed under this act and who has not applied for license or been licensed hereunder shall be eligible to receive payments for the destruction of swine pursuant to any program for the eradication of the same under any other authority of law.

HISTORY: New 1953, p. 213, Act 173, Eff. Oct. 2.

Act 152, 1956, p. 285; Eff. Aug. 11.

AN ACT to protect the title and to regulate the practice of veterinary medicine, and the various branches thereof in this state; to define such practice and related terms; to provide for a state veterinary board and to fix its duties and compensation; to provide for the examination, licensing and registration of persons prior to engaging in the practice of veterinary medicine; to validate existing licenses; to provide for reciprocity with other states, territories and the District of Columbia; to provide for the revocation and suspension of licenses and registrations; to provide penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

287.451 Practice of veterinary medicine; application of act.

Sec. 1. It shall be unlawful for any person to engage or attempt to engage in the practice of veterinary medicine, in any of its branches, unless he shall comply with the provisions of this act and be duly registered by the state veterinary board in the manner hereinafter provided. The provisions of this act shall not be governing or apply to dehorning of cattle and ordinary animal castration, except castration of horses.

HISTORY: New 1956, p. 285, Act 152, Eff. Aug. 11.

CITED IN OTHER SECTIONS: Sections 287.451 to 287.474 are cited in § 16.427.

287.452 Practice of veterinary medicine; definitions.

Sec. 2. As used in this act:

- (1) "Board" means the state board of veterinary examiners of the state of Michigan.
- (2) "Veterinary medical examiner" means a member of the state board of veterinary examiners.
- (3) "Veterinary school" means any veterinary school, or department of a university or college, legally organized, whose course of study in the art and science of veterinary

medicine shall have been approved and placed on a list of schools by the state board of veterinary examiners.

(4) The present tense includes the past and future tenses, and the future, the present; each gender includes the other 2 genders; and the singular includes the plural, and the plural, the singular.

(5) "Veterinary", "veterinarian", "veterinary doctor", "veterinary practitioner", "veterinary inspector", "veterinary surgeon", "veterinary sanitarian" and "veterinary public health officer" means a person who is licensed pursuant to this act.

(6) In the interest of the public health and welfare, "livestock" shall mean any animal other than man and shall be construed as including also all fowl, birds, fish and reptiles, wild or domestic, whether living or dead, which may be carriers of infectious diseases.

(7) "Animals" shall mean livestock.

(8) The "director of agriculture" shall mean the director of the Michigan department of agriculture.

HISTORY: New 1956, p. 285, Act 152, Eff. Aug. 11.

287.453 Practice of veterinary medicine; acts constituting practice.

Sec. 3. A person practices veterinary medicine within the meaning of this act, except as provided in section 4, who shall within this state and with reference to livestock hold himself out to be a veterinarian and who shall do 1 or more of the following:

(1) By advertisement, or by any notice, sign or indication, or by a statement, written, printed or oral, in public or in private, made, done or procured by himself or any other at his request, claim, announce or make known or pretend his ability or willingness to diagnose diseases, deformities, defects, wounds or injuries;

(2) Make known or claim or advertise by any sign or indication, his ability and willingness to prescribe or administer any drug, medicine, treatment, method of procedure, or to perform any operation, manipulation, or apply apparatus or appliance or who shall give any instruction or demonstration designed to alter livestock from the normal; or for the cure, amelioration, correction, reduction or modification of any disease, deformity, defect, wound or injury;

(3) Diagnose and/or prognose any disease, deformity, defect, by means of any test, procedure, manipulation, technic, autopsy or biopsy, or by any other examination;

(4) Prescribe or administer any drug, medicine, treatment, method, practice or who shall perform any operation or manipulation, or apply any apparatus or appliance designed to alter livestock from the normal, or for the cure, amelioration, correction, reduction or modification of any livestock disease, deformity, wound or injury;

(5) Use any words, letters or titles in a medical sense or in such a connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine in any of its branches; such use shall be prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine. This section shall not be applicable to the advertising or the sale of foods or medicines, or combinations thereof, for feeding to livestock for the treatment or prevention of disease.

HISTORY: New 1956, p. 285, Act 152, Eff. Aug. 11.

287.454 Practice of veterinary medicine; acts not constituting practice.

Sec. 4. No person shall be considered to be engaging in the practice of veterinary medicine in this state who:

(1) Shall administer to livestock, title in which rests in himself, except when said title is vested in him for the purpose of circumventing this act;

(2) Shall conduct experimentation and scientific research in the development of methods, technics or treatments, directly or indirectly applicable to the problems of medicine and who in connection therewith uses animals;

(3) Shall conduct routine vaccination and pullorum testing of poultry under supervision of the national poultry improvement plan as administered by the official state agency and the United States department of agriculture;

(4) Shall be a regular student in a legally chartered and recognized college of veterinary medicine, while in the performance of studies and acts assigned by their instructors;

(5) Shall be a registered or licensed veterinarian under the laws of another state or territory of the United States or of a foreign country or province, when engaged in this state in consultation with veterinarians registered under the law of this state: Provided, That if such consultation shall be in existence beyond 30 days in any one 12 months' period, then said consultant shall apply for and obtain a temporary permit as provided in section 13 of this act;

(6) Shall be a senior student in an approved school of veterinary medicine and who shall obtain from the board an undergraduate permit to practice in the office and under the direct supervision of any veterinarian licensed within this state, said permit to be valid for a period of 1 year;

(7) Shall be a commissioned officer in the veterinary corps of the United States armed forces, while engaged in his official duties;

(8) Shall be a regularly employed veterinarian of the United States department of agriculture while engaged in his official duties: Provided, Such employee shall by virtue of educational background be qualified to take the regular examination for registration in this state.

HISTORY: New 1956, p. 286, Act 152, Eff. Aug. 11.

287.455 Practice of veterinary medicine; persons required to hold license.

Sec. 5. All veterinarians actually engaged and employed as such by the state, or by any county, city, corporation, firm or individual are practicing veterinary medicine and shall secure a state license issued by the state board of veterinary examiners: Provided, however, That veterinarians employed by the Michigan department of agriculture with the approval of the board, during a war or during any emergency proclaimed by the governor, and full-time veterinary food inspectors while engaged in the inspection of animals as food for human consumption shall not be required to have a license.

HISTORY: New 1956, p. 286, Act 152, Eff. Aug. 11.

287.456 State board of veterinary examiners; members, term, vacancies, removal.

Sec. 6. There is hereby created an agency to be known as the state board of veterinary examiners of the state of Michigan, to be appointed as follows by the governor of this state by and with the advice and consent of the senate. Said board shall consist of 6 appointed members, and in addition to which the chief of the bureau of animal industry of the Michigan department of agriculture and the director of agriculture shall be members without vote, ex-officio. In order to establish the first board of the veterinary members, one member shall be appointed for a term of 1 year, one member for 2 years, one member for 3 years, one member for 4 years and one member for 5 years. The lay member shall be appointed for a term of 3 years. Thereafter all appointments shall be for terms of 5 years, unless the appointment shall be to fill a vacancy in which case the appointment shall be for the balance of the unexpired term. No member shall be reappointed to the board after serving a full 5 year term until and unless an interval of 5 years has elapsed.

In case of vacancies by reason of death, resignation or removal, such vacancies shall be filled for the residue of the unexpired term of the retiring member in the same manner as the original appointment was made.

All appointments shall begin on January 1 and shall terminate December 31 other than as above provided, except that the incumbent shall serve until his successor has qualified.

The governor shall remove any member of the board of veterinary examiners upon proper showing of gross neglect of duty or for corrupt conduct in office or any other misfeasance, or malfeasance therein.

HISTORY: New 1956, p. 287, Act 152, Eff. Aug. 11.

287.457 State board of veterinary examiners; qualifications.

Sec. 7. (1) Five members of the board shall be veterinarians licensed to practice in the state of Michigan, and in practice in Michigan for a period of 5 years immediately prior to appointment. (2) All members of the board shall be at least 21 years of age, citizens of the United States and residents of this state for at least 5 years preceding their appointment.

HISTORY: New 1956, p. 287, Act 152, Eff. Aug. 11.

287.458 State board of veterinary examiners; membership by district.

Sec. 8. For purposes of this act the state shall be divided into 5 districts. Boundaries of said districts shall coincide with county lines. Districts shall be numbered 1 to 5, inclusive. At no time shall there be 2 or more veterinary members on the board appointed from the same district. The lay member shall be appointed from the state at large.

(1) District No. 1 shall consist of the following counties: Huron, Saginaw, Shiawassee, Tuscola, Genesee, Lapeer, Sanilac and St. Clair.

(2) District No. 2 shall consist of the following counties: Barry, Allegan, Kalamazoo, St. Joseph, Monroe, Calhoun, Branch, Eaton, Berrien, Hillsdale, Van Buren, Cass and Lenawee.

(3) District No. 3 shall consist of the following counties: Ingham, Livingston, Jackson and Washtenaw.

(4) District No. 4 shall consist of the following counties: Oakland, Macomb and Wayne.

(5) District No. 5 shall consist of all other counties.

HISTORY: New 1956, p. 287, Act 152, Eff. Aug. 11.

287.459 State board of veterinary examiners; business connections of members; chairman; quorum.

Sec. 9. No member of the board shall be connected in any manner with any wholesale or jobbing house dealing in supplies or instruments having to do with the profession. The board of examiners shall organize at its first meeting subsequent to appointment, and shall select its chairman and vice-chairman for terms of 1 year each. A quorum of appointed members shall be present in order for the board to give examinations or to conduct any business.

HISTORY: New 1956, p. 287, Act 152, Eff. Aug. 11.

287.460 State board of veterinary examiners; rules, seal, oaths, subpoenas.

Sec. 10. The board shall have the power to make all by-laws and rules reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it, pursuant to Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the

Compiled Laws of 1948. The board shall adopt and have an official seal. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to testify or to produce any books, papers or documents, the board may present its petition to any court of competent jurisdiction, setting forth the facts, and thereupon such court may, in a proper case, issue its subpoena to such person, requiring his attendance before said court and there to testify or to produce such books, papers and documents as may be deemed necessary and pertinent thereto. Any person failing or refusing to obey the subpoena of said court may be proceeded against in the same manner as for refusal to obey any other subpoena of said court.

Moneys, expenses, per diem, clerical expenses.

All moneys received by said board shall be paid to the state treasurer in accordance with the provisions of law and state regulation. Each member of the board shall receive necessary traveling and hotel expenses while engaged on official business and each appointed member shall receive in addition a per diem at the rate of \$25.00 for each day actually engaged in the discharge of his duties, not to exceed 3 days for each authorized examination. Bills for all expenses incurred by the board, including such clerical help as shall be needed, shall be approved by said board and be paid in accordance with the accounting laws of the state within the appropriation made therefor by the legislature: Provided, That in no case shall the board expend in any fiscal year more moneys than the amount of fees collected.

HISTORY: New 1956, p. 288, Act 152, Eff. Aug. 11.

287.461 State board of veterinary examiners; records, register of applicants; reports.

Sec. 11. The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show the name, age and residence of each applicant; the date of the application; an address for the receipt of mail and the place of business of such applicant; his educational and other qualifications; whether or not an examination was required; whether the application was rejected; whether a license was granted; the date of the action of the board; and such other information as may be deemed necessary by the board. Annually, as of June 30th the board shall submit to the governor a report on its transactions.

Roster of registered veterinarians.

A roster showing the names and places of business of all registered veterinarians qualified according to the provisions of this act shall be prepared by the secretary of the board during the month of March of each year. Copies of such roster shall be mailed to each person so registered, placed on file with the secretary of state and made available to the public upon request.

Delegate to annual meeting of national organization, expenses.

The vice-chairman of the board of examiners or an alternate member may pursuant to a resolution of the board attend the annual meeting of the national organization of the state examining board of the profession. Said vice-chairman or alternate member shall receive his necessary and actual traveling expenses and hotel expenses in attending such meeting pursuant to any appropriation made therefor.

Board of examiners; meetings.

The board of examiners shall meet at least once each year to conduct examinations. Other meetings may be held to conduct examinations provided there are at least 20

paid applications for such examination. At the annual meeting of the board, members newly appointed to the board shall take an oath of office as prescribed by law and administered by the secretary of the board.

HISTORY: New 1956, p. 288, Act 152, Eff. Aug. 11.

287.462 Examination for license; application, fee, affidavits of eligibility.

Sec. 12. Any person desiring to take the examination for a license to practice veterinary medicine shall make application to the board at least 15 days before the examination on a form provided by the board and sworn to by the applicant. Such application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take such examination: Provided, That those graduating from approved veterinary colleges less than 15 days preceding the date set for their examination may file their applications, accompanied by satisfactory evidence that the applicant has completed and successfully passed his examinations and in due time will receive his diploma, but before receiving a certificate of license he must file a photostatic copy of his diploma.

Notice of time and place of examination.

The secretary of the board shall give public notice of the time and place of examination to be held under this act. Such notice shall be given in such manner as the board may deem best, and in ample time to allow all candidates to comply with the provisions of this act.

List of approved veterinary colleges.

The secretary of the board shall prepare and keep up to date a list of colleges in which is taught the profession which is regulated by this act. The board of examiners shall make recommendations relative thereto, and shall prepare the list of approved veterinary colleges to be accepted under this act.

Eligibility.

To be eligible for examination, an applicant must be at least 21 years of age, of good moral character, and either a citizen of the United States or shall furnish proof of having received first papers prior to naturalization as a citizen of the United States, and shall not be addicted to the use of drugs or intoxicants, and shall be a graduate of a veterinary college approved by the board.

Examination.

Candidates shall be examined by the board by written examination and by practical and oral examinations.

Grades required.

All applicants shall be required to attain an average grade of not less than 75% in all subjects in which examined, with no grade of less than 60% in any one subject. When an applicant receives a grade of less than 60% in not more than 2 subjects, he may be reexamined in those 2 subjects only within 12 months without payment of additional fee. An applicant who has failed to pass an examination given by the board shall be eligible for further examinations upon payment of the regular examination fee.

Records of examination.

All papers connected with any examination for license given by the board shall be filed with the secretary and preserved for 2 years as a part of its records.

Certification of grades; issuance of licenses.

After each examination, the board of examiners shall certify the grades of applicants. The board shall then issue the licenses and make the required entries in the registry record.

HISTORY: New 1956, p. 289, Act 152, Eff. Aug. 11.

287.463 Temporary permits to practice; conditions.

Sec. 13. The board may issue temporary permits to practice the profession under any of the following conditions:

- (1) To undergraduates of approved schools as set forth in subdivision (6) of section 4;
- (2) To citizens who make application between examinations held by the board, provided said applicant otherwise meets the requirements of this act;
- (3) To foreign applicants who shall have first passed the regular examination as conducted by the board of examiners: Provided, That such temporary permit shall be valid until full citizenship shall have been attained by the licensee and who otherwise complies with the provisions of this act. Said temporary permit shall in no case be valid for a period longer than 5 years from the date of examination and may not be renewed. Upon showing of proof of final citizenship by the temporary licensee during the valid period of said temporary permit the board shall issue a license and make the required entry in the registry book.

HISTORY: New 1956, p. 289, Act 152, Eff. Aug. 11.

287.464 License without examination; reciprocity by other states or territories; certified statement.

Sec. 14. The board, without examination, may issue a license to practice veterinary medicine to a citizen of the United States who has been actively engaged in such profession in some other state, territory or the District of Columbia, upon the certificate of the proper licensing authority of that state, territory or the District of Columbia, certifying that the applicant is duly licensed, that his license has never been suspended or revoked, and that, so far as records of that authority are concerned, the applicant is entitled to its endorsement. The state, territory or District of Columbia from which the applicant comes shall have and maintain standards regulating the profession at least equal to those maintained in the profession in Michigan. In order that the board may determine such standards the secretary of the examining board shall gather information from other states bearing on this point.

Any licensee who is desirous of changing his residence to another state, territory or the District of Columbia shall, upon application to the board and the payment of the legal fee, receive a certified statement that he is a duly licensed practitioner in this state.

HISTORY: New 1956, p. 290, Act 152, Eff. Aug. 11.

287.465 Registration of prior licensees.

Sec. 15. Any person who shall have heretofore been issued, prior to the passage and approval of this act, a certificate of license to practice veterinary medicine and surgery in this state, shall comply with that section of this act requiring registration with the county clerk of the county wherein he resides. Upon such compliance the license so registered shall be deemed to be a license issued under this act.

HISTORY: New 1956, p. 290, Act 152, Eff. Aug. 11.

287.466 Unprofessional conduct; acts included.

Sec. 16. Unprofessional conduct, for the purposes of this act, shall include the following:

- (a) The fraudulent use or misuse of any health certificate, inspection certificate, vaccination certificate, test chart or other blank form used in the practice of veterinary medicine, that might lead to the dissemination of disease, unlawful transportation of diseased animals or the sale of inedible products of animal origin for human consumption;

(b) Dilatory methods, wilful neglect or misrepresentation in the inspection of food-stuffs;

(c) Fraud or dishonesty in applying or reporting on any test for disease in livestock;

(d) Conviction in a court of competent jurisdiction on a charge of cruelty to animals.

HISTORY: New 1956, p. 290, Act 152, Eff. Aug. 11.

287.467 Preferment of charges against registrant; suspension or revocation of license; procedure.

Sec. 17. Any person may prefer charges of fraud, deceit, gross negligence, unprofessional conduct or incompetency in connection with his profession against any registrant. Such charges shall be in writing, shall be sworn to by the person making them and shall be filed with the secretary of the board. All charges shall be heard by the board pursuant to its rules and regulations and subject to the requirements of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948. The board shall have the power to revoke, or suspend for a limited time, the license of any registrant found guilty by the board of fraud, deceit, gross negligence, unprofessional conduct or incompetency in the practice of his profession. Any applicant whose license has been revoked by the board may apply to the circuit court in the county of his residence for a hearing de novo of the charges with reference to which his license was revoked. A quorum of the board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked. A new license to replace any license revoked, lost, destroyed or mutilated may be issued, subject to the rules of the board, and upon payment of a fee of \$5.00.

HISTORY: New 1956, p. 290, Act 152, Eff. Aug. 11.

287.468 Fees.

Sec. 18. The following fees shall be collected by the board of examiners and turned into the general fund as provided by section 10:

(1) Fee for license to practice veterinary medicine and surgery upon basis of examination by the board of examiners, \$50.00.

(2) For a license to practice veterinary medicine and surgery issued by reciprocity as provided by section 14, shall be a minimum of \$25.00.

(3) For a certified statement that a licensee is licensed in this state, \$5.00.

(4) For a duplicate of any original certificate heretofore or hereafter issued, \$5.00.

(5) An annual renewal fee of \$10.00 shall be payable by each licensee on January 1 of each year, commencing January 1, 1967.

(6) A license on which the annual renewal fee has not been paid by February 15 of the year in which the renewal fee is payable is delinquent and may be reinstated by the payment of an additional delinquent penalty fee of \$10.00.

(7) A license which is delinquent for more than 12 months because of nonpayment of annual renewal fees may be reinstated at the discretion of the board by payment of all delinquent annual and penalty fees as determined by the board.

(8) Denial of reinstatement of a license because of nonpayment of fees shall not prevent an applicant from applying for a license by examination as provided in section 12 and payment of the statutory fee for license by examination.

(9) Any applicant whose application is rejected shall be allowed the return of his fee, except \$5.00 thereof, which shall be retained by the board of examiners.

HISTORY: New 1956, p. 291, Act 152, Eff. Aug. 11;—Am. 1966, p. 212, Act 187, Imd. Eff. Jul. 1.

287.469 Practice without license; injunction, penalty.

Sec. 19. Any person engaging in the practice of veterinary medicine for which a license is required by this act without such license may be restrained by temporary and permanent injunctions.

Any person engaging in the practice of veterinary medicine for which a license is required by this act without such license shall be guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be fined any sum not less than \$25.00 nor more than \$100.00, or be imprisoned in the county jail not more than 90 days or both. Any person charged with a second violation of this section shall, upon being found guilty, be fined not less than \$200.00 nor more than \$500.00, or be imprisoned in the county jail not more than 6 months, or both.

HISTORY: New 1956, p. 291, Act 152, Eff. Aug. 11.

287.470 Enforcement; attorney general as legal advisor.

Sec. 20. The board, or such person or persons as may be designated by the board to act in its stead, is empowered to prefer charges for any violations of this act in any court of competent jurisdiction. It shall be the duty of all duly constituted officers of the law of this state to enforce the provisions of this act and to prosecute any persons, firms, partnerships or corporations violating the same. The attorney general of the state or his designated assistant shall act as legal advisor of the board and render such assistance as may be necessary in carrying out the provisions of this act.

HISTORY: New 1956, p. 291, Act 152, Eff. Aug. 11.

287.471 Board of examiners; duties.

Sec. 21. It shall be the duty of the board upon request to act in an advisory capacity to the commission of agriculture in matters pertaining to livestock diseases.

The board of examiners shall have published the following matter which is pertinent to the profession:

- (1) The statutes regulating the practice of the profession in Michigan;
- (2) The rules of the board relative to licenses;
- (3) The rules relating to examinations adopted by the board; and
- (4) A list of those persons legally registered in this state to practice veterinary medicine together with addresses of the same.

HISTORY: New 1956, p. 291, Act 152, Eff. Aug. 11.

287.472 Veterinarians; certificate of registration, filing, fee; nonresidents; list of registrants.

Sec. 22. The person receiving a certificate of registration shall file the same, or a certified copy thereof, with the county clerk in the county where he resides, and said clerk shall file said certificate or certified copy thereof and enter a proper memorandum thereof in a book to be provided and kept for that purpose, and may collect therefor a fee of \$2.00 for each certificate or copy thus filed. A nonresident of the state shall file a certified copy of his Michigan certificate of registration with the county clerk in the county of this state where he practices. Said county clerk shall on the first day of each month furnish to the secretary of said board a list of all certificates filed in his office during the preceding month on a blank provided.

The secretary of the board annually on or before January 1 shall request from the various county clerks certified lists of all veterinarians registered in their respective counties.

HISTORY: New 1956, p. 291, Act 152, Eff. Aug. 11;—Am. 1958, p. 36, Act 33, Eff. Sep. 13;—Am. 1963, p. 33, Act 33, Eff. Sep. 6.

287.473 Veterinary practice act; short title.

Sec. 23. This act shall be known and may be cited as "The Veterinary Practice Act".

HISTORY: New 1956, p. 292, Act 152, Eff. Aug. 11.

287.474 Repeal.

Sec. 24. Act No. 244 of the Public Acts of 1907, as amended, being sections 287.51 to 287.65, inclusive, of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1956, p. 292, Act 152, Eff. Aug. 11.

Act 242, 1959, p. 356; Eff. Mar. 19, 1960.

AN ACT to regulate the manufacture and sale of commercial feed; to provide for the inspection, analysis and labeling thereof; to fix fees for licenses and to provide for the disposition of the revenue therefrom; to prescribe the powers and duties of the department and director of agriculture; to prohibit the sale of adulterated or misbranded feed; and to provide penalties for violation of this act. Am. 1965, p. 377, Act 217, Eff. Mar. 31, 1966.

The People of the State of Michigan enact:

287.501 Commercial feed act; short title.

Sec. 1. This act shall be known and may be cited as the "commercial feed act".

HISTORY: New 1959, p. 356, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 378, Act 217, Eff. Mar. 31, 1966.

287.502 Commercial feed act; definitions.

Sec. 2. As used in this act:

a. "Commercial feed" means any simple, mixed, prepared, milled, compounded, processed or blended product entering into commerce, together with all condimental and patented proprietary feed used for feeding animals other than man, except unmixed whole seeds or grains as defined by the United States grain standards; the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, cracked or rolled, screened or unscreened, corn, wheat and oats; whole hays, straws, ensilage and corn stover when unmixed with other materials and liquid by-products from milk returned to farmers from cheese factories, skimming stations, creameries or other places where milk is received and the by-products distributed.

b. "Director" means the state director of agriculture.

c. "Manufacturer" means any person, firm, association, corporation, partnership, importer or jobber producing any commercial feed.

d. "Wholesale manufacturer" means any manufacturer selling or distributing commercial feed at wholesale or otherwise through distributors, jobbers, dealers or agents.

e. "Retail manufacturer" means any manufacturer selling commercial feed at retail only directly to the ultimate user and not for resale, at not more than 3 places in the state as designated on the license.

HISTORY: New 1959, p. 356, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 378, Act 217, Eff. Mar. 31, 1966.

287.503 Commercial feeds; label, contents.

Sec. 3. Every lot, parcel or package of commercial feed manufactured, sold, offered or exposed for sale or distributed within this state shall have affixed thereto a tag or label in a conspicuous place on the outside containing a legible and plainly written statement in the English language, clearly and truly certifying:

a. The net weight of the contents of the lot, parcel or package.

b. The exact complete name of the individual product.

c. The name of the actual manufacturer and the place where manufactured or the name and principal address of the person responsible for placing the commercial feed on the market.

d. The minimum percentage of crude protein allowing 1% of nitrogen to equal 6 ¼ % protein.

(e) The minimum percentage of crude fat, except in the case of meat by-products and fish by-products when the actual percentage of crude fat shall be declared allowing not more than 1% variation.

(f) The maximum percentage of crude fiber.

(g) The specific name of each ingredient used in its manufacture. The official names of all materials which have been so defined by the association of American feed control officials, incorporated, shall be used in the declaration of the names of ingredients.

(h) In case of feeding molasses, the minimum percentage of sugar and the maximum percentage of ash.

(i) In case of semisolid buttermilk, the minimum percent of total solids, the minimum percent of milk fat, the maximum percent of ash, and the maximum percent of water.

(j) In case of wet brewers' and distillers' grains and canned pet foods, in addition to the protein, fat and fiber, the maximum percent of water.

(k) In the case of mixed feed containing more than a total of 5% of 1 or more mineral ingredients, or other unmixed materials used as mineral supplements, and in the case of mineral feed, mixed or unmixed, which are manufactured, represented and sold for the primary purpose of supplying mineral elements in rations for animals or birds, and containing mineral elements generally regarded as dietary factors essential for normal nutrition, the minimum percentage of calcium (Ca), phosphorus (P), iodine (I) and the maximum percentage of salt (NaCl). If no nutritional properties other than those of a mineral nature are claimed for a mineral feed product, the percentage of crude protein, crude fat and crude fiber may be omitted.

HISTORY: New 1959, p. 357, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 378, Act 217, Eff. Mar. 31, 1966.

287.504 Commercial feeds; retail sales in bulk.

Sec. 4. Whenever any commercial feed is sold at retail, in bulk or in packages belonging to the purchaser, the seller shall furnish the purchaser with a card or tag upon which shall be printed the statement required by section 3.

HISTORY: New 1959, p. 357, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 379, Act 217, Eff. Mar. 31, 1966.

287.505 Commercial feeds; registration.

Sec. 5. Before any importer, jobber, firm, association, corporation or person manufactures, sells, offers or exposes for sale or distributes in this state any commercial feed, he shall file with the director a certified copy of the statement required in section 3 for each individual commercial feed. The certified copy shall be accompanied, when the director so requests, by a sealed package containing at least 1 pound of the commercial feed to be sold, offered or exposed for sale or distributed in this state, and the company or persons furnishing the sample shall make an affidavit that the sample is representative of the commercial feed to be licensed. A copy of the label to be used on each commercial feed to be sold, offered or exposed for sale shall be submitted with the application for license.

HISTORY: New 1959, p. 357, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 379, Act 217, Eff. Mar. 31, 1966.

287.506 Commercial feeds; license fee; exemptions.

Sec. 6. On or before January 1 of each year every manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling any commercial feed shall pay to the director a license fee of \$20.00 for each commercial feed manufactured, sold, offered or exposed for sale in this state by wholesale manufacturers, and \$10.00 for each commercial feed manufactured, sold, offered or exposed for sale in this state by retail manufacturers. The license fees for commercial feeds sold only in packages of 1 pound or less for the following household pets: hamsters, mice, guinea pigs, flying squirrels, parakeets, canaries, parrots, finch and mynah birds, snakes, turtles, li-

zards, tropical fish, goldfish, eel and shrimp, shall be \$5.00 per year for each separate feed. The provisions of this section shall not be applicable to a grower grinding hay produced on his own farm.

Nothing in this section shall be construed as requiring a license for the manufacturing for a farmer of feed from grains or other products grown or supplied by the farmer, commonly referred to as custom mixing. The license fee provided in this section shall not apply to any feed mixed according to a formula furnished by the consumer.

HISTORY: New 1959, p. 358, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 379, Act 217, Eff. Mar. 31, 1966.

287.507 Commercial feeds; license fees; disposition.

Sec. 7. All sums of money received or collected under the provisions of this act shall be deposited by the director in the state treasury to the credit of the general fund, to be disbursed only on an appropriation or appropriations by the legislature. Any surplus from license fees remaining as of June 30, 1959 in the laboratory fund of the department of agriculture, is hereby transferred to the credit of the general fund.

HISTORY: New 1959, p. 358, Act 242, Eff. Mar. 19, 1960.

287.508 Commercial feeds; license, issuance, termination.

Sec. 8. Whenever the manufacturer, importer, agent or seller of any commercial feed has complied with the requirements of this act, the director of agriculture shall issue a license to sell the commercial feed, which license shall terminate on December 31 following the date of issue.

HISTORY: New 1959, p. 358, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 379, Act 217, Eff. Mar. 31, 1966.

287.509 Commercial feeds; potentially harmful additives, requirements.

Sec. 9. Before an application for a license is accepted for a commercial feed which contains drugs, chemical additives or other ingredients which are potentially harmful to animals, the distributor may be required:

- (a) To submit evidence to show the safety of the feed when used according to the directions which the distributor furnished with the feed.
- (b) To furnish a written statement that adequate written or printed warnings and feeding directions will accompany each delivery of feed.
- (c) To state the percentage of the drug or other ingredients in a prominent place on the label of the feed.

HISTORY: New 1959, p. 358, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 379, Act 217, Eff. Mar. 31, 1966.

287.510 Commercial feeds; adulterated.

Sec. 10. No person shall distribute an adulterated feed. A commercial feed or customer-formula feed shall be deemed adulterated:

- (a) If any poisonous, deleterious or non-nutritive ingredient has been added in sufficient amount to render it injurious to health when fed in accordance with directions for use on the label.
- (b) If any constituent has been omitted or abstracted therefrom in whole or in part, or any less valuable substance of less nutritional value is substituted therefor.
- (c) If its composition or quality falls below or differs from that which it is purported to possess by its labeling.

HISTORY: New 1959, p. 358, Act 242, Eff. Mar. 19, 1960.

287.511 Commercial feeds; misbranded.

Sec. 11. No person shall distribute misbranded feed. A commercial feed or customer-formula feed shall be deemed misbranded:

- (a) If its labeling is false or misleading in any particular.
- (b) If it is distributed under the name of another feed.

(c) If it is not labeled as required in section 3 of this act and in regulations prescribed under this act.

(d) If it purports to be a feed ingredient, or if it purports to contain a feed ingredient, unless the feed ingredient conforms to the definition of identity as officially established by the association of American feed control officials.

(e) If any word, statement or other information required by or under authority of this act to appear on the label is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

HISTORY: New 1959, p. 358, Act 242, Eff. Mar. 19, 1960.

287.512 Commercial feeds; license, refusal, cancellation; change in ingredients.

Sec. 12. The director may refuse to license any commercial feed under a name which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed or when the specific name of each and all ingredients used in its manufacture is not stated. The director may refuse to license more than 1 commercial feed under the same name when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. If any commercial feed is licensed and it is discovered that the license is in violation of any of the provisions of this act, the director may cancel the license. The director may refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis or change the ingredients of any commercial feed during the term for which licensed, unless reasons satisfactory to the director are presented for making such change or changes. Changes in the guarantee or ingredient composition of a licensed commercial feed may be permitted if there is furnished satisfactory evidence that the changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

HISTORY: New 1959, p. 359, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 379, Act 217, Eff. Mar. 31, 1966.

287.513 Commercial feeds; one license only required; retention of shipping data.

Sec. 13. Whenever a manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling a commercial feed has filed the statement required by section 5 and paid the license fee as required by section 6, no other agent, importer, jobber, firm, association, corporation or person shall be required to file the statement or pay the fee upon such commercial feed. All vendors of commercial feed including customer-formula feed shall keep on file subject to inspection by any authorized agent of the director for a period of 1 year all invoices, freight bills, truckers' receipts, waybills and similar shipping data pertaining to commercial feed that would establish date and origin of the shipment.

HISTORY: New 1959, p. 359, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 380, Act 217, Eff. Mar. 31, 1966.

287.514 Commercial feeds; director's right of access; samples.

Sec. 14. Any authorized agent of the director shall have free access during reasonable business hours to all places of business, mills, buildings, trucks, automobiles, vehicles, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, sale or storage of any commercial feed, and may open any parcel containing or supposed to contain any commercial feed for the purpose of procuring a sample of suitable size for analysis from each and every lot or parcel of commercial feed being sold, offered or exposed for sale. The sample shall be taken in the presence of the person or agent having the commercial feed in charge and shall be taken from not less than 5 separate original packages in the lot, in which case a portion shall be

taken from each original package. If the commercial feed is in bulk, portions shall be taken from not less than 5 different places in the lot unless the manner in which the commercial feed is stored prohibits, in which case portions shall be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains.

HISTORY: New 1959, p. 359, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 380, Act 217, Eff. Mar. 31, 1966.

287.515 Commercial feeds; annual analysis; testing laboratory.

Sec. 15. At least 1 sample of each licensed commercial feed sold, offered or exposed for sale in the state, secured in the manner described in section 14 shall be analyzed annually under the direction of the director. The results of the analysis shall be promptly submitted to the manufacturer or person responsible for placing the licensed feed on the market, and shall be published in reports or bulletins from time to time, together with such additional information as the director deems advisable. The director shall establish and maintain a suitable, properly equipped laboratory for the examination, testing and verifying of guarantees made on all vitamin feed or vitamin D carriers. The director shall furnish the manufacturers or persons responsible for the placing of any licensed feed on the market with a portion of the official sample of that licensed feed. The methods of analysis shall be those in force at the time by the association of official agricultural chemists of North America.

HISTORY: New 1959, p. 359, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 380, Act 217, Eff. Mar. 31, 1966.

287.516 Commercial feeds; violations, notice, hearing; evidence.

Sec. 16. If it appears that any of the provisions of this act have been violated, the director may certify the facts to the prosecuting attorney of the county in which the violation occurred, together with a copy of the results of the analysis or other examination of the commercial feed duly authenticated by the analyst or other officer making the examination. In all prosecutions arising under the provisions of this act certificates of the analyst or other officer making the examination or analysis, when duly sworn to by such officer, shall be prima facie evidence of the facts therein certified.

HISTORY: New 1959, p. 360, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 381, Act 217, Eff. Mar. 31, 1966.

287.517 Commercial feeds; rules and regulations.

Sec. 17. The director, his deputy, or any duly appointed agent of the director at all times may seize or stop-sale any commercial feed manufactured, sold, offered or exposed for sale or distributed in this state that is unlicensed, adulterated, misbranded, or violates the provisions of this act in any manner. The director shall enforce the provisions of this act and may prescribe and enforce such rules and regulations relating to the sale of commercial feed as are necessary to carry into effect the full intent and meaning of this act. All rules and regulations shall be promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1959, p. 360, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 381, Act 217, Eff. Mar. 31, 1966.

287.518 Commercial feeds; penalty.

Sec. 18. Any person who manufactures, sells, offers or exposes for sale or distributes in this state any commercial feed without complying with the provisions of this act, or who manufactures, sells, offers or exposes for sale or distributes in this state any commercial feed which does not bear a tag or label with all of the facts required in section 1, or who fails to properly state the specific name of each and every ingredient used in its manufacture, is guilty of a misdemeanor.

HISTORY: New 1959, p. 360, Act 242, Eff. Mar. 19, 1960;—Am. 1965, p. 381, Act 217, Eff. Mar. 31, 1966.

287.519 Repeal.

Sec. 19. Act No. 91 of the Public Acts of 1917, as amended, being sections 287.181 to 287.191 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1959, p. 360, Act 242, Eff. Mar. 19, 1960.

Act 163, 1962, p. 165; Eff. Mar. 28, 1963.

AN ACT to require humane methods of slaughter of livestock; to prescribe the powers and duties of the director of agriculture; and to fix penalties for violations.

The People of the State of Michigan enact:

287.551 Humane slaughter of livestock; definitions.

Sec. 1. As used in this act:

- (a) "Director" means the director of agriculture.
- (b) "Person" means any individual, partnership, corporation or association doing business in this state, in whole or in part.
- (c) "Slaughterer" means any person regularly engaged in the commercial slaughtering of livestock.
- (d) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats and any other animal which can or may be used in and for the preparation of meat or meat products.
- (e) "Packer" means any person engaged in the business of slaughtering, or of manufacturing or preparing meat or meat products for sale, either by such person or others; or of manufacturing or preparing livestock products for sale by such person or others.
- (f) "Stockyard" means any place, establishment or facility commonly known as a stockyard, conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures, and their appurtenances, for the handling, keeping and holding of livestock for the purpose of sale or shipment.
- (g) "Humane method" means either: (1) A method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut; or (2) a method in accordance with ritual requirements of any religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

HISTORY: New 1962, p. 165, Act 163, Eff. Mar. 28, 1963.

287.552 Humane slaughter of livestock; methods prohibited.

Sec. 2. No slaughterer, packer or stockyard operator shall shackle, hoist or otherwise bring livestock into position for slaughter by any method which shall cause injury or pain.

HISTORY: New 1962, p. 166, Act 163, Eff. Mar. 28, 1963.

287.553 Humane slaughter of livestock; exemptions.

Sec. 3. No slaughterer, packer or stockyard operator shall bleed or slaughter any livestock except by a humane method. The director, by administrative order, may exempt from compliance with this act, for a period not to exceed 1 year after the effective date of this act, any slaughterer, packer or stockyard operator if he finds that an earlier compliance would cause such person an undue hardship.

HISTORY: New 1962, p. 166, Act 163, Eff. Mar. 28, 1963.

287.554 Ritual slaughter.

Sec. 4. Nothing in this act shall be construed to prohibit, abridge or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this act, ritual handling or other preparation of livestock for ritual slaughter are exempted from the terms of this act. For the purposes of this section, the term "ritual slaughter" means slaughter in accordance with subsection (g) of section 1. To conform with the provisions and intent of this act, animals not previously rendered insensible, and to be slaughtered in accordance with a humane method as defined in subsection g of section 1, shall be slaughtered immediately following total suspension from the floor.

HISTORY: New 1982, p. 166, Act 163, Eff. Mar. 28, 1983.

287.555 Rules and regulations; inhumane methods.

Sec. 5. The director shall administer the provisions of this act. He shall promulgate and may from time to time revise rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, which shall conform substantially to the rules and regulations promulgated by the secretary of agriculture of the United States pursuant to the federal humane slaughter act of 1958, Public Law 85-765, 72 Stat. 862, and any amendments thereto. The use of a manually operated hammer, sledge or poleax is declared to be an inhumane method of slaughter within the meaning of this act.

HISTORY: New 1982, p. 166, Act 163, Eff. Mar. 28, 1983.

287.556 Violation of act; penalty.

Sec. 6. Any person who violates any provision of this act shall be guilty of a misdemeanor.

HISTORY: New 1982, p. 166, Act 163, Eff. Mar. 28, 1983.

Act 280, 1965, p. 474; Imd. Eff. Jul. 22.

AN ACT to provide for licensing and regulating of slaughterhouses, edible rendering establishments and wholesale fabricating, processing or storage establishments of meat; to provide for the antemortem and postmortem inspection and reinspection of slaughtered meat animals; to prescribe the duties and powers of the department of agriculture; to prescribe license fees; to provide for the transfer of personnel and the rights of employees affected by this act; and to provide penalties for violation of the provisions of this act. Am. 1966, p. 322, Act 239, Imd. Eff. Jul. 11;—Am. 1970, p. 510, Act 166, Imd. Eff. Aug. 3.

The People of the State of Michigan enact:

287.571 Slaughterhouses, edible rendering establishments; definitions.

Sec. 1. As used in this act:

a. "Slaughterhouse" means any building, structure or place used for the slaughter and dressing of meat animals.

b. "Edible rendering establishment" means any building, structure or place used for cooking or reduction of any carcass or parts of carcasses of meat animals to be used for any product which is to be offered for sale or sold for human consumption or animal feed, except that plants licensed under Act No. 226 of the Public Acts of 1929, as amended, being sections 287.231 to 287.241 of the Compiled Laws of 1948, are exempt from the license provided for in this act.

(c) "Meat animal" means cattle, calves, sheep, lambs, goats, swine, or horses.

(d) "Meat" means the edible part of the muscle of cattle, calves, sheep, lambs, goats, swine, or horses which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portion of bone, skin, sinew, nerve, and blood vessels, which normally accompany the muscle tissue and which are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears.

(e) "Meat products" means carcasses, or parts of carcasses, derived in whole or in part from meat animals.

(f) "Meat inspection" means the performance by or under the direct supervision of a veterinarian of antemortem and postmortem inspection of meat animals and reinspection of carcasses of meat animals and meat or meat products for wholesomeness.

(g) "Department" means the state department of agriculture.

(h) "Director" means the director of the department or his designated or authorized representative.

(i) "Person" means any individual, partnership, corporation, association, any other organized group of persons or legal successors or representatives or agency of the foregoing engaged in slaughtering, edible rendering or wholesale fabricating, processing or storage of meat products.

(j) "Reinspection" means inspection and surveillance for sanitation and approved standards during preparation, fabricating, processing, canning, labeling and packaging, wholesale distribution, storage and transportation.

(k) "Fabricating" means cutting into wholesale or retail cuts or dicing or grinding.

(l) "Processing" means drying, curing, smoking, cooking, canning, seasoning or flavoring or any combination of such processes, with or without fabricating.

(m) "Prepared" means slaughtered, canned, salted, rendered, boned, cut up or otherwise manufactured or processed.

(n) "Slaughter" means the process of rendering a meat animal lifeless with the use of humane methods and includes removal of the hide or hair and evisceration in such a manner that the resulting meat product after passing inspection can be used as food for human or animal consumption.

HISTORY: New 1965, p. 474, Act 290, Imd. Eff. Jul. 22;—Am. 1970, p. 510, Act 166, Imd. Eff. Aug. 3.

287.572 Administration; adoption of rules; minimum standards; inspection programs.

Sec. 2. (a) The director shall be responsible for the administration of this act. He shall make rules pertaining to the certification and licensing of slaughterhouses, edible rendering establishments and wholesale fabricating, processing or storage establishments handling meat products; prescribing minimum standards for approved meat inspection programs; prescribing minimum standards for a uniform state meat inspection program and to otherwise carrying out the provisions of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(b) The director shall evaluate and may approve meat inspection programs of district, county, city, township or village health departments. In any district, county, city, township or village that maintains a regular meat inspection program approved by the director, the slaughtering of meat animals and the inspection and reinspection of meat establishments and facilities under the provisions of this act shall be under the supervision of local officers operating under the jurisdiction of the director. Such activities

under the director of the department shall in no manner affect the existing civil service status or possible pension rights of local officers and employees.

HISTORY: New 1965, p. 474, Act 280, Imd. Eff. Jul. 22.—Am. 1970, p. 511, Act 166, Imd. Eff. Aug. 3.

287.572a Transfer of local meat inspection officers and employees to department; agreements; civil service and retirement rights and benefits.

Sec. 2a. (1) Any district, county, city, township or village health department, with the approval of the local governing body, may enter into an agreement with the director for the transfer to the department of meat inspection officers and employees certified as qualified by the state civil service commission. Such transfer shall not affect the then existing civil service status or possible pension rights of the transferred officers and employees.

(2) Officers and employees transferred by agreements pursuant to this section, who were members of a district, county, city, township or village retirement system and become members of the state employees' retirement system, shall be entitled to benefits provided by Act No. 88 of the Public Acts of 1961, as amended, being sections 38.1101 to 38.1105 of the Compiled Laws of 1948, notwithstanding that the district, county, city, township or village might not have adopted the provisions of Act No. 88 of the Public Acts of 1961. Whenever the service requirements for benefits to be paid under Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948, to the persons who become members of the state employees' retirement system are lower than the service requirements in Act No. 88 of the Public Acts of 1961, the provisions of Act No. 240 of the Public Acts of 1943, as amended, shall apply with respect to such persons.

HISTORY: Add. 1966, p. 322, Act 239, Imd. Eff. Jul. 11.

287.573 License requirement; sale and transportation of products.

Sec. 3. No person shall establish, conduct, maintain or operate a slaughterhouse or edible rendering establishment without a license from the department. After July 1, 1969, no person shall establish, conduct, maintain or operate a wholesale fabricating, processing or storage establishment handling meat products without a license from the department. No licensee of meat products licensed under this act shall be required to be licensed by a local unit of government to operate under the provisions of this act or under any district, county, city, township or village ordinance. After July 1, 1969, no person licensed under this act is required to obtain a license under Act No. 228 of the Public Acts of 1952, as amended, being sections 289.581 to 289.592 of the Compiled Laws of 1948. The products of any licensee under this act, inspected and approved in accordance with the requirements of this act, shall be permitted for sale in all local government jurisdictions in this state and may be transported and sold anywhere in this state without restriction.

HISTORY: New 1965, p. 475, Act 280, Imd. Eff. Jul. 22.—Am. 1970, p. 511, Act 166, Imd. Eff. Aug. 3.

287.574 Licenses; exemptions.

Sec. 4. Nothing in this act shall restrict or prohibit a livestock producer or his employees from slaughtering meat animals from his own herd on his own premises for their own consumption. Meat animals slaughtered under this section shall not be offered for sale, sold or otherwise disposed of for a consideration and to be used for human consumption.

HISTORY: New 1965, p. 475, Act 280, Imd. Eff. Jul. 22.

287.575 Ante-mortem inspection of meat animals.

Sec. 5. The director shall provide for the ante-mortem inspection of all meat animals slaughtered in any slaughterhouse or edible rendering establishment, excepting those meat animals slaughtered under the direct supervision of the United States department of agriculture, before they are slaughtered. Separate facilities shall be provided

for confining and conducting the inspection of meat animals deemed unfit for immediate slaughter. If any person is about to slaughter any meat animal which the department believes may be affected with disease, the director shall notify the person in charge of the animals to refrain from slaughtering them until the ante-mortem examination is completed. Any person slaughtering meat animals after such notification by the director upon conviction, shall be guilty of a misdemeanor.

HISTORY: New 1965, p. 475, Act 280, Imd. Eff. Jul. 22.

287.576 Postmortem inspection and reinspection; expenses, state share.

Sec. 6. (1) The director shall provide postmortem inspection of all meat animals slaughtered in any slaughterhouse or edible rendering establishment and reinspection of all meat animals, meat or meat products prepared in any slaughterhouse, edible rendering establishment, or wholesale fabricating, processing and storage establishment, excepting those meat animals slaughtered under the direct supervision of the United States department of agriculture. Carcasses and parts of carcasses found to be sound, healthful, wholesome and properly labeled upon inspection or reinspection as provided in this act shall be approved and properly identified by authorized personnel of the department. Each carcass or part of a carcass which is found on postmortem inspection or reinspection to be unsound, diseased or otherwise unfit for human consumption or not properly labeled shall be retained or condemned and conspicuously identified by the inspector at the time of inspection or reinspection and disposed of in the manner prescribed by the department.

(2) The state share of expenditures for the federal-state cooperative reinspection program shall not exceed the share contributed by the federal government.

HISTORY: New 1965, p. 475, Act 280, Imd. Eff. Jul. 22;—Am. 1970, p. 512, Act 166, Imd. Eff. Aug. 3.

287.577 License; application, fee, expiration; expense of inspection programs.

Sec. 7. Any person that operates or desires to operate a slaughterhouse, edible rendering establishment, or wholesale fabricating, processing or storage establishment handling meat products shall apply to the department for a license to operate the establishment. No person shall operate a slaughterhouse or edible rendering establishment and after July 1, 1969, no person shall operate a wholesale fabricating, processing or storage establishment handling meat products without a license from the department. The cost of such a license shall be \$100.00. A licensee engaging in more than 1 of such operations on the same premises is required to have only 1 license. Application for license shall be on a form furnished by the department and shall show ownership, location and such other information that may be required by the department. License for each slaughterhouse, edible rendering establishment, wholesale fabricating, processing or storage establishment handling meat products shall expire on December 31 of each year and shall be renewed annually. Revenues from license fees shall be deposited with the state treasury and credited to the general fund of the state. Each licensee under this act shall be assigned an establishment number by the department. Such number shall be displayed in accordance with regulations prescribed by the director. All expenses of approved district, county, city, township or village meat inspection programs certified by the director shall be paid by the department from funds appropriated annually by the legislature for this purpose. Expenses for approved local meat inspection programs shall be submitted to the director, who upon verification of these expenses, shall certify them to be correct and transmit them to the state treasurer for payment. The cost of meat inspection in any slaughterhouse, edible rendering establishment, wholesale fabricating, processing or storage establishment handling meat products to be paid for by the department shall be those costs incurred during a normal 8-hour working period within a 24-hour day and a 40-hour, 5-day

week. Whenever it becomes necessary to operate a slaughterhouse, edible rendering establishment, wholesale fabricating, processing or storage establishment handling meat products more than 8 consecutive hours during a 24-hour period or more than 5 days in 1 week or on a legal holiday, such additional costs for meat inspection service, over 8 hours a day or 5 days a week or on a legal holiday, shall be paid for by the owner of the establishment in accordance with the regulations prescribed by the director of the department. All moneys collected by the department for meat inspection services shall be deposited with the state treasury and credited to the general fund of the state, except overtime fees paid for by the owners as prescribed by this act shall be collected by the department and are appropriated to be used to pay personnel for overtime services.

HISTORY: New 1965, p. 475, Act 280, Imd. Eff. Jul. 22;—Am. 1970, p. 512, Act 166, Imd. Eff. Aug. 3.

287.577a Repealed. 1970, p. 513, Act 166, Imd. Eff. Aug. 3.

Section set license fee for slaughterhouses or edible rendering establishment and precluded license fee for meat trucks.

287.578 Meat inspection mark; possession and use.

Sec. 8. No person, except those authorized by the department, shall possess, keep or use any approved meat inspection mark, stamp or brand provided by the department used to mark, stamp or brand the carcass of any meat animal or parts thereof or to possess, keep or use any mark, stamp or brand having thereon a device or words the same or similar in character or import to the approved marks, stamps or brands provided and used by the department.

HISTORY: New 1965, p. 476, Act 280, Imd. Eff. Jul. 22. •

287.579 Prohibited sales of meat.

Sec. 9. No person shall offer for sale or sell any meat, meat animal or meat product bearing a stamp, mark or legend stating or implying that it has been inspected and approved as provided in this act unless in fact it has been subjected to meat inspection by an approved district, county, city, township or village health department, by the director or his authorized agent, or by the United States department of agriculture. No person shall offer for sale or sell any meat or meat product unless it has been subject to meat inspection, approved by such inspection, and carcass and primal cut properly identified by mark, stamp or brand authorized by the department. After July 1, 1969, no person shall offer for sale or sell any meat, meat animal or meat product bearing a stamp, mark or legend or implying that it has been inspected or reinspected and approved as provided by this act, unless it has been inspected by an approved district, city, township or village health department, by the director or his authorized agent, or by the United States Department of Agriculture.

HISTORY: New 1965, p. 476, Act 280, Imd. Eff. Jul. 22;—Am. 1970, p. 513, Act 166, Imd. Eff. Aug. 3.

287.580 Authorization to seek federal approval of program and to enter cooperative agreement.

Sec. 10. The director is authorized to seek approval of the United States department of agriculture for the meat inspection program provided in this act. The director is further authorized to enter into cooperative agreement with the United States department of agriculture for the purpose of carrying out the meat inspection program provided in this act.

HISTORY: New 1965, p. 476, Act 280, Imd. Eff. Jul. 22.

287.581 Denial or revocation of license; grounds, notice, hearing, appeal.

Sec. 11. The director may deny, suspend, revoke or refuse to renew a license issued by him in any case where he is authorized to receive applications for or to issue such license under this act where he finds that there has been a failure to comply with the provisions of this act or any of the rules and regulations promulgated thereunder. Whenever the director is satisfied of the existence of any reason for refusing, suspend-

ing or revoking the license provided for in this act, before refusing, suspending or revoking the license, the department shall give written notice of a hearing to be had thereon to the licensee affected. The notice shall appoint a time of hearing at the department and shall be mailed by certified or registered mail to the licensee affected. On the day of the hearing, the licensee affected may present such evidence to the director as he deems relative regarding the violations charged and the director shall thereupon render a decision. Any licensee who feels aggrieved at the decision of the director may appeal from said decision within 10 days of writ of certiorari to the circuit court of the county where the licensee resides or conducts his principal place of business.

HISTORY: New 1965, p. 477, Act 280, Imd. Eff. Jul. 22.

287.582 Violation of act; penalty.

Sec. 12. Any person who violates or fails to comply with the provisions of this act shall upon conviction be guilty of a misdemeanor.

HISTORY: New 1965, p. 477, Act 280, Imd. Eff. Jul. 22.

CHAPTER 288. AGRICULTURE—DAIRY INDUSTRY

REGULATION OF DAIRY PRODUCTS

Act 169 of 1929

288.1-288.15 Repealed.

FLUID MILK ACT OF 1965

Act 233 of 1965

- 288.21 Department of agriculture; promulgation of rules; definitions.
- 288.22 Annual license fees; revocation or suspension of licenses.
- 288.23 Uniform regulation; out of state milk.
- 288.24 Payments to producers; frequency, time.
- 288.25 Local inspection; agreement with department of agriculture.
- 288.25a Transfer of city, county or district milk and cream inspection officers and employees to department of agriculture; agreement; retirement provisions.
- 288.26 Milk and milk product packages, size, marking.
- 288.27 Fluid milk act of 1965; short title.
- 288.28 Repeals.
- 288.29 Penalty; injunction.

BREED NAMES OF DAIRY CATTLE

Act 139 of 1939

288.41-288.45 Repealed.

MILK FAT TEST LAW

Act 212 of 1935

- 288.51 Milk fat testers; licenses, applications, examinations, issuance, expiration, renewal, fee.
- 288.52 Commissioner of agriculture; rules and regulations; fees to general fund.
- 288.53 Revocation of license; grounds, hearing, confrontation.
- 288.54 Appeal to circuit court of Ingham county.
- 288.55 Samples, method of taking, penalty; test records, preservation, availability.
- 288.56 Standard Babcock testing glassware; scales and weights.
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Standard cream test bottles.
Standard Babcock pipette.
Standard cream test scales.
Standard weights.
- 288.57 Inspection and certification of standard Babcock testing glassware; fee.
- 288.59 Violation of act; penalty.
- 288.60 Milk fat test law; short title.

REGULATION OF DAIRY PRODUCTS

Act 216 of 1956

288.71-288.83 MANUFACTURING MILK ACT

Act 222 of 1913

- 288.101 Manufacturing milk act; definitions.
- 288.101a Manufacturing milk act; short title.
- 288.102 Insanitary milk, cream, dairy product; distribution prohibited.
- 288.102a Milk or cream; production, handling, sanitation.
- 288.102b Milk or cream; inspection of production facilities.
- 288.102c Milk or cream; records of producer quality tests; inspection.

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- 288.102e Plants receiving milk for manufacture into milk products; sanitation, handling.
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- 288.103b Application for license; investigation, refusal, revocation.
- 288.103c Revocation of license; notice, hearing.
- 288.103d Persons picking up milk from a farm bulk tank, license; regulations.
- 288.103e Milk purchasers; payment to producer, frequency, time.
- 288.103f Egg nog, egg nog mix; definition.
- 288.103g Cottage cheese; definition.
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- 288.104 Insanitary premises and utensils; maintenance prohibited.
- 288.104a Marking of containers.
- 288.104b Marking of containers; description, filing, publication; proprietorship; fees.
- 288.104c Marking of containers; assignment by proprietor; certificate, filing; records.
- 288.104d Sale in container marked with another's registered device; defacing or sale of another's marked container, unlawful.
- 288.104e Destruction or secretion of containers of another, penalty; civil liability.
- 288.105 Cleansing of containers before return to common carrier.
- 288.106 Violation of act; penalty.
- 288.107 Licensed cream buyer; requirements, qualification.
- 288.108 Licensed cream buyer; duties.
- 288.109 Licensed cream buyer; sediment or acidity tests; records.
- 288.110 Sediment discs; marking for identification.
- 288.111 Condemnation tag; discoloration; removal of tag, or transfer to another container unlawful.
- 288.112 Licensed cream buyer; condemnation reports, copies.
- 288.113 Appeals.
- 288.114 Violations.
- 288.115 Revocation of license of cream buyer.
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PROCESSING OF DAIRY PRODUCTS BY STEAM INFUSION

Act 91 of 1962

288.121-288.126 Repealed.

PASTEURIZED MILK

Act 291 of 1947

288.131-288.137 Repealed.

PASTEURIZED MILK

Act 45 of 1967

- 288.141 Necessity for pasteurization.
- 288.142 Pasteurization and pasteurized; definition.
- 288.143 Milk products; definition.
- 288.144 Cheese; applicability.

- 288.145 Time for pasteurization.
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PASTEURIZATION OF DAIRY PRODUCTS
Act 293 of 1945

- 288.151 Dairy products; pasteurization.
- 288.152 Duty of commissioner of agriculture.
- 288.153 Misdemeanor; penalty.

PASTEURIZATION OF BY-PRODUCTS
Act 93 of 1915

- 288.161 Pasteurization of by-products.
- 288.162 Violation of act; penalty.

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- 288.215 Enforcement of act, rules.
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- 288.221 Renovated butter; definition, manufacture or sale prohibited.
- 288.222 Renovated butter; required labeling; placard in eating places.
- 288.223 Violation of act; penalty.

IMITATION BUTTER
Act 22 of 1901

- 288.241-288.242 Repealed.

OLEOMARGARINE OR IMITATION BUTTER
Act 63 of 1913

- 288.251 Repealed.
- 288.252 Oleomargarine; contents of package labels.
- 288.253 Oleomargarine containing less than 80 per cent of fat; unlawful to sell. Certain definitive words prohibited.
- 288.254 Butter; definition.
- 288.255 Oleomargarine or margarine; definition.
- 288.257 Penalty; repeal.

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- 288.261 Butter substitutes; use in public institutions prohibited, exception; schools.
- 288.262 Violation of act; penalty.

CHEESE

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- 288.281 Cheese; definition; milk fat and water content; exceptions.
- 288.282 Prohibited manufacture or distribution of certain imitations.
- 288.283 Branding of full cream or skimmed milk cheese.
- 288.283a American or Cheddar cheese; sale without requisite branding prohibited; mode of branding.
- 288.284 Placard in eating places, stores; penalty for violation of act.

ICE CREAMS, ICES, SHERBETS
Act 222 of 1931

- 288.301-288.315 Repealed.

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Act 298 of 1968

- 288.321 Frozen desserts act of 1968; short title.
- 288.322 Definitions; standards.
- 288.323 Legislative intent; conformance to federal regulations; construction similar to corresponding federal regulations.
- 288.324 Sale of adulterated frozen desserts prohibited.
- 288.325 Adulterated frozen, sweetened product.
- 288.326 Manufacture of ice cream or ice milk; standard; label; packaging.
- 288.327 Mark or label by manufacturer; use of name defined in act, misleading representation; sale of products in marked containers or packages.
- 288.328 Operation of ice cream plant; use of pasteurized mixture; uniformity of standards or requirements; sale of products produced without the state; inspection of out-of-state facilities, cost; license, out-of-state products.
- 288.329 Licenses; required for each manufacturing or processing plant; exception; applications, fees; forms; investigation; issuance; expiration; renewal.
- 288.330 Licenses; revocation; notice; hearing; evidence; appeal.
- 288.331 Enforcement of act; action; rules; quality standards; governing law.

- 288.332 Penalty; misdemeanor; injunction.
 288.333 Repeal.
 288.334 Effective date.

STANDARD MILK BOTTLES

Act 154 of 1915

- 288.351-288.353 Repealed.

INTERFERENCE WITH MILK BOTTLES

Act 257 of 1911

- 288.371 Milk bottles; molestation.
 288.372 Violation of act; penalty.

FARM BULK MILK TANKS

Act 124 of 1957

- 288.381-288.391 Repealed.

IMITATION CREAM

Act 235 of 1961

- 288.401 Imitation cream; definition.
 288.402 Imitation cream; label, contents.
 288.403 Imitation cream; service at public eating place.
 288.404 Imitation cream; use in vending machines.
 288.405 Imitation cream; prohibited words.
 288.406 Violation of act; penalty.

288.1-288.15 Repealed. 1956, p. 474, Act 216, Eff. Jul. 1, 1967;—1965, p. 404, Act 233, Eff. Jun. 30, 1966;—1965, p. 781, Act 385, Eff. Jun. 30, 1966.

Sections provided for regulation of the dairy industry.

Act 233, 1965, p. 402; Eff. Jul. 1, 1966.

AN ACT to regulate the production, transportation, handling, processing, delivery and sale of grade A milk and milk products; to define grade A milk and milk products and to establish standards and requirements therefor; to provide for licenses and producer permits and revocation of same; to provide for certain milk containers and set standards for same; to provide for uniform standards and uniform inspection; to fix penalties for violations thereof; to provide for the transfer of personnel and the rights of transferred personnel; and to repeal certain acts and parts of acts. Am. 1966, p. 235, Act 209, Imd. Eff. Jul. 11.

The People of the State of Michigan enact:

288.21 Department of agriculture; promulgation of rules; definitions.

Sec. 1. The department of agriculture shall be responsible for the administration of this act and shall promulgate rules in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, governing the production, transportation, processing, labeling and sale of grade A milk and grade A milk products. Except as otherwise specifically defined or described in this act the provisions of the 1965 edition of the pasteurized milk ordinance and administrative procedures as published by the United States public health service is adopted. Where the words "health authority" are used in the 1965 edition of the pasteurized milk ordinance and administrative procedures, the same is amended to read "department of agriculture". The department may adopt changes approved prior to January 1, 1969, in the 1965 edition of the pasteurized milk ordinance and administrative procedures by rules promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, and subject to Act No. 197 of the Public Acts of 1952.

(a) Milk shall contain not less than 8.5% solids-not-fat and not less than 3% milk fat. Pasteurized milk, homogenized milk and vitamin "D" milk and fortified milk shall contain a minimum of 3.5% milk fat.

(c) Grade A pasteurized milk and milk products except those to be cultured shall be cooled immediately to a temperature of 45 degrees Fahrenheit or less and shall be maintained at 50 degrees Fahrenheit or less until delivery.

(d) Water for the milkhouse and milking operations shall be from a supply properly located and protected, shall be easily accessible, adequate, of a safe sanitary quality and shall comply with the recommendations of the state department of health.

HISTORY: New 1965, p. 402, Act 233, Eff. Jul. 1, 1966;—Am. 1969, p. 166, Act 84, Eff. Mar. 20, 1970.

288.22 Annual license fees; revocation or suspension of licenses.

Sec. 2. (1) There shall be paid to the department of agriculture the following annual license fees for the year starting July 1, 1966. The license shall be applied for on forms provided by the department. The license shall be renewed annually and application for renewal made 10 days before expiration of existing license.

(a) Each milk plant, receiving station or transfer station shall pay an annual fee of \$5.00 for each dairy farm whose milk is first received at the milk plant or receiving station or transfer station, plus an additional \$5.00 per farm shipping to it if the milk plant or receiving station or transfer station operator does not maintain an adequate number of industry personnel which are certified to conduct farm supervision and which do not in fact conduct same. This additional \$5.00 per farm fee shall not be levied if a cooperative association is doing the farm supervision for the milk plant operator. The license fee shall not be charged to the producer.

(b) Each milk distributor or grade A milk plant operator shall pay an annual fee of \$5.00 for each delivery vehicle operated. This fee shall be the sole distributor or vendor license fee required by the state or any subdivision thereof where the principal purpose of such vehicle is the delivery and distribution of the products defined herein.

(c) Each certified industry fieldman shall pay an annual fee of \$5.00 for a license to conduct certified farm inspections.

(d) Each person picking up milk in a farm pickup milk tank from a farm bulk milk tank shall obtain a license from the department. The license fee shall be \$5.00. It shall be considered a violation of this act and the license of any operator may be revoked or suspended if: (1) The operator fails to properly agitate the milk in the farm tank before taking a sample for delivery to the milk plant or department of agriculture of the state of Michigan, or (2) takes such sample for milk fat testing or bacteria analysis in an unapproved manner, or (3) if the operator picks up milk the temperature of which exceeds 50 degrees Fahrenheit, or (4) reports inaccurately any weight or temperature of milk picked up from any dairy farm.

(e) Each milk plant or transfer station shall pay an annual fee of \$10.00 for each location which is not a first receiving point for dairy farm milk.

(2) No other special license fees or taxes may be levied on the preceding by the state or any subdivision thereof, except for taxes or fees that are generally levied on other than dairy plants and dairy plant operators.

HISTORY: New 1965, p. 402, Act 233, Eff. Jul. 1, 1966;—Am. 1969, p. 166, Act 84, Eff. Mar. 20, 1970.

288.23 Uniform regulation; out of state milk.

Sec. 3. (1) Regulation of the production, processing, labeling and distribution of grade A milk and grade A milk products under sanitary requirements which are uniform throughout the state and the United States is essential for the protection of consumers and the economic well-being of the dairy industry and is therefore a matter of statewide concern. No municipality or county may impose any different standards or requirements for grade A milk and grade A milk products than those provided for herein, or prohibit the sale of same if it has been produced and processed as grade A milk under supervision of the state department of agriculture.

(2) No sanitary requirement or standard issued under this act shall prohibit the sale of grade A milk or grade A milk products which are produced or processed under laws or rules of any governmental unit, without the state, which are substantially equivalent to the requirements of the rules issued under this act, and which are enforced

with equal effectiveness in the opinion of the Michigan department of agriculture and provided further that said government unit accepts Michigan grade A milk and milk products certified by a Michigan sanitation rating officer.

HISTORY: New 1965, p. 403, Act 233, Eff. Jul. 1, 1966.

288.24 Payments to producers; frequency, time.

Sec. 4. Every person, firm, association or corporation purchasing milk for the purposes of reselling or of manufacturing the same into other products, shall pay the producer monthly or oftener. Payment may be made on or before the first day of each and every month for cream or milk; payment shall be made on or before the fifteenth day of each and every month for all cream or milk received prior to the first day of the same month. The director of agriculture may revoke or refuse any license required by this act whenever the provisions of this section have been violated.

HISTORY: New 1965, p. 403, Act 233, Eff. Jul. 1, 1966.

288.25 Local inspection; agreement with department of agriculture.

Sec. 5. If any city, county or district health department has qualified personnel and wishes to continue inspection of milk and cream plants within their jurisdiction, it may do so under agreement with the department of agriculture of the state of Michigan. Such agreements with the department of agriculture shall in no manner affect the existing civil service status or possible pension rights of said local officers and employees. Any city, county or district health department making its own inspections shall receive from the state, the delivery vehicle license fees collected for vehicles handling products of the plants under their jurisdiction.

HISTORY: New 1965, p. 403, Act 233, Eff. Jul. 1, 1966.

288.25a Transfer of city, county or district milk and cream inspection officers and employees to department of agriculture; agreement; retirement provisions.

Sec. 5a. (1) Any city, county or district health department, with the approval of the local governing body, may enter into an agreement with the department of agriculture for the transfer to the department of agriculture of milk and cream inspection officers and employees certified as qualified by the state civil service commission. Such transfer shall not affect the then existing civil service status or possible pension rights of the transferred officers and employees.

(2) Officers and employees transferred by agreements pursuant to this section, who were members of a city, county or district retirement system and become members of the state employees' retirement system, shall be entitled to benefits provided by Act No. 88 of the Public Acts of 1961, as amended, being sections 38.1101 to 38.1105 of the Compiled Laws of 1948, notwithstanding that the city, county or district might not have adopted the act. Whenever the service requirements for benefits to be paid under Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948, to persons who become members of the state employees' retirement system are lower than the service requirements in Act No. 88 of the Public Acts of 1961, as amended, the provisions of Act No. 240 of the Public Acts of 1943, as amended, shall apply with respect to such persons.

HISTORY: Add. 1966, p. 235, Act 209, Imd. Eff. Jul. 11.

288.26 Milk and milk product packages, size, marking.

Sec. 6. All fluid milk and milk products shall be packaged for retail sale only in units of 1 gill, 1/2 liquid pint, 10 fluid ounces, 1 liquid pint, 1 liquid quart, 1/2 gallon, 1 gal-

lon, 1 ½ gallons, 2 gallons, 2 ½ gallons or multiples of 1 gallon. Packages in units of less than 1 gill shall be permitted. Each container shall be plainly marked as to its capacity and shall deliver the amount marked on the container.

HISTORY: New 1965, p. 403, Act 233, Eff. Jul. 1, 1966;—Am. 1969, p. 167, Act 84, Eff. Mar. 20, 1970.

288.27 Fluid milk act of 1965; short title.

Sec. 7. This act shall become effective on July 1, 1966 and shall be known and cited as the "fluid milk act of 1965".

HISTORY: New 1965, p. 404, Act 233, Eff. Jul. 1.

288.28 Repeals.

Sec. 8. Act No. 169 of the Public Acts of 1929, as amended, being sections 288.1 to 288.15 of the Compiled Laws of 1948, Act No. 216 of the Public Acts of 1956, as amended, being sections 288.71 to 288.83 of the Compiled Laws of 1948 and Act No. 124 of the Public Acts of 1957, as amended, being sections 288.381 to 288.391 of the Compiled Laws of 1948, are repealed as of June 30, 1966.

HISTORY: New 1965, p. 404, Act 233, Eff. Jul. 1;—Am. 1965, p. 781, Act 385, Eff. June 30, 1966.

288.29 Penalty; injunction.

Sec. 9. Any person who violates any of the provisions of this act is guilty of a misdemeanor. The person may be enjoined from continuing the violations.

HISTORY: Add. 1967, p. 21, Act 13, Eff. Nov. 2.

288.41-288.45 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for regulation of breed names of dairy cattle.

Act 212, 1935, p. 344; Imd. Eff. Jun. 8.

AN ACT to provide for the licensing of milk fat testers; to regulate the sampling and testing of milk and cream and the use of approved tests; to prescribe the duties and powers of the director of agriculture; and to provide penalties for the violation of the provisions of this act. Am. 1969, p. 167, Act 85, Eff. Mar. 20, 1970.

The People of the State of Michigan enact:

288.51 Milk fat testers; licenses, applications, examinations, issuance, expiration, renewal, fee.

Sec. 1. Every person who shall test milk or cream in this state by the Babcock method or any other test whose methods and procedures have been approved by the association of official analytical chemists and the director of agriculture for the purpose of determining the percentage of butterfat or milk fat contained therein, where such milk or cream is bought and paid for on the basis of the amount of butterfat contained therein, shall first obtain a license from the director of agriculture.

Any person applying for such license or renewal of license shall make written and signed application on blanks to be furnished by the director of agriculture for a license to test milk or cream where such milk or cream is bought and paid for on the basis of the amount or percentage of butterfat or milk fat contained therein. The granting of a license shall be conditioned upon the passing by the applicant of an examination, to be conducted by or under the direction of the director of agriculture.

All licenses so issued or renewed shall expire on September 30 following the date of issuance unless sooner revoked, as provided in section 3. Each person presently licensed under this act whose license expires after March 1, 1970, shall not be required to obtain a new license until October 1, 1970.

A license fee of \$5.00 for each license so granted or renewed shall be paid to the director of agriculture by the applicant before any license is granted.

HISTORY: CL 1948, 288.51;—Am. 1969, p. 168, Act 85, Eff. Mar. 20, 1970.

288.52 Commissioner of agriculture; rules and regulations; fees to general fund.

Sec. 2. The commissioner of agriculture shall establish and promulgate rules and regulations not inconsistent with this act that shall govern the granting of licenses under this act and shall establish and promulgate rules and regulations not inconsistent with this act that shall govern the manner of testing, including, but not in limitation thereof, the taking of samples, location where the testing of said samples shall be made and the length of time samples of milk or cream shall be held after testing.

All license and inspection fees received under the provisions of this act shall be turned over to the state treasury and any accumulated balance as of June 30, 1949, shall be credited to the general fund.

HISTORY: CL 1948, 288.52;—Am. 1969, p. 137, Act 127, Imd. Eff. May 20.

288.53 Revocation of license; grounds, hearing, confrontation.

Sec. 3. The director of agriculture may revoke any license granted under the provisions of this act, upon good and sufficient evidence that the provisions of this act, or the rules of the director of agriculture are not being complied with. Before any license shall be revoked, an opportunity shall be granted the licensee, upon being confronted with the evidence, to show cause why such license should not be revoked.

HISTORY: CL 1948, 288.53;—Am. 1969, p. 168, Act 85, Eff. Mar. 20, 1970.

288.54 Appeal to circuit court of Ingham county.

Sec. 4. Any licensee who feels aggrieved at the decision of the director of agriculture may appeal from the decision within 10 days by writ of certiorari, to the circuit court of the county of Ingham, and an issue shall be framed in the court, and a trial had, and its decision shall be final unless an appeal is taken.

HISTORY: CL 1948, 288.54;—Am. 1969, p. 168, Act 85, Eff. Mar. 20, 1970.

288.55 Samples, method of taking, penalty; test records, preservation, availability.

Sec. 5. In taking samples of milk or cream from any milk can, cream can or any container of milk or cream, the contents of such milk can, cream can or container of milk or cream shall be first thoroughly mixed either by stirring or otherwise, and the sample shall be taken immediately after mixing, or by any other method which gives a representative average sample of the contents, and it is hereby made a misdemeanor to take samples by any method which does not give a representative average sample or to tamper with or manipulate samples in any manner where milk or cream is bought or sold and where the value of said milk or cream is determined by the butterfat contained therein.

(a) Every person, firm or corporation, buying or selling milk or cream on the basis of the butterfat or milk fat contained therein, shall keep for a period of 2 years, a true copy of the original test record prepared by the licensed milk fat tester who determines by test the amount of milk fat in such milk or cream bought or sold. Such records shall be made available to the director of agriculture upon request.

HISTORY: CL 1948, 288.55;—Am. 1969, p. 168, Act 85, Eff. Mar. 20, 1970.

288.56 Standard Babcock testing glassware; scales and weights.

Sec. 6. In the use of the Babcock test all persons shall use the "standard Babcock testing glassware, scales and weights." The term "standard Babcock testing glassware, scales and weights" shall apply to glassware, scales and weights complying with the following specifications:

Standard milk test bottles.**(a) Standard milk test bottles.**

Graduation. The total percent graduation shall be 8 percent. The graduated portion of the neck shall have a length of not less than 63 and 5/10 millimeters (2 and 1/2 inches). The graduation shall represent whole percent, 5/10 percent, and tenths percent. The tenth percent graduation shall not be less than 3 millimeters in length; the 5/10 percent graduations shall be 1 millimeter longer than the tenths percent graduations, projecting 1 millimeter to the left; the whole percent graduations shall extend at least 1/2 way around the neck to the right and projecting 2 millimeters to the left of the tenths percent graduations. Each percent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed 1/10 percent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend for at least 9 millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 millimeters; if conical, the outside diameter of the base shall be between 31 and 33 millimeters, and the maximum diameter between 35 and 37 millimeters.

The charge of the bottle shall be 18 grams.

The total height of the bottle shall be between 150 and 165 millimeters (5 and 7/8 and 6 and 1/2 inches).

Standard cream test bottles.**(b) Standard cream test bottles.**

Two types of bottles shall be accepted as standard cream test bottles, a 50 percent 9 gram short-neck bottle and a 50 percent 9 gram long-neck bottle.

Fifty percent 9 gram short-neck bottles. Graduation. The total percent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 63 and 5/10 millimeters (2 and 1/2 inches). The graduation shall represent 5 percent, 1 percent and 5/10 percent. The 5 percent graduations shall extend at least 1/2 way around the neck of the bottle (to the right). The 5/10 percent graduations shall be at least 3 millimeters in length, and the 1 percent graduations shall have a length intermediate between the 5 percent and 5/10 percent graduations. Each 5 percent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed 5/10 percent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend at least 9 millimeters below the lowest and 9 millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 millimeters; if conical, the outside diameter of the base shall be between 31 and 33 millimeters, and the maximum diameter between 35 and 37 millimeters.

The charge of the bottle shall be 9 grams. All bottles shall bear on top of the neck above the graduations, in plainly legible characters, a mark defining the weight of the charge to be used (9 grams).

The total height of the bottle shall be between 150 and 165 millimeters (5 and 7/8 and 6 and 1/2 inches) same as standard milk test bottles.

Fifty percent 9 gram long-neck bottles. The same specifications in every detail as specified for the 50 percent 9 gram short-neck bottle shall apply for the long-neck bottle with the exceptions, however, that the total height of this bottle shall be between 210 and 235 millimeters (8 and 1/2 and 8 and 7/8 inches) and that the total length of the graduation shall be not less than 120 millimeters.

Standard Babcock pipette.

(c) The standard Babcock pipette.

Total length of pipette shall be not more than 330 millimeters (13 and 1/4 inches). Outside diameter of suction tube 6 to 8 millimeters. Length of suction tube 130 millimeters. Outside diameter of delivery tube 4 and 5/10 to 5 and 5/10 millimeters. Length of delivery tube 100 to 120 millimeters. Distance of graduation mark above bulb 30 to 60 millimeters. Nozzle straight. Delivery 17 and 6/10 cubic centimeters of water at 20 degrees C in 5 to 8 seconds.

Standard cream test scales.

(d) Standard cream test scales.

All butterfat and cream scales used for the purpose of determining the value or percent of butterfat content of milk or cream by the Babcock test or otherwise shall be subject to the following specifications:

1. The scale shall be provided with a graduated face of at least 10 divisions over which the pointer shall play.

2. The pointer must reach to the graduated divisions and shall terminate in a fine point to enable the readings to be made clearly and distinctly.

3. The clear interval between the divisions on the graduated face shall not be less than 5/100 inch.

4. All scales whose weight indications are changed by an amount greater than 1/2 the tolerance allowed, when set in any position on a surface making an angle of 3 degrees or approximately 5 percent with the horizontal, shall be equipped with leveling screws and a device which will indicate when the scale is level: Provided, however, That the scale shall be re-balanced at zero each time its position is altered during the test.

5. The addition of 1/2 grain to the scale when loaded to capacity shall cause a movement of the pointer at least equal to 1 division on the graduated face.

6. The sensibility reciprocal and tolerance of cream test and butterfat test scales shall be 1/2 grain (30 milligrams).

Standard weights.

(e) Standard weights.

The standard cream test weight shall be 9 grams and the allowable tolerance therefor shall not exceed 1/2 grain (30 milligrams).

Every person, firm, company, association, corporation or agent thereof buying and paying for milk or cream on the basis of the amount of butterfat contained therein as determined by the Babcock test shall use standard Babcock test bottles, pipettes, weights and scales as defined in this act, and it shall be unlawful for any such person, firm, company, association, corporation or agent thereof to falsely manipulate, under-read or over-read the Babcock test or any other contrivance used for determining the quality or value of milk or cream where the value of said milk or cream is determined by the percentage of butterfat contained in the same or to make a false determination by the Babcock test or otherwise, or to falsify the record of such test or to read the test

at any temperature except the correct temperature which shall be between 135 degrees and 140 degrees Fahrenheit, or to pay on the basis of any test, measurement or weight except the true test, measurement or weight.

HISTORY: CL 1948, 288.56.

288.57 Inspection and certification of standard Babcock testing glassware; fee.

Sec. 7. No person, firm, company, association, corporation or agent thereof buying and paying for milk or cream on the basis of the amount of butterfat contained therein as determined by the Babcock test or otherwise shall use the "standard Babcock testing glassware" unless each piece of such glassware shall bear the certificate of the director of agriculture thereon. Before such glassware shall be used, the same shall be submitted to the director of agriculture for his inspection, and all such glassware so inspected and approved by him shall bear the certificate of the director of agriculture in such form as the director of agriculture by rules shall prescribe. Before such certificate shall be placed thereon, the person requesting same shall pay to the director of agriculture an inspection fee of 3 cents for each such piece of glassware so certified.

HISTORY: CL 1948, 288.57;—Am. 1969, p. 168, Act 85, Eff. Mar. 20, 1970.

Sec. 8. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

288.59 Violation of act; penalty.

Sec. 9. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than 100 dollars and the cost of prosecution, or by imprisonment in the county jail for a period of not more than 2 months, or both such fine and imprisonment in the discretion of the court. All acts or parts of acts contravening the provisions of this act are hereby repealed.

HISTORY: CL 1948, 288.59.

288.60 Milk fat test law; short title.

Sec. 10. This act shall be known and cited as the "Milk Fat Test Law".

HISTORY: Add. 1969, p. 169, Act 85, Eff. Mar. 20, 1970.

Original section 10 of Act 212 of 1935, p. 344, was a repeal section and was repealed by Act 267 of 1945.

288.71-288.83 Repealed. 1965, p. 404, Act 233, Eff. Jun. 30, 1966;—1965, p. 781, Act 385, Eff. Jun. 30, 1966.

Sections regulated testing and grading of milk.

Act 222, 1913, p. 438; Eff. Aug. 14.

AN ACT to define milk, cream, cottage cheese, creamed cottage cheese, lowfat creamed cottage cheese, egg nog, lowfat egg nog and related foods; and to prevent and punish the sale of unclean and insanitary cream and milk and manufactured dairy products and the use thereof in the manufacture of food products, and to prohibit unclean and insanitary conditions of milk and cream handling and processing establishments, and fixing of production and handling standards of sanitary milk and cream for manufacturing and manufactured dairy products; to regulate the sale and transportation of milk and cream for manufacturing purposes; to provide for licenses and the revocation thereof and to require the payment of producers. Am. 1927, p. 862, Act 361, Eff. Sep. 5;—Am. 1935, p. 411, Act 242, Imd. Eff. Jun. 8;—Am. 1952, p. 386, Act 232, Eff. Sep. 18;—Am. 1964, p. 230, Act 174, Eff. Aug. 28;—Am. 1965, p. 404, Act 234, Eff. Jul. 1, 1966;—Am. 1969, p. 211, Act 116, Imd. Eff. Jul. 29.

The People of the State of Michigan enact:

288.101 Manufacturing milk act; definitions.

Sec. 1. For the purpose of this act, the term "milk" shall mean the fresh, clean, lacteal secretion obtained by the complete milking of 1 or more healthy cows, properly fed and kept, excluding that obtained within 15 days before and 5 days after calving, and contains not less than 8 ½% of milk solids not fat, and not less than 3% of milk fat; and the term "cream" shall mean that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force, is fresh and clean, and contains not less than 18% of milk fat. Milk which shall be drawn from cows that are kept in barns or stables which are not reasonably well lighted and ventilated, or that are kept in barns or stables that are filthy from an accumulation of animal feces and excreta or from any other cause, or milk which shall be drawn from cows which are themselves in a filthy condition; or milk kept or transported in dirty, rusty or open-seamed cans or other utensils; or milk that is stale or putrid; or milk to which has been added any unclean, or unwholesome foreign substance; or milk that contains excessive amounts of sediment; or milk which has been kept exposed to foul or noxious air or gases in barns occupied by animals, or kept exposed in dirty, foul or unclean places or conditions, is hereby declared to be insanitary milk. Cream produced from any such aforesaid insanitary milk; or cream produced by the use of a cream separator, which separator had not been thoroughly washed, cleansed and scalded after previous use in the separation of cream from milk; or cream produced by the use of a cream separator placed or stationed in any unclean or filthy room or place or in any building containing a stable wherein are kept cattle or other animals, unless such cream separator is so separated and shielded by a partition from the stable portion of such building as to be free from all foul or noxious air or gases which issue or may issue from such place or stable; or cream which contains excessive amounts of sediment, filth or other foreign matter; or cream that is stale, putrid or decomposed; or cream that has an acidity of more than 7/10 of 1% expressed as lactic acid; or cream that is kept or transported in dirty, rusty or open-seamed cans or other utensils; or cream placed or transported in any container theretofore used in the transfer of buttermilk; or cream which has been kept exposed to foul or noxious air or gases in barns occupied by animals, or in dirty, foul or unclean places or conditions, or cream which contains a gasoline, kerosene or oil taste or odor is hereby declared to be insanitary cream. Any manufactured dairy product containing any filth or substance unnatural to the product or that contains excessive amounts of sediment is hereby declared to be an insanitary dairy product.

HISTORY: CL 1915, 6417;—CL 1929, 5342;—Am. 1935, p. 411, Act 242, Imd. Eff. Jun. 8;—CL 1948, 288.101;—Am. 1952, p. 386, Act 232, Eff. Sep. 18;—Am. 1964, p. 231, Act 174, Eff. Aug. 28.

288.101a Manufacturing milk act; short title.

Sec. 1a. This act shall be known and may be cited as the "manufacturing milk act".

HISTORY: Add. 1965, p. 404, Act 234, Eff. Jul. 1, 1966.

288.102 Insanitary milk, cream, dairy product; distribution prohibited.

Sec. 2. No person shall by himself, his servant or agent, or as the servant or agent of any other person, or as the officer, servant or agent of any firm, partnership or corporation, sell or offer for sale, furnish or deliver, or have in possession or under his control with intent to sell or offer for sale, or furnish, or deliver to any person, firm or corporation as food for man, or to any creamery, cheese factory, milk condensing factory, or milk or cream dealer, or any other manufacturing dairy plant, any insanitary milk or any insanitary cream or any insanitary dairy product.

HISTORY: CL 1915, 6418;—CL 1929, 5343;—CL 1948, 288.102;—Am. 1952, p. 387, Act 232, Eff. Sep. 18;—Am. 1964, p. 231, Act 174, Eff. Aug. 28.

288.102a Milk or cream; production, handling, sanitation.

Sec. 2a. (1) Milk or cream shall come from cows that are located in areas under federal and state supervision for the eradication of tuberculosis and brucellosis.

(2) When any recognized test or examination of a dairy herd indicates that any cows are infected with mastitis, such cows' milk or any product of such milk shall not be sold or offered for sale.

(3) Milk that is bloody, stringy or otherwise abnormal, or which is produced from diseased cows, or any products of such milk, shall not be sold or offered for sale.

(4) Cows shall be kept clean. Flanks, bellies and tails of milking cows shall be free from visible dirt at the time of milking. After preparation and cleaning of cows, and before milking, udders and teats shall be wiped with clean towels moistened with bactericidal solutions.

(5) Cows shall be milked in a sanitary manner. Wet-handed milking is prohibited.

(6) Cow stables or milking parlors shall be provided in which all milking shall be done, and such cow stables or milking parlors shall be well ventilated.

(7) Floors and gutters or drops shall be provided in that portion of the barn or stable in which cows are milked and shall be constructed of concrete or other impervious, easily cleaned materials. Floors and gutters or drops shall be graded so as to drain properly and shall be kept clean and in good repair. Calves shall not be tied behind cows. Quarters housing swine or fowl shall be separated from milking area by partitions. If horses, dry cows, calves or bulls are stabled in the milking barn, they shall be confined in stalls, stanchions or pens which shall be kept clean and in good repair.

(8) Walls, ceilings and partitions of the barn shall be kept clean.

(9) The milking portion of the barn shall be provided with sufficient natural or artificial light so arranged so that all working areas will be easily visible and so that cleaning and milking operations can be effectively performed.

(10) Barnyards shall be properly graded and kept reasonably clean. Cow stable doors and stock watering tanks shall have approaches of at least 6 feet of concrete, clean gravel or other suitable materials.

(11) Manure shall be removed and stored or disposed of in such manner as will best prevent the breeding of flies and all manure piles shall be protected to prevent cows from having access thereto.

(12) Pen type barns shall be well drained and sufficiently bedded to keep cows clean. No animals except cattle shall be housed in the lounging area of pen type barns.

(13) Milking parlors are places where cows are milked and, except for the feeding of concentrates, shall be used for milking purposes only except as herein otherwise provided. Milking parlors shall have impervious floors, adequate light and ventilation and, at all times, shall be maintained in a clean and sanitary condition.

(14) Equipment for properly cooling and storing all milk and cream handled shall be provided. Cooling tanks shall be constructed of concrete or other impervious materials and shall be of such capacities as will afford proper cooling and storing of all milk and cream handled.

(15) Utensil racks, made of metal, shall be provided upon which cleaned containers, equipment, utensils and milking machines shall be stored when not in use. Lower shelves of such racks shall not be less than 12 inches above floors.

(16) Milk or cream to be delivered to milk plants or receiving stations shall be cooled to a temperature of 60 degrees fahrenheit or lower within 2 hours after milking and shall be maintained at such temperature until delivered.

(17) Containers, equipment and utensils used in the handling, storing and transporting of milk and cream shall be made of smooth, nonabsorbent material and of such

construction as to be easily cleaned, with all joints and seams finished smooth and flush, and shall be maintained in good repair.

(18) Containers, equipment and utensils used in handling, storing and transporting milk and cream shall be thoroughly cleaned with dairy brushes or other approved equipment, hot water and dairy cleansers immediately after use. Immediately before re-using, all such containers, equipment and utensils shall be subjected to approved bactericidal treatment.

(19) Milk shall be strained only through approved single service strainer pads. Unused strainer pads shall be stored so as to be protected from contamination.

HISTORY: Add. 1964, p. 231, Act 174, Eff. Aug. 28.

288.102b Milk or cream; inspection of production facilities.

Sec. 2b. (1) At least once each 30 days samples of milk shall be taken and tested for bacterial content.

(2) Milk, when delivered from dairy farms to milk plants or receiving rooms shall have a methylene blue reduction time of not less than 1 hour. After July 1, 1965, the methylene blue reduction time shall be not less than 2 ½ hours or of comparable bacteriological quality if other tests are used. Milk not meeting minimum bacteria standards shall have at least 4 follow-up tests during a period not to exceed 8 weeks following the original test. Milk not meeting the prescribed bacterial standards in the time intervals specified shall be excluded.

(3) Within 15 days of the first shipment of milk or cream all new shippers shall be visited by the dairy plant or receiving station operator or his representative and a written farm inspection shall be made of milk or cream.

(4) At least once annually all farms shipping milk or cream to a dairy plant or receiving station shall be inspected by the dairy plant or receiving station operator or by his representative. A carbon copy of the inspection shall be left with the producer and a copy filed at the dairy plant or receiving station. Reinspections shall be made within 30 days after the original inspection on those farms where conditions are found which adversely or seriously affect milk or cream quality. The farm inspection form used shall include all minimum requirements for manufacturing milk standards and shall be approved by the Michigan department of agriculture.

HISTORY: Add. 1964, p. 233, Act 174, Eff. Aug. 28.

288.102c Milk or cream; records of producer quality tests; inspection.

Sec. 2c. Dairy plants and receiving stations shall maintain records of producer quality tests for a period of at least 1 year and these records shall be kept available for review by representatives of the department of agriculture. The department of agriculture representative may review quality records and inspect farm conditions of producers shipping milk or cream to all manufacturing plants or receiving stations as often as the department deems necessary to assure compliance with minimum manufacturing milk and cream standards.

HISTORY: Add. 1964, p. 233, Act 174, Eff. Aug. 28.

288.102d Production quality standards; insanitary farm conditions; exclusion of producers; correction of conditions.

Sec. 2d. Producers who fail to meet minimum quality standards or correct insanitary farm conditions after receiving help from the dairy plant or receiving station operator or his representative, or the department of agriculture, shall be excluded from selling milk or cream for human consumption. Reinstatement of an excluded producer shall be made only after the dairy plant or receiving station operator or his representative, or the department of agriculture, has determined that the conditions on the farm which caused the noncompliance have been corrected.

Milk or cream may not be accepted from any producer who has been excluded from the market by the department of agriculture for insanitary conditions or quality until the cause for exclusion has been corrected, as determined by inspection by the department of agriculture or the dairy plant.

HISTORY: Add. 1964, p. 233, Act 174, Eff. Aug. 28.

288.102e Plants receiving milk for manufacture into milk products; sanitation, handling.

Sec. 2e. Plants receiving milk for manufacture into butter, cheese, cottage cheese, evaporated milk, condensed milk, dry skimmed milk and dry whole milk shall conform to the following standards and requirements:

(1) The premises and surroundings shall be kept neat and clean. Trash and waste materials shall be disposed of regularly.

(2) An adequate drainage system shall be provided which drains readily all water from the plant and removes surface water readily from the premises.

(3) Plant buildings shall be of sound construction and kept in good repair.

(4) The walls, ceilings, and partitions shall be substantially impervious to moisture, clean, tight and kept in good repair. Doors and windows shall be kept clean and in good repair.

(5) In rooms where milk and milk products are processed or packaged or where utensils are washed, the floors shall be constructed of easily cleanable impervious material and shall be constructed to provide for proper drainage and ease of cleaning.

(6) All plants and storage areas shall be free from insects and rodents. During the fly season, all regularly used doors and other openings shall be screened or otherwise protected against insects.

(7) Rooms shall be ventilated to prevent off-odors and excessive condensation on walls and ceilings.

(8) Sufficient amounts of natural or artificial light shall be provided to accomplish the visual aspects of processing, handling and storage of manufactured products.

(9) Convenient and sufficient toilet facilities and hand-washing facilities complete with soap, towels, and hot and cold running water shall be provided, and they shall be kept clean. Each toilet room shall be: Ventilated to the outside air, provided with a self-closing door and have a "wash hands" sign posted in a conspicuous place. No employee shall return to work after using the toilet without first having washed his hands.

(10) All plants shall have adequate and safe water supplies that comply with all regulations governing such supplies.

(11) Equipment, sanitary piping and utensils with which milk and milk products come in contact shall be made of stainless steel or other non-corrosive sanitary material and shall be smooth and maintained in good repair, free from rust, pits, and open seams. Churns shall be of non-corrosive sanitary metal construction or sound wood construction.

(12) Equipment, sanitary piping and utensils with which milk and milk products come in contact shall be completely disassembled and thoroughly cleaned at least every 24 hours: Provided, That permanently installed equipment and sanitary piping may be cleaned by C.I.P. (cleaned in place) procedures when the plans, installation, and cleaning methods are approved by the Michigan department of agriculture. Such equipment, after having been exposed to approved C.I.P. procedures shall be visually inspected for cleanliness and re-cleaned if necessary. Immediately prior to reuse, all cleaned equipment, sanitary piping and utensils shall be given adequate bactericidal treatment.

(13) Good housekeeping practices shall be carried out daily in the plant.

(14) All employees whose work brings them in contact with the receiving, processing, handling, packaging and storage of milk or milk products shall wear clean outer garments and caps or hairnets.

(15) Tobacco in any form shall not be used in receiving and processing rooms.

(16) At least every 4 months a can audit shall be made by the plant personnel to determine the number of unsatisfactory producer cans in use. A record shall be maintained at the plant revealing the total number of cans examined and the percentage of unclean, definite rusty, and open seamed cans noted in each audit.

(17) Persons afflicted with communicable diseases shall not be employed in plants receiving milk or milk products for manufacturing. Each new employee shall have a medical and physical examination by a registered physician and shall furnish a satisfactory medical certificate prior to beginning work.

HISTORY: Add. 1964, p. 233, Act 174, Eff. Aug. 28.

288.103 Insanitary milk or cream; prohibited use.

Sec. 3. No person shall by himself, his servant or agent, or as the servant or agent of any other person, or as the servant or agent of any firm or corporation, manufacture for sale any article of food for man from any insanitary milk or insanitary cream or any milk or cream that does not meet the standards or requirements of this act.

HISTORY: CL 1915, 6419;—CL 1929, 5344;—CL 1945, 288.103;—Am. 1964, p. 234, Act 174, Eff. Aug. 28.

288.103a Milk plants; license; reports.

Sec. 3a. Every person, firm, association or corporation, owning or operating a milk plant, shipping station, creamery, cheese factory or condensed milk factory not licensed by the department under other dairy laws, where milk or cream is received by purchase or otherwise from 1 or more persons or other factory where milk, cream or any other dairy product is received from a shipping station or licensed dairy plant, manufactured into creamery butter, condensed milk, cheese, condensed buttermilk or other dairy product, before opening of such milk plant, shipping station, creamery, cheese factory, condensed milk factory, condensed buttermilk factory, or other plant where dairy products are manufactured, and annually thereafter on July 1, shall obtain a license from the director of agriculture. Application shall be made upon forms furnished by the director. The forms shall show the ownership and location of the shipping station, milk depot, cream depot, creamery, cheese factory, condensed milk factory, condensed buttermilk factory or other factory manufacturing dairy products as well as such other information as may be required by the director. Every person, firm, association or corporation owning or operating a shipping station, cream depot, creamery, cheese factory, condensed milk factory, condensed buttermilk factory or other such factory shall pay to the director an annual license fee of \$10.00 for each plant operated, which fees shall be paid at the time application for the license is made. Each depot, factory or other factory in this state manufacturing dairy products from milk or cream or other dairy products, shall report to the director at least once each calendar year, or as often as may be required, the amount of milk or cream sold and the amount shipped into and out of the state and the amount of butter, cheese, condensed milk, condensed buttermilk, powdered milk, powdered skim milk, powdered cream, milk casein, ice cream, malted or milk sugar or other dairy products manufactured.

HISTORY: Add. 1965, p. 404, Act 234, Eff. Jul. 1, 1966;—Am. 1969, p. 211, Act 116, Imd. Eff. Jul. 29.

288.103b Application for license; investigation, refusal, revocation.

Sec. 3b. Upon receipt of application for a license for any shipping station, milk depot, cream depot, creamery, cheese factory, condensed milk factory, condensed buttermilk factory, or other factory manufacturing dairy products not previously licensed or which has been disapproved for license, the department of agriculture shall investi-

gate the sanitary conditions of the plant or place of business. The director shall refuse a license under this act when he determines that the sanitary conditions of the plant or place of business of any applicant does not conform to the provisions of this act or the rules and regulations issued hereunder or the provisions of this act or other acts pertaining to the dairy business have not been complied with or have been violated by the applicant. The director may revoke any license issued under the provisions of this act whenever he determines that any of the provisions or rules and regulations of this act or provisions of other acts pertaining to the dairy business have been violated. Any person, firm, association or corporation whose license has been revoked or refused shall discontinue operation of the business for which the license was issued or applied for and shall not be eligible for a license until the provisions of this act have been complied with.

HISTORY: Add. 1965, p. 405, Act 234, Eff. Jul. 1, 1966.

288.103c Revocation of license; notice, hearing.

Sec. 3c. Before revoking any license the director shall give written notice to the licensee affected stating that he contemplates the revocation of the same, giving his reasons therefor. The notice shall appoint a time and place of hearing and shall be mailed by certified mail to the licensee or personal service rendered at least 10 days before the date set for the hearing. The licensee may present such evidence of a relevant nature to the director as he deems fit and, after hearing all the testimony, the director shall decide the question in such manner as to him appears just and right.

HISTORY: Add. 1965, p. 405, Act 234, Eff. Jul. 1, 1966.

288.103d Persons picking up milk from a farm bulk tank, license; regulations.

Sec. 3d. (1) Each person picking up milk in a farm pickup milk tank from a farm bulk milk tank, or delivering any such milk to any dairy plant, shall obtain a license from the director. The license shall be issued only after the applicant has successfully passed an examination qualifying him for a license to measure milk in the farm bulk milk tank, take samples for bacterial analysis and butterfat testing. The license shall be applied for on forms provided by the director. The license fee of \$5.00 shall accompany the application for license. The license shall be renewed annually and application for renewal made 10 days before expiration of existing license. The director of agriculture shall refuse or revoke any license required by this act when he determines that the applicant or licensee has violated any of the provisions of this act.

(2) Each farm bulk milk tank shall be located in a suitable room and shall be of such capacity to hold entire milk supply. Every person, before taking any milk from a farm bulk milk tank, shall measure the milk in the tank and promptly record all information which includes the date, producer identification, gauge or stick reading, converted gauge or stick reading in pounds, temperature of the milk and hauler identification. A copy of all information is to be left with the producer. After proper agitation of not less than 3 minutes of each tank of milk, or such additional time as shall be necessary to enable a representative sample to be taken, he shall take an accurate sample before starting to empty any farm bulk milk tank. A sample shall be taken each time the milk is picked up. Each tank shall be completely emptied every time a pickup tank is connected to it.

HISTORY: Add. 1965, p. 405, Act 234, Eff. Jul. 1, 1966;—Am. 1968, p. 317, Act 218, Eff. Jul. 1.

288.103e Milk purchasers; payment to producer, frequency, time.

Sec. 3e. Every person, firm, association or corporation purchasing milk for the purposes of reselling or of manufacturing the same into other products, shall pay the producer monthly or oftener. Payment may be made on or before the first day of each month for cream or milk; payment shall be made on or before the fifteenth day of

each month for all cream or milk received prior to the first day of the same month. The director shall revoke or refuse any license required by this act whenever the provisions of this section have been violated.

HISTORY: Add. 1905, p. 406, Act 234, Eff. Jul. 1, 1906.

288.103f Egg nog, egg nog mix; definition.

Sec. 3f. (1) "Egg nog", "egg nog drink", and "egg nog mix" means a product made from milk products, fresh or dried egg yolks or whole eggs, sugar with 1 or more of the following: cream, whole milk, evaporated or condensed milk, dry milk solids, flavor, salt, spices, wholesome edible stabilizer which shall not exceed 1/2 of 1% by weight. The butterfat content shall be not less than 6%, egg yolk solids not less than 1% and total solids not less than 22%. If an imitation or artificial flavor or artificial color is used, there shall appear on the label "artificially flavored", "artificially colored" or "artificially colored and flavored".

(2) "Low fat egg nog" means a product consisting of a mixture of milk or milk products with a milk fat content of at least 2% and not more than 3.5%, at least 0.25% and not more than 0.5% of egg yolk solids, sweetener, a flavoring and total solids not less than 15%. Not over 0.5% stabilizer may be added. If an imitation or artificial flavor or color is used, the label shall state "artificially flavored", "artificially colored" or "artificially colored and flavored".

HISTORY: Add. 1905, p. 406, Act 234, Eff. Jul. 1, 1906;—Am. 1968, p. 317, Act 218, Eff. Jul. 1.

288.103g Cottage cheese; definition.

Sec. 3g. "Cottage cheese" means the product obtained by culturing, with or without coagulant, pasteurized skimmed milk or reconstituted skimmed milk from which substantially all of the free whey has been removed and contains not more than 80% moisture.

HISTORY: Add. 1905, p. 406, Act 234, Eff. Jul. 1, 1906.

288.103h Creamed cottage cheese; definition.

Sec. 3h. "Creamed cottage cheese" means cottage cheese prepared by mixing pasteurized cream or a mixture of pasteurized cream with milk or skimmed milk, or both, with or without stabilizer, and the milk fat content of the finished product shall be not less than 4% by weight.

HISTORY: Add. 1905, p. 406, Act 234, Eff. Jul. 1, 1906.

288.103i Lowfat creamed cottage cheese; definition.

Sec. 3i. "Lowfat creamed cottage cheese" means a mixture of drained curd of cottage cheese with a creaming mixture added and which contains not more than 2%, nor less than .5% milkfat and not more than 82.5% moisture.

HISTORY: Add. 1908, p. 211, Act 116, Imd. Eff. Jul. 29.

288.104 Insanitary premises and utensils; maintenance prohibited.

Sec. 4. All premises and utensils used in the handling of milk, cream, and by-products of milk, and all premises and utensils used in the preparation, manufacture, or sale, or offering for sale of any food product for man from milk or cream or the by-products of milk, which shall be kept in an unclean, filthy or noxious condition are hereby declared to be insanitary. It shall be unlawful for any person, firm, or corporation engaged in selling, or furnishing milk, cream, or any by-products of milk, intended for use as food for man; and it shall be unlawful for any person, firm or corporation engaged in selling or furnishing milk, cream, or any by-products of milk, to any creamery, cheese factory, milk condensing factory, or to any place where such milk, cream or by-products of milk are manufactured or prepared into a food product for man, and for sale as such; and it shall be unlawful for any milk dealer, or an employe of such milk dealer, or any person, firm or corporation, or the employ [employe] of such per-

son, firm, or corporation, who operates a creamery, cheese factory, milk condensing factory, or who manufactures or prepares for sale any article of food for man from milk, cream, or by-product of milk, or who manufactures, re-works, or packs butter for sale as a food product, to maintain his premises and utensils in an insanitary condition.

HISTORY: CL 1915, 6420;—CL 1929, 5345;—CL 1948, 288.104.

INSANITARY PREMISES: See also Compilers' § 289.45.

288.104a Marking of containers.

Sec. 4-a. No person, firm or corporation shall sell or offer for sale any milk or cream, except in containers which carry thereon the name of the person, firm or corporation preparing and putting up such products for sale, which name may either be printed on the cap or cover or side of said container, or if the containers be glass bottles, the name may be clearly blown or otherwise permanently marked on the side of the bottle.

HISTORY: Add. 1927, p. 862, Act 361, Eff. Sept. 5;—Am. 1929, p. 100, Act 60, Imd. Eff. April 18;—CL 1929, 5346;—CL 1948, 288.104a.

288.104b Marking of containers; description, filing, publication; proprietorship; fees.

Sec. 4-b. Any person, firm or corporation engaged in the distribution and sale of milk and cream and using in the sale and delivery of the same, bottles, cans, boxes and other containers, may mark and designate such bottles, cans, boxes and other containers with his or its name or other mark or device printed, stamped, engraved, etched, blown or otherwise produced upon the same, and file in the office of the director of agriculture and also in the office of the county clerk of the county in which his or its principal place of business is situated, a description of such name, mark or other device and shall also cause such description to be printed once in each week for 3 weeks successively in a newspaper published in said county. When any such person, firm or corporation shall have complied with the provisions of this section, he or it shall thereupon be deemed the proprietor of such name, mark or device and of every such bottle, can, box or other container upon which the said name, mark or device may be printed, stamped, etched, engraved, blown or otherwise produced upon the same. Upon the filing with the director of agriculture and county clerk, as herein above provided, such name, mark or device, there shall be paid to the director of agriculture and the county clerk, respectively, \$1.00 for each such name, mark or device so filed.

HISTORY: Add. 1927, p. 862, Act 361, Eff. Sept. 5;—CL 1929, 5347;—CL 1948, 288.104b;—Am. 1958, p. 171, Act 157, Eff. Sep. 13.

288.104c Marking of containers; assignment by proprietor; certificate, filing; records.

Sec. 4-c. Any person, firm or corporation, having complied with the provisions of section 4-b of this act, may assign by sale or otherwise, such name, mark or device to another person, firm or corporation and the said assignee shall have all the rights and immunities and obligations conferred by this act upon the original seller in relation to said bottles, cans, boxes and other containers: Provided, That such assignee shall file in the office of the director of agriculture and also in the office of the clerk of the county in which his or its principal place of business is situated a certificate of said assignment and cause such certificate to be printed once in each week for 3 weeks successively in a newspaper published in such county. All records, books and papers of every nature pertaining to this section and to section 4-b of this act now in the possession of the secretary of state shall be turned over to the director of agriculture and shall be preserved as a part of the records and files of the director of agriculture.

HISTORY: Add. 1927, p. 862, Act 361, Eff. Sept. 5;—CL 1929, 5348;—CL 1948, 288.104c;—Am. 1958, p. 171, Act 157, Eff. Sep. 13.

288.104d Sale in container marked with another's registered device; defacing or sale of another's marked container, unlawful.

Sec. 4-d. It is hereby declared unlawful for any person, firm or corporation, other than the registered owner, to sell or offer for sale any milk or cream in any bottle, can or other container, or to sell or offer for sale such milk or cream in bottles, cans or other containers packed in or enclosed by boxes or cases, which bottles, cans, boxes, cases or other containers, or either of them, are so marked or designated as aforesaid with any name, mark or device of which a description shall have been filed and published as provided in sections 4-b and 4-c of this act; or to deface, erase, obliterate, cover up, or otherwise remove or conceal any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of or traffic in such bottles, cans, boxes, cases or other containers, without the written consent of, or unless the same shall have been purchased from, the person, firm or corporation whose name, mark or device shall be in or upon the bottle, can, box, case or other container and registered in accordance with the provisions in said sections 4-b and 4-c.

HISTORY: Add. 1927, p. 863, Act 361, Eff. Sept. 5;—Am. 1929, p. 100, Act 60, Imd. Eff. April 18;—CL 1929, 5349;—CL 1948, 288.104d.

PROTECTION OF OWNER OF BOTTLES: See Compilers' § 750.263 et seq.

288.104e Destruction or sequestration of containers of another, penalty; civil liability.

Sec. 4-e. No person, firm or corporation shall destroy, secrete or withhold the bottles, cans or cases of another dealer and any person, firm or corporation so offending shall be liable in treble damages for such offense and such person, firm or corporation so offending shall, in addition to this and all other civil remedies, be guilty of a misdemeanor and shall be punished accordingly under the penal provisions of this act.

HISTORY: Add. 1927, p. 863, Act 361, Eff. Sept. 5;—CL 1929, 5350;—CL 1948, 288.104e.

288.105 Cleansing of containers before return to common carrier.

Sec. 5. Any person, firm or corporation, not a common carrier who receives from a common carrier in cans, bottles or other vessels any milk, or cream, ice cream or other dairy product intended as food for man, which has been transported over any railroad or boat line or by other common carrier, when such cans, bottles or vessels are to be returned, shall cause the said cans, bottles, or other vessels to be thoroughly washed and cleansed before return shipment.

HISTORY: CL 1915, 6421;—CL 1929, 5351;—CL 1948, 288.105.

288.106 Violation of act; penalty.

Sec. 6. Any person who by himself, his servant or agent, or as the servant or agent of any other person, or as the officer, servant or agent of any firm or corporation, who violates any provision of this act shall be guilty of a misdemeanor.

HISTORY: CL 1915, 6422;—CL 1929, 5352;—CL 1948, 288.106;—Am. 1964, p. 234, Act 174, Eff. Aug. 28.

288.107 Licensed cream buyer; requirements, qualification.

Sec. 7. No person shall operate in this state, any creamery, cream buying station, or other place where deliveries of cream are weighed, sampled, and/or tested for purchase on a butter fat basis for butter manufacturing purposes, unless there shall be maintained thereat, 1 or more persons who shall qualify as hereinafter in this act required, and who shall hereinafter in this act be referred to as licensed cream buyer. Such licensed cream buyer as hereinafter referred to, shall be any person licensed to test milk or cream in this state by the Babcock method or otherwise for the purpose of determining the percentage of butterfat or milk fat contained therein, where such

milk or cream is bought and paid for on the basis of the amount of butterfat contained therein and who shall have qualified to make sediment tests and condemn cream as required under the provisions of this act.

HISTORY: Add. 1935, p. 412, Act 242, Imd. Eff. June 8;—CL 1948, 288.107.

288.108 Licensed cream buyer; duties.

Sec. 8. All licensed cream buyers who shall receive, purchase and/or test cream for butter making purposes, at any place other than the creamery at which such cream shall be manufactured into butter, shall ship all cream purchased, direct to a butter manufacturing plant as soon after the purchase of the same as it is reasonable to ship, depending on the season of the year.

HISTORY: Add. 1935, p. 412, Act 242, Imd. Eff. June 8;—CL 1948, 288.108.

288.109 Licensed cream buyer; sediment or acidity tests; records.

Sec. 9. Each owner or operator of any cream receiving station, station receiving milk for manufacturing, creamery, cheese factory, milk condensing factory, or any dairy manufacturing plant shall make a sediment test of a delivery of milk or cream of each producer, at least once in each month, and an acidity test of a delivery of cream of each producer when, in the opinion of the owner or operator, the acidity of the cream exceeds the standards set forth in section 1 of this act. If such tests disclose that milk or cream so tested is insanitary milk or cream as defined in this act, such insanitary milk or cream shall be condemned as hereinafter provided, and thereafter, each subsequent delivery of milk or cream by such producer, shall likewise be tested for sediment and/or acidity until such owner or operator shall be satisfied that the milk or cream delivered by such producer is not insanitary milk or cream as defined in this act. Records of such tests and other quality tests shall be maintained at the dairy plant for not less than 1 year.

HISTORY: Add. 1935, p. 412, Act 242, Imd. Eff. Jun. 8;—CL 1948, 288.109;—Am. 1952, p. 387, Act 232, Eff. Sep. 18.

288.110 Sediment discs; marking for identification.

Sec. 10. Sediment discs used in making sediment tests of milk or cream, after such tests shall have been made, shall be properly marked for future identification, and shall be shown or given to the producer of the milk or cream from which said sediment tests were made.

HISTORY: Add. 1935, p. 413, Act 242, Imd. Eff. Jun. 8;—CL 1948, 288.110;—Am. 1952, p. 387, Act 232, Eff. Sep. 18.

288.111 Condemnation tag; discoloration; removal of tag, or transfer to another container unlawful.

Sec. 11. Each owner or operator of any cream receiving station, station receiving milk for manufacturing, creamery, cheese factory, milk condensing factory, or other dairy manufacturing plant shall condemn any and all insanitary milk or cream which is offered for sale, by affixing to each container of such insanitary milk or cream, a condemnation tag to be provided by the department of agriculture. In addition to attaching such condemnation tag to the container, any person making such condemnation may thoroughly mix into such insanitary milk or cream a harmless, permanent, pronounced red coloring matter certified by the bureau of chemistry, United States department of agriculture, as harmless food color, which shall completely discolor such insanitary milk or cream. It shall be a violation of this act for any person to remove any condemnation tag attached to any container of condemned milk or cream or to transfer such condemned milk or cream to another container and sell or offer for sale such condemned milk or cream for use in human food.

HISTORY: Add. 1935, p. 413, Act 242, Imd. Eff. Jan. 8;—CL 1948, 288.111;—Am. 1952, p. 387, Act 232, Eff. Sep. 18.

288.112 Licensed cream buyer; condemnation reports, copies.

Sec. 12. Each licensed cream buyer shall keep a true record of each lot of cream condemned by him, in such form and giving such information as may be required by the commissioner of agriculture. A copy of such record shall be mailed to the commissioner of agriculture within 24 hours subsequent to such condemnation, and in case such condemnation shall be made at a place other than a creamery where butter is manufactured, a copy of such record shall within 24 hours be mailed to the creamery for which said condemned cream was intended to be delivered for manufacture.

HISTORY: Add. 1935, p. 413, Act 242, Imd. Eff. June 8;—CL 1948, 288.112.

288.113 Appeals.

Sec. 13. The producer of any cream that shall have been condemned in accordance with the provisions of this act, may, if he believes himself aggrieved by the determination of licensed cream buyer in condemning cream, appeal within 10 days from such determination to the commissioner of agriculture, and thereupon, and upon demand of such producer, said licensed cream buyer shall immediately furnish a fair sample of such condemned cream, and deliver the same to the commissioner of agriculture, and in the event that said commissioner of agriculture shall determine that such sample is not insanitary cream as herein defined, the cream so condemned as insanitary cream, shall be paid for at a price per pound butterfat, contained in such cream, which said licensed cream buyer paid for butterfat on the day of original delivery of such cream, and such cream shall become and be the property of the creamery or cream buying station to which the same had been delivered. Any person who feels aggrieved at the decision of the commissioner of agriculture, may appeal from such decision within 10 days, by a writ of certiorari to the circuit court of the county where such person resides, and an issue shall be framed in said court, and a trial had and its decision shall be final unless an appeal is taken to the supreme court.

HISTORY: Add. 1935, p. 413, Act 242, Imd. Eff. June 8;—CL 1948, 288.113.

288.114 Violations.

Sec. 14. It is hereby declared a violation of this act for any person to wilfully condemn any milk or cream improperly or incorrectly; for any person to wilfully violate any rule or regulation made by the director of agriculture as herein required; for any person, firm, corporation or association to possess, sell, offer for sale or purchase for use in a human food product any milk or cream condemned in accordance with the provisions of this act.

HISTORY: Add. 1935, p. 413, Act 242, Imd. Eff. Jun. 8;—CL 1948, 288.113;—Am. 1952, p. 388, Act 232, Eff. Sep. 18.

288.115 Revocation of license of cream buyer.

Sec. 15. Any violation of this act by a licensed cream buyer, shall in addition to any other penalties hereinbefore provided, be cause for revocation by the commissioner of agriculture of the license issued for testing milk or cream in this state by the Babcock method or otherwise for the purpose of determining the percentage of butterfat or milk fat contained therein, where such milk or cream is bought and paid for on the basis of the amount of butterfat contained therein: Provided, That before such revocation such licensee shall have all the rights and remedies given to licensee under the provisions of the act providing for the licensing of persons for testing milk and cream in this state by the Babcock method or otherwise for the purpose of determining the percentage of butterfat or milk fat contained therein, where such milk or cream is bought and paid for on the basis of the amount of butterfat contained therein.

HISTORY: Add. 1935, p. 414, Act 242, Imd. Eff. June 8;—CL 1948, 288.115.

Sec. 16. (This was a severing clause section.)

HISTORY: Add. 1935, p. 414, Act 242, Imd. Eff. June 8;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

288.117 Promulgation of rules and regulations.

Sec. 17. The department of agriculture may promulgate rules and regulations necessary to administer and enforce this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 318, Act 218, Eff. Jul. 1.

288.121-288.126 Repealed. 1967, p. 32, Act 22, Eff. Nov. 2.

Sections related to processing of dairy products by steam and vacuum processes.

288.131-288.137 Repealed. 1967, p. 65, Act 45, Eff. Nov. 2.

Sections required pasteurization of milk and milk products; enforcement; penalty for violation.

Act 45, 1967, p. 63; Eff. Nov. 2.

AN ACT to secure the wholesomeness and safety of milk, and milk products by requiring the pasteurization of milk; to provide for enforcement of this act; to prescribe penalties for the violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

288.141 Necessity for pasteurization.

Sec. 1. Only pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores or similar establishments. Nothing in this section shall be applicable to any such milk, cream, skimmed milk or other milk products furnished by persons primarily engaged in agricultural production to employees working on farms operated or controlled by such persons.

HISTORY: New 1967, p. 63, Act 45, Eff. Nov. 2.

288.142 Pasteurization and pasteurized; definition.

Sec. 2. The terms "pasteurization", "pasteurized" and similar terms mean the process of heating every particle of milk or milk products to at least 145 degrees Fahrenheit and holding it continuously at or above this temperature for at least 30 minutes, or to at least 161 degrees Fahrenheit and holding it continuously at or above this temperature for at least 15 seconds, in equipment which is properly operated and approved by the department of agriculture. Milk products which have a higher milk fat content than milk or contain added sweeteners shall be heated to at least 150 degrees Fahrenheit and held continuously at or above this temperature for at least 30 minutes, or to at least 166 degrees Fahrenheit and held continuously at or above this temperature for at least 15 seconds, except those products defined in Act No. 222 of the Public Acts of 1931, as amended, being sections 288.301 to 288.315 of the Compiled Laws of 1948. Nothing in this section shall be construed as barring any other pasteurization process which has been recognized by the department of agriculture to be equally efficient.

HISTORY: New 1967, p. 64, Act 45, Eff. Nov. 2.

288.143 Milk products; definition.

Sec. 3. Milk products include cream, light cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, half-and-half, sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, skimmed milk, lowfat milk, fortified milk and milk products, vitamin D milk and milk products, homogenized milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, acidi-

fied milk and milk products, cheese, cottage cheese, creamed cottage cheese, butter, dry milk, dry skimmed milk, eggnog and other dairy products that are defined as milk products in the future.

HISTORY: New 1967, p. 64, Act 45, Eff. Nov. 2.

288.144 Cheese; applicability.

Sec. 4. The provisions of this act shall not be applicable to Cheddar cheese, Italian cheese, Swiss cheese, Colby cheese, washed curd cheese or soaked curd cheese, which have been cured or ripened for not less than 60 days at a controlled temperature of not less than 35 degrees Fahrenheit.

HISTORY: New 1967, p. 64, Act 45, Eff. Nov. 2.

288.145 Time for pasteurization.

Sec. 5. All milk and milk products shall be pasteurized prior to entrance of the milk and milk products into the evaporator or condensing equipment.

HISTORY: New 1967, p. 64, Act 45, Eff. Nov. 2.

288.146 Place of pasteurization; time for cooling.

Sec. 6. (1) All condensed milk and milk products to be dried shall be pasteurized at the plant at which they are dried. This shall not be construed as banning the transportation of pasteurized condensed milk or milk products to another drying plant for repasteurization and drying.

(2) All pasteurized milk and milk products, except those to be cultured and those to receive immediate additional heat treatment in subsequent processes of manufacture, shall be cooled immediately in approved equipment to 50 degrees Fahrenheit or less. Grade A milk and milk products are to be cooled to 45 degrees Fahrenheit or less.

HISTORY: New 1967, p. 64, Act 45, Eff. Nov. 2.

288.147 Enforcement.

Sec. 7. The department of agriculture shall enforce the provisions of this act.

HISTORY: New 1967, p. 64, Act 45, Eff. Nov. 2.

288.148 Penalties.

Sec. 8. Any person, firm, association or corporation violating any of the provisions of this act is guilty of a misdemeanor and shall be fined not more than \$100.00 or imprisoned not more than 90 days, or both.

HISTORY: New 1967, p. 64, Act 45, Eff. Nov. 2.

288.149 Repeal.

Sec. 9. Act No. 291 of the Public Acts of 1947, being sections 288.131 to 288.137 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1967, p. 65, Act 45, Eff. Nov. 2.

Act 293, 1945, p. 502; Eff. Sep. 6.

AN ACT to require the pasteurization of all milk and other dairy products sold or delivered for direct consumption under certain conditions; to prescribe the powers and duties of county boards of supervisors and the commissioner of agriculture therewith; to authorize the commissioner of agriculture to adopt rules and regulations incidental thereto; and to prescribe penalties for the violation of this act and said rules and regulations.

The People of the State of Michigan enact:

288.151 Dairy products; pasteurization.

Sec. 1. The purpose of this act is to secure the wholesomeness and safety of milk and other dairy products; to require the pasteurization of milk and other dairy products defined in Act No. 169 of the Public Acts of 1929, as amended, under certain conditions.

HISTORY: CL 1948, 288.151.

NOTE: Act 169, 1929, above referred to, is Compilers' § 288.1 et seq.

288.152 Duty of commissioner of agriculture.

Sec. 2. Upon the passage by a majority vote by the board of supervisors of any county in this state of a resolution requesting the commissioner of agriculture to require the pasteurization, in such county or such city, village or township as may be referred to in said resolution, of all milk and other dairy products defined in Act No. 169 of the Public Acts of 1929, as amended, the commissioner of agriculture shall, within a reasonable time, cause the pasteurization of all such milk and other dairy products sold or delivered for direct consumption within such county, city, village or township and shall make and promulgate rules and regulations incidental thereto: Provided, That no requirement for pasteurization of milk within any township by reason of this act shall be effective until the township board of such township has by resolution given its formal approval thereof.

HISTORY: CL 1948, 288.152.

NOTE: Act 169, 1929, above referred to, is Compilers' repealed § 288.1 et seq.

The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

288.153 Misdemeanor; penalty.

Sec. 3. Any person, firm, corporation or association violating any of the provisions of this act or any of the rules and regulations of the commissioner of agriculture made pursuant hereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00 or by imprisonment in the county jail for a period of not more than 90 days or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 288.153.

Act 93, 1915, p. 161; Eff. Aug. 24.

AN ACT to provide for pasteurizing the by-products of cheese factories, creameries, skimming stations and other places where milk is received and distributed.

The People of the State of Michigan enact:

288.161 Pasteurization of by-products.

Sec. 1. Every owner, operator or manager of a cheese factory, creamery, skimming station or other place where milk is received and the by-products distributed, shall, before returning to or delivering to any person or persons any skim milk, whey, buttermilk, or other milk by-products to be used for feeding purposes for farm animals, cause such skim milk, whey, buttermilk, or other milk by-products to be thoroughly pasteurized by heating the same to 145 degrees Fahrenheit and holding at that temperature for not less than 30 minutes or to 185 degrees without holding: Provided, That the provisions of this act shall not apply to cheese factories or creameries that pasteurize the milk or cream prior to manufacture.

HISTORY: CL 1915, 6333.—CL 1929, 5353.—CL 1948, 288.161.

288.162 Violation of act; penalty.

Sec. 2. Whoever violates any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than 100 dollars, or imprisonment in the county jail for not exceeding 90 days, or both, in the discretion of the court.

HISTORY: CL 1915, 6334;—CL 1929, 5354;—CL 1948, 288.162.

Act 330, 1945, p. 598; Imd. Eff. May 29.

AN ACT to prevent fraud and deception of the public; to make unlawful the manufacture for sale within this state, the sale, barter, exchange, possession with intent to sell or exchange, or the offer for sale or exchange of "filled milk" as defined herein; to provide for the administration and enforcement of this act, and to prescribe penalties for its violation; and to repeal Act No. 83 of the Public Acts of 1937.

The People of the State of Michigan enact:

288.171 Michigan filled milk act; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan filled milk act."

HISTORY: CL 1948, 288.171.

288.172 Filled milk act; definitions.

Sec. 2. Definitions. Whenever used in this act:

(a) The term "person" includes individuals, firms, partnerships, associations, co-operatives, trusts, corporations, including the affiliates or subsidiaries thereof, and any and all other business units, devices, or arrangements.

(b) The term "filled milk" means any milk, cream, or skimmed milk, or combination thereof, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been compounded with any fat or oil other than milk fat so that the resulting product is in semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, whether in bulk or in containers, hermetically sealed, or unsealed: Provided, That this definition shall not be held or construed to mean or include any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, provided such compound (1) is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician; (2) is packed in individual containers bearing a label in bold type that the contents are to be used for said purposes: And provided further, That this definition shall not be construed to mean or include any product not containing milk, cream, skimmed milk or butterfat, and which has no dairy product whatsoever as a component part thereof, and is plainly branded not to be a dairy product.

HISTORY: CL 1948, 288.172.

288.173 Filled milk; sale declared fraud.

Sec. 3. It is hereby declared that filled milk as defined herein lends itself readily to substitution for or confusion with genuine milk products and that the sale of such filled milk constitutes a fraud upon the public.

HISTORY: CL 1948, 288.173.

288.174 Filled milk; manufacture unlawful.

Sec. 4. It shall be unlawful for any person, by himself, his servants or agent, or as the servant or agent of another, to manufacture for sale within this state, or sell or ex-

change, or have in his possession with intent to sell or exchange, or offer for sale or exchange, any "filled milk" as defined in this act.

HISTORY: CL 1948, 288.174.

288.175 Violation of act; penalty.

Sec. 5. Any person who shall violate any of the provisions of this act shall, upon conviction, be sentenced to pay a fine of \$100.00 or be imprisoned for not more than 90 days, or both.

HISTORY: CL 1948, 288.175.

288.176 Enforcement; application for injunction.

Sec. 6. The commissioner of agriculture shall enforce the provisions of this act. In addition to the other remedies provided in this act, the commissioner of agriculture, the attorney general, or the prosecuting attorney of any county or any duly authorized officer or employee thereof, is hereby authorized to apply to any circuit court for, and such court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction to restrain any person from violating any provisions of this act.

HISTORY: CL 1948, 288.176.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

288.177 Seizure and condemnation.

Sec. 7. Any "filled milk," manufactured for sale within this state, or sold or exchanged, or possessed with intent to sell or exchange, or offered for sale or exchange, by any person, by himself, his servant or agent, or as the servant or agent of another shall be liable to seizure and condemnation by the commissioner of agriculture, his deputy or any person by said commissioner duly appointed for that purpose in accordance with the procedure prescribed in Act No. 211 of the Public Acts of 1893, as amended.

HISTORY: CL 1948, 288.177.

NOTE: Act 211, 1893, above referred to, is Compilers' § 289.35 et seq.

Sec. 8. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 83, 1937.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Act 96, 1919, p. 163; Eff. Aug. 14.

AN ACT to provide for official county cream testers, the purchase of testing equipment, and prescribing their duties.

The People of the State of Michigan enact:

288.181 Official cream tester.

Sec. 1. In every county of this state having a county agricultural agent, such agent shall also be known and designated as "Official Cream Tester" of that county and shall be invested with powers and duties as provided for in this act.

HISTORY: CL 1929, 5327;—CL 1948, 288.181.

COUNTY AGRICULTURAL AGENT: See Act 315 of 1919, being Compilers' § 285.51.

288.182 Necessary testing equipment; limit of cost.

Sec. 2. Upon the petition of no less than 25 resident dairymen of a county, presented to the board of supervisors of such county at any regular or special meeting of such board, said board of supervisors may as soon as may be thereafter, cause to be purchased and delivered to said official cream tester of that county the necessary ap-

paratus and equipment for the proper and efficient testing (for butter fat) of all cream and milk samples as shall be submitted to him by residents of the county in accordance with the provisions of this act: Provided, That the total expense of such testing apparatus and equipment shall not exceed the sum of 150 dollars.

HISTORY: CL 1929, 5329;—CL 1948, 288.182.

288.183 Test; time, report; return of receptacles.

Sec. 3. Such official cream tester, or his legally authorized deputy, shall, on Friday of each week throughout each year hereafter, receive and properly test all samples of cream and milk which shall be submitted to him under the provisions of this act, and shall immediately after such test, report to each person submitting samples, the results of the same as relates to the quantity of butter fat contained therein. All receptacles of sample milk and cream shall be returned to each owner thereof when transportation charges for such return are advanced by such owners.

HISTORY: CL 1929, 5329;—CL 1948, 288.183.

288.184 Compensation.

Sec. 4. Such official cream tester, or his deputies or assistants shall receive no extra compensation or fees for services rendered under this act.

HISTORY: CL 1929, 5330;—CL 1948, 288.184.

Act 155, 1939, p. 306; Eff. Sep. 29.

AN ACT to define overrun and percentage of overrun, and limiting the percentage of overrun permissible in the manufacture of butter; to require the keeping of certain records and making of reports by persons engaged in the purchase, manufacture or sale of dairy products and to fix penalties for the violations of this act.

The People of the State of Michigan enact:

288.201 Dairy products; overrun, percentage of overrun, definitions.

Sec. 1. For the purpose of this act "overrun" is the difference between the weight of any given amount of pure butterfat and the weight of the butter manufactured therefrom, and this difference, ascertained in any case, divided by the given amount of pure butterfat in such case and multiplied by 100, is the "percentage of overrun", in the manufacture of butter.

HISTORY: CL 1948, 288.201.

288.202 Dairy products; percentage of overrun permitted.

Sec. 2. It shall be and hereby is declared to be unlawful for any person, firm, association or corporation to have or permit an average percentage of overrun in excess of 24 ½ per cent in butter manufactured by it for a period of a calendar month, and the average overrun for the calendar month may be regarded as the overrun as of the date alleged.

HISTORY: CL 1948, 288.202.

288.203 Dairy products; records to be kept by person engaged in purchase.

Sec. 3. Every person, firm, association or corporation engaged in the purchase, manufacture or sale of dairy products, and all operators of skimming stations or other places engaged in the business of purchasing milk or cream, and operators of conden-

series, creameries, milk factories and cheese factories, shall keep in proper books true and full records of all milk, cream, butterfat and other dairy products purchased and received by them, the amount of butter manufactured, and the amounts of butterfat used in the form of cream, ice cream, milk, or any other products.

HISTORY: CL 1948, 288.203.

288.204 Records to be kept within state; inspection; reports not public.

Sec. 4. The books and records, or a certified copy of same, of any person, firm, association or corporation coming within the provisions of section 3 of this act shall be kept within this state and shall be open for the inspection of the commissioner of agriculture or any special deputy appointed by him, who shall make such examination thereof as is deemed necessary by the commissioner of agriculture for the enforcement of this act.

Any statement, report, or information required by this act to be made or furnished by any person, firm, association or corporation shall be for the information of the commissioner of agriculture or the attorney general, but such statement, report or information shall not be open to public inspection, nor shall it be published, nor used for private purposes, but may be used in an official way in the enforcement of this act.

HISTORY: CL 1948, 288.204.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

288.205 Reports; time, form, contents.

Sec. 5. Every such person, firm, association or corporation shall on or before the first day of July in each year and at such other times as the commissioner of agriculture may fix or require, render to the commissioner of agriculture on blank forms prepared by him, such information as is necessary for the enforcement of this act.

HISTORY: CL 1948, 288.205.

288.206 Violation of act; penalty.

Sec. 6. Any person, firm, association or corporation violating any provision of this act shall be deemed guilty of a misdemeanor and shall be punished by fine of not less than \$25.00 nor more than \$100.00 or imprisonment in the county jail not to exceed 90 days or both in the discretion of the court.

HISTORY: CL 1948, 288.206.

Act 211, 1955, p. 313; Eff. Oct. 14.

AN ACT to define butter; to provide for grades of butter; to provide for grade labeling of butter; to provide for grading of butter by licensed graders; and to provide penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

288.211 Butter grading; application of act.

Sec. 1. The provisions of this act shall apply to products defined in the act and the purpose of the act is to require grades on certain butter offered for sale to the consuming public by retailers in this state and to make unlawful the sale of such butter without the required label. For the purpose of this act the following definition shall apply:

Definition of butter.

Butter is the product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter and contains not less than 80% by weight of milk fat.

HISTORY: New 1955, p. 313, Act 211, Eff. Oct. 14.

288.212 Butter grading and labeling; prohibited sales.

Sec. 2. No person, firm, association or corporation shall sell, offer for sale or expose for sale or have in possession with intent to sell any butter that does not conform to the definition as given in this act or shall sell to the consumer any butter that has not been graded and labeled as required by this act. All butter grading below 90 score shall be clearly labeled "undergrade" before being offered for sale.

HISTORY: New 1955, p. 314, Act 211, Eff. Oct. 14.

288.213 Butter grading and labeling; butter manufactured outside of state.

Sec. 3. Butter manufactured outside the state of Michigan and sold within the state of Michigan shall be provided with a label which indicates that it complies with the Michigan grade as provided for in this act and which indicates the grade in a manner equivalent to the requirements for butter manufactured and sold within the state.

HISTORY: New 1955, p. 314, Act 211, Eff. Oct. 14.

288.214 Butter grading and labeling; licensed graders; definition of scoring or grading.

Sec. 4. Butter shall be graded or scored by graders approved and licensed by the department of agriculture.

As used in this act, score or grade means the grading of butter by its examination for flavor, aroma, body and texture, color, salt and package, and such other tests as may be approved by the department of agriculture.

HISTORY: New 1955, p. 314, Act 211, Eff. Oct. 14.

288.215 Enforcement of act, rules.

Sec. 5. The state department of agriculture shall be the agency responsible for the enforcement of this act and shall have the authority to promulgate rules and regulations necessary for accomplishing the purposes of the act, in accordance with Act No. 55 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1955, p. 314, Act 211, Eff. Oct. 14.

288.216 Violation of act; penalty.

Sec. 6. Any person, firm, association or corporation or the members, officers or employees of any firm, association or corporation, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$25.00 nor more than \$100.00 and the costs of prosecution, or by imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment for each such offense, in the discretion of the court.

HISTORY: New 1955, p. 314, Act 211, Eff. Oct. 14.

Act 243, 1903, p. 397; Eff. Sep. 17.

AN ACT in relation to the manufacture and sale of renovated butter.

The People of the State of Michigan enact:

288.221 Renovated butter; definition, manufacture or sale prohibited.

Sec. 1. No person, firm or corporation shall manufacture for sale, offer or expose for sale, sell, exchange or deliver, or have in his possession with the intent to sell, exchange or deliver, any butter that is produced by taking original packing stock butter or other butter, or both, melting the same so that the butter fat can be drawn off or extracted, mixing the said butter fat with skimmed milk, or milk or cream, or other milk

product, and rechurning or reworking the said mixture; nor shall any person, firm or corporation manufacture for sale, offer or expose for sale, sell, exchange or deliver, or have in his possession for any such purpose, any butter which has been subjected to any process by which it is melted, clarified or refined, and made to resemble butter, and is commonly known as boiled, process or renovated butter, and which for the purpose of this act is hereby designated as "Renovated Butter," unless the same shall be branded or marked as provided in section 2 of this act.

HISTORY: CL 1915, 6406;—CL 1929, 5366;—CL 1948, 288.221.

288.222 Renovated butter; required labeling; placard in eating places.

Sec. 2. Whoever, himself or by his agent or as the servant or agent of another person, shall sell, expose for sale or have in his custody or possession with the intent to sell any renovated butter as defined in section 1 of this act, shall have the words "renovated butter" conspicuously stamped, labeled or marked in 1 or 2 lines and in plain Gothic letters, at least $\frac{3}{8}$ of an inch square, so that the words cannot easily be defaced, upon 2 sides of each and every tub, firkin, box or package containing said renovated butter; or if such butter is exposed for sale uncovered, or not in a case or package, a placard containing said words in the same form as above described in this section shall be attached to the mass in such a manner as to be easily seen and read by the purchaser. When renovated butter is sold from such packages or otherwise at retail in print, roll or other form, before being delivered to the purchaser, it shall be wrapped in wrappers plainly stamped on the outside thereof with the words "renovated butter" printed or stamped thereon in 1 or 2 lines, and in plain Gothic letters at least $\frac{3}{8}$ of an inch square, and such wrappers shall contain no other words or printing thereon, and said words "renovated butter" so stamped or printed on the said wrapper shall not be in any manner concealed, but shall be in plain view of the purchaser at the time of the purchase. The proprietor or keeper of any hotel, restaurant, eating saloon, boarding house, or other place where renovated butter is furnished to persons paying for the same, shall have placed on the walls of every store or room where renovated butter is furnished, a white placard on which is printed in black ink, in plain Roman letters of not less than 3 inches in length, and not less than 2 inches in width, the words "renovated butter used here," and shall at all times keep the same exposed in such conspicuous place as to be readily seen by any and all persons entering such store, hotel, restaurant or other room or rooms.

HISTORY: Am. 1909, p. 274, Act 119, Eff. Sept. 1;—Am. 1915, p. 21, Act 15, Eff. Aug. 24;—CL 1915, 6406;—CL 1929, 5367;—CL 1948, 288.222.

288.223 Violation of act; penalty.

Sec. 3. Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 25 dollars nor more than 500 dollars, and the costs of prosecution, or by imprisonment in the county jail or Michigan reformatory at Ionia, for not less than 6 months nor more than 3 years, or by both such fine and imprisonment, in the discretion of the court, for each and every offense.

HISTORY: CL 1915, 6407;—CL 1929, 5368;—CL 1948, 288.223.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 6408;—CL 1929, 5369;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 254, 1899.

288.241-288.242 Repealed. 1970, p. 270, Act 93, Imd. Eff. Jul. 20.

Sections prohibited deception in manufacture and sale of imitation butter; oleomargarine.

Act 63, 1913, p. 90; Eff. Aug. 14.

AN ACT to regulate the labeling, advertisement, sale and handling of oleomargarine or margarine and to prevent fraud and deception therein, and to prevent the passing off of oleomargarine or margarine as butter; and to provide penalties for violations thereof, and to provide for enforcement of the act. Am. 1949, p. 184, Act 176, Eff. Sep. 23;—Am. 1962, p. 61, Act 76, Eff. Mar. 28, 1963.

The People of the State of Michigan enact:

288.251 Repealed. 1962, p. 62, Act 76, Eff. Mar. 28, 1963.

Section provided for labeling of oleomargarine or imitation butter.

288.252 Oleomargarine; contents of package labels.

Sec. 2. (a) No person shall sell or offer for sale oleomargarine or margarine unless there appears on the label of the package the word "oleomargarine" or "margarine" in type or lettering not smaller than 20 point type.

b) No person shall sell or offer for sale colored oleomargarine or colored margarine unless: (1) such oleomargarine or margarine is packaged; (2) the net weight of the contents of any package sold in a retail establishment is 1 pound or less; (3) there appears on the label of the package (a) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on such label; and (b) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and (4) each part of the contents of the package is contained in a wrapper which bears the word "oleomargarine" or "margarine" in type or lettering not smaller than 20 point type.

(c) No person shall sell or offer for sale oleomargarine or margarine, colored or uncolored, unless there appears on the label of the package the name and place of business of the manufacturer, packer or distributor.

HISTORY: Am. 1915, p. 194, Act 116, Eff. Aug. 24;—CL 1915, 6396;—CL 1929, 5373;—CL 1948, 288.252;—Am. 1949, p. 185, Act 176, Eff. Sep. 23;—Am. 1962, p. 61, Act 76, Eff. Mar. 28, 1963.

288.253 Oleomargarine containing less than 80 per cent of fat; unlawful to sell.

Sec. 3. No person shall sell, pass off, or have in possession with intent to sell or pass off any oleomargarine which contains less than 80 per cent of fat.

No person shall serve or have in possession with intent to serve any colored oleomargarine at a public eating place unless a notice that oleomargarine is served is displayed prominently in such place and is printed on the menu in type or lettering not smaller than that normally used to designate the serving of other food items; and no person shall serve colored oleomargarine at a public eating place, whether or not any charge is made therefor, unless each separate serving is triangular in shape.

HISTORY: CL 1915, 6397;—CL 1929, 5374;—CL 1948, 288.253;—Am. 1949, p. 185, Act 176, Eff. Sep. 23.

288.254 Certain definitive words prohibited.

Sec. 4. No person Shall use in any way, in connection or association with the sale or exposure for sale or advertisement of oleomargarine or any substance designed to be used as a substitute for butter, the word "butter," "milk," (except where milk or skim milk is used as an ingredient thereof, in which case such term may be used only as a part of the description of the ingredients contained therein), "cream," "fresh," "creamery," "dairy," "farm," or the name or representation of any breed of dairy cattle, or any combination or variation of such word or words and representation, or any other words or symbols or combination thereof commonly used to describe dairy products.

HISTORY: CL 1915, 6398;—CL 1929, 5375;—CL 1948, 288.254;—Am. 1949, p. 185, Act 176, Eff. Sep. 23.

288.255 Butter; definition.

Sec. 5. For the purpose of this act the word "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter.

HISTORY: CL 1915, 6399;—CL 1929, 5376;—CL 1948, 288.255.

288.256 Oleomargarine or margarine; definition.

Sec. 6. For the purpose of this act or of any other act of this state, "oleomargarine" or "margarine" shall include; (1) all substances, mixtures and compounds known as oleomargarine or margarine and; (2) all substances, mixtures and compounds which have a consistency similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter. "Colored oleomargarine" or "colored margarine" is oleomargarine or margarine having a tint or shade containing more than 1-6/10 degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent. Any requirement for the use of the term "oleomargarine" provided by this act or by any other act of this state may be complied with by using the word "margarine".

HISTORY: CL 1915, 6400;—CL 1929, 5377;—CL 1948, 288.256;—Am. 1962, p. 62, Act 76, Eff. Mar. 28, 1963.

288.257 Penalty; repeal.

Sec. 7. Whoever violates any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50.00, nor more than \$1,000.00, and the costs of prosecution, or by imprisonment in the county jail or state house of correction and reformatory at Ionia, for not less than 6 months nor more than 3 years, or by both such fine and imprisonment in the discretion of the court, for each and every offense. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

HISTORY: CL 1915, 6401;—CL 1929, 5378;—CL 1948, 288.257;—Am. 1949, p. 185, Act 176, Eff. Sep. 23.

Sec. 8. (This was a repeal section.)

HISTORY: CL 1915, 6402;—CL 1929, 5379;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 147, 1899.

Act 45, 1891, p. 45; Eff. Oct. 2.

AN ACT to prohibit the use of oleomargarine, butterine, or any other substitute for butter in any of the public institutions of this state, and to provide the punishment therefor.

The People of the State of Michigan enact:

288.261 Butter substitutes; use in public institutions prohibited, exception; schools.

Sec. 1. The use of oleomargarine, butterine or any other substitute for butter, in any of the public institutions of this state, shall be prohibited, except in the penal institutions of the state. Nothing in this section shall be deemed to limit the inclusion or exclusion of any item of food in any meals furnished or sold in any school with the approval of the school board, nor prohibit the serving or using of oleomargarine, butterine or any other substitute for butter by any patient or inmate of the public institutions of the state if it has been recommended or prescribed by the institution's dietitian or physician.

HISTORY: CL 1897, 2243;—Am. 1913, p. 452, Act 233, Eff. Aug. 14;—CL 1915, 1958;—CL 1929, 5380;—CL 1948, 288.261;—Am. 1953, p. 175, Act 153, Imd. Eff. Jun. 2;—Am. 1965, p. 128, Act 92, Imd. Eff. Jun. 28.

288.262 Violation of act; penalty.

Sec. 2. Any warden, superintendent or other officer of any such institution, who shall knowingly violate the provisions of section 1 of this act, or shall knowingly permit the same to be violated shall be deemed guilty of a misdemeanor, and every violation shall constitute a separate offense and on conviction thereof shall be punished by a fine of not less than 25, nor more than 100 dollars, together with costs of prosecution, or by imprisonment in the county jail of the county in which said institution is situated not exceeding 90 days or both such fine and imprisonment, at the discretion of the court.

HISTORY CL 1897, 2244;—CL 1915, 1959;—CL 1929, 5361;—CL 1946, 256,262.

Act 30, 1923, p. 51; Eff. Aug. 30.

AN ACT to define cheese and to regulate the manufacture and sale of same within the limits of the state of Michigan; to provide for labeling and to prescribe a penalty. Am. 1947, p. 394, Act 263, Eff. Oct. 11.

The People of the State of Michigan enact:

288.281 Cheese; definition; milk fat and water content; exceptions.

Sec. 1. Cheese is the sound, solid, and ripened product made from milk or cream by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripening ferments and seasoning or added coloring matter, and shall contain in the water-free substance not less than 50 per cent of milk fat, and cheese known as American or Cheddar cheese shall contain not more than 40 per cent of water, and cheese known as Brick cheese not more than 42 per cent of water. Cheese containing less than 50 per cent of milk fat in the water-free substance, shall be known and branded as skimmed milk cheese; except that what is known as "Emmenthaler" or "domestic Swiss Cheese," "Camembert cheese," and "Edam cheese," or "fancy cheese," shall contain in the water-free substance not less than 43 per cent of milk fat: Provided, That the provisions of this act shall not be construed to apply to such cheese as is known as "Dutch cheese" or "Cottage cheese."

HISTORY CL 1929, 5362;—CL 1946, 266,281.

288.282 Prohibited manufacture or distribution of certain imitations.

Sec. 2. No person shall manufacture, deal in, sell, offer or expose for sale or exchange, any article or substance in the semblance of, or in imitation of, cheese made exclusively of unadulterated milk or cream, or both, into which any animal, intestinal or offal fats or oils, or vegetable fats or oils, or melted butter in any condition or state, or modification of the same, or oleaginous substances of any kind not produced from unadulterated milk or cream shall have been introduced.

HISTORY CL 1929, 5363;—CL 1946, 268,282.

288.283 Branding of full cream or skimmed milk cheese.

Sec. 3. Every manufacturer of full cream cheese may put a brand upon each cheese, indicating "Full Cream Cheese," and no person shall use such a brand upon any cheese containing less than 50 per cent of milk fat in the water-free substance. Every manufacturer of American or Cheddar skimmed milk cheese, as defined by this act, shall put a brand upon each cheese so manufactured, indicating "Skimmed Milk Cheese," which brand shall be in plain Roman letters and made by indelible ink, and placed on the rind at intervals of not more than 1 inch, and so made, placed or attached that it can easily be seen and read and cannot be easily defaced, and the same shall be placed upon the surface of the cheese, before the cheese is paraffined, as well

as upon the container thereof. All skimmed milk cheese, except American and Cheddar skimmed milk cheese, shall be packed in containers on which the following shall appear, "MADE FROM PARTLY SKIMMED MILK," and the same shall be placed on the package or container so that it can easily be seen and read and cannot be easily defaced.

HISTORY: CL 1929, 5384;—CL 1948, 288.283.

288.283a American or Cheddar cheese; sale without requisite branding prohibited; mode of branding.

Sec. 3a. No person, firm, association or corporation shall sell any American or Cheddar cheese unless each such cheese shall bear a brand showing the name of the manufacturer, the date of manufacture, the words "pasteurized milk cheese" if made from pasteurized milk and the words "raw milk cheese" if made from unpasteurized milk. In lieu of the manufacturer's name, he may use a designating mark or number issued by the department of agriculture. All brands required by this section shall be in plain block letters or numerals at least 1 inch in height made by ink upon the surface of each cheese before such cheese is paraffined. Rindless cheese may bear the necessary labels on the individual wrapper, container or tag, in letters or numerals of not less than 3/8 inch in height.

HISTORY: Add. 1947, p. 394, Act 283, Eff. Oct 11;—CL 1948, 288.283a;—Am. 1959, p. 41, Act 38, Eff. Mar. 19, 1960.

288.284 Placard in eating places, stores; penalty for violation of act.

Sec. 4. The proprietor or keeper of any hotel, restaurant, eating saloon, boarding house or other place where American or Cheddar skimmed milk cheese is sold or furnished to persons paying for the same, shall have placed on the walls of every store or room where American or Cheddar skimmed milk cheese is sold or furnished, a white placard on which is printed in black ink, in plain Roman letters of not less than 3 inches in length, and not less than 2 inches in width, the words "SKIMMED MILK CHEDDAR CHEESE SOLD or USED HERE," and shall at all times keep the same exposed in such conspicuous place as to be readily seen by any and all persons entering such store, room or rooms. No person shall offer, sell or expose for sale or exchange any cheese or package of cheese which is falsely branded or labeled. Whoever shall violate any of the provisions of this act shall be punished by a fine of not less than 50 nor more than 500 dollars and the cost of prosecution, or by imprisonment in the county jail or the Michigan reformatory at Ionia for not less than 90 days nor more than 2 years, or by both such fine and imprisonment in the discretion of the court for each and every offense.

HISTORY: CL 1929, 5385;—CL 1948, 288.284.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1929, 5386;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Secs. 5, 7, and 8, Act 193, 1895, CL 1915, 6478, 6480 and 6481; Sec. 6, Act 193, 1895, CL 1915, 6479.

288.301-288.315 Repealed. 1961, p. 380, Act 222, Imd. Eff. Jun. 7;—1968, p. 509, Act 298, Eff. Jul. 1.

Sections related to Michigan Ice Cream Act.

Act 298, 1968, p. 503; Eff. Jul. 1.

AN ACT to protect the public health, and to prevent fraud and deception in the manufacture, sale, offering for sale, exposing for sale, and possession with intent to sell, of adulterated or deleterious ice cream, ice cream mix, ice milk mix, frozen custard, french ice cream, french custard ice cream, sherbet, fruit sherbet, ice milk, ices, quiescently frozen confections, quiescently frozen dairy confections, including coated ice cream and similar products and the coating thereof; fixing standards for ice cream, frozen custard, french ice cream, french custard ice cream, sherbet, fruit sherbet, ice

milk, ices, quiescently frozen confections, and quiescently frozen dairy confections, and to prevent sale of imitation of such products; providing for licensing, authorizing and regulating the manufacture and sale of artificially sweetened ice cream and ice milk; conferring powers and imposing duties upon the department of agriculture; prescribing penalties, providing for the enforcement thereof; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

288.321 Frozen desserts act of 1968; short title.

Sec. 1. This act shall be known and cited as the "frozen desserts act of 1968".

HISTORY: New 1968, p. 503, Act 298, Eff. Jul. 1.

288.322 Definitions; standards.

Sec. 2. As used in this act:

(a) "Ice cream" means any frozen, sweetened milk product which is stirred during the process of freezing and includes every such frozen milk product which contains milk fat or milk solids not fat and which in any manner simulates the texture or characteristics of ice cream no matter under what coined or trade name it may be sold. Ice cream shall be made from a combination of 1 or more of the following ingredients: any clean, wholesome cream, milk and all forms of milk fat, and any clean and wholesome form of milk solids not fat with 1 or more of the following ingredients: sugars and flavoring, with or without eggs, coloring, water, fruit juice, fruit, chocolate, cocoa, malted milk, nuts, properly prepared and cooked cereal, cakes or confections, stabilizers and emulsifiers and microcrystalline cellulose, each of which ingredients shall be wholesome, edible material and other ingredients approved by the department of agriculture. The finished product may contain not more than 1/2 of 1% by weight of a stabilizer and may contain not more than 1/5 of 1% by weight of emulsifier. Not over 1.5% of microcrystalline cellulose may be used. The finished product shall contain not less than 10% of milk fat by weight except when fruit, nuts, cocoa, malted milk, chocolate, cakes, properly prepared and cooked cereal or confections are used for the purpose of flavoring, the weight of milk fat and total milk solids shall not be less than 10% and 20% respectively of the remainder obtained by subtracting the weight of such ingredients from the weight of the finished ice cream, but in no case is the weight of the milk fat or total milk solids to be less than 8% and 16% respectively of the weight of the finished ice cream. The finished ice cream shall contain not less than 1.6 pounds of total food solids to the gallon and weigh not less than 4 1/2 pounds to the gallon, exclusive of the weight of the optional ingredient microcrystalline cellulose. Ice cream manufactured, prepared or processed for consumption by those who must restrict their sugar intake, shall contain only those ingredients prescribed by this section but shall be sweetened with an artificial sweetening agent and contain edible carbohydrates other than sugar. The artificial sweetening agent and the edible carbohydrates must be approved by the department of agriculture and no sugars, other than those naturally present in the milk solids or fruit agent, shall be added thereto.

(b) "French ice cream", "french custard ice cream" and "frozen custard" shall conform to the definition and standards for "ice cream" no matter under what trade or coined name it may be sold or offered for sale except that it shall contain not less than 1.4% by weight of egg yolk solids. When chocolate, cocoa, malted milk, fruit, nuts, properly prepared and cooked cereal, cakes or confections are used, the content of egg yolk solids may be reduced in proportion to such ingredient or ingredients added under the conditions prescribed in subsection (a) for reduction in milk fat and total milk solids.

(c) "Variegated ice cream" means any mixture of ice cream with ice cream, ice, milk, sherbet, fruit, puree or cakes, confections or syrup of another color and shall contain not less than 8% of milk fat and 16% total milk solids. Products commonly known as sodas and sundaes produced by mixture of ice cream with ice cream, ice, sherbet, fruit or syrup of another color shall not be deemed to be variegated ice cream.

(d) "Ice milk" shall conform to the definition and standard hereinbefore set forth for "ice cream", except that:

- (i) Its content of milk fat is not less than 2% nor more than 7% by weight.
- (ii) Its content of total milk solids is not less than 11% by weight.
- (iii) The quantity of total food solids per gallon shall not be less than 1.3 pounds.
- (iv) The provision for reduction in milk fat and total milk solids from addition of bulky flavor ingredients in subsection (b) does not apply.

Ice milk manufactured, prepared or processed for consumption by those who must restrict their sugar intake shall contain only those ingredients prescribed by this section but may be sweetened with an artificial sweetening agent and may contain edible carbohydrates other than sugar. The artificial sweetening agent and the edible carbohydrates must be approved by the department of agriculture and no sugars, other than those naturally present in the milk solids or fruit agent, shall be added thereto.

(e) "Sherbet" or "fruit sherbet" shall conform to the definition and standard of identity prescribed for "ice cream" in subsection (b) of this section except that:

- (i) The titratable acidity of the finished sherbet or fruit sherbet calculated as lactic acid shall not be less than 0.35% by weight.
- (ii) The content of milk fat and nonfat milk solids therein shall be such that the weight of milk fat is not less than 1% and not more than 2% by weight and the weight of total milk solids is not less than 2% and not more than 5% of the weight of the finished sherbet or fruit sherbet.
- (iii) The quantity of the fruit ingredients used shall be such that in relation to the weight of the finished sherbet the weight of fruit or fruit juice, including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content, shall not be less than 2% by weight in the case of citrus sherbets, 6% by weight in the case of berry and cherry sherbets and 10% by weight in the case of sherbets prepared with other fruits.

(iv) The provisions for the reduction in milk fat and total milk solids from addition of chocolate, cocoa, malted milk, fruit, nuts, properly prepared and cooked cereal, cakes or confections in subsection (b) of this section shall not apply.

(f) "Ice" means any frozen, sweetened product which is stirred during the process of freezing not conforming to the definitions and standards set forth in subsections (a), (b), (c), (d) and (e) no matter under what coined or trade name it may be sold or offered for sale. Ice or water ice shall be made from a combination of 1 or more of the following ingredients: sugars, flavoring with or without eggs, coloring, water, fruit juices, fruit, cocoa, chocolate or nuts, and with or without wholesome edible acid in such quantity as seasons the finished food and with or without added stabilizer, each of which ingredients shall be wholesome, edible material and other ingredients approved by the department of agriculture. It shall contain not more than 1/2 of 1% by weight of stabilizer and not more than 1/5 of 1% by weight of emulsifier. The titratable acidity of the finished ice or water ice calculated as lactic acid shall be not less than 0.35% by weight. The quantity of fruit ingredients used shall be such that in relation to the weight of the finished ice or water ice, the weight of fruit or fruit juice, including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content, is not less than 2% by weight in the case of citrus ices,

6% by weight in the case of berry and cherry ices and 10% by weight in the case of ices prepared with other fruits.

(g) "Quiescently frozen confection" means a clean and wholesome frozen, sweetened, flavored product in the manufacture of which freezing has not been accompanied by stirring or agitation, generally known as quiescent freezing. This confection may be acidulated with harmless organic acid, may contain milk solids, may be made with or without added harmless pure or imitation flavoring, with or without added harmless coloring. The finished product may contain not more than 1/2 of 1% by weight of stabilizer composed of wholesome edible material. The finished product shall contain not less than 17% by weight of total food solids. This confection must be manufactured in the form of servings individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. In the production of these quiescently frozen confections, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of 15% by volume.

¹(h) "Ice cream mix", "ice milk mix" and "sherbet mix" are unfrozen food products made from water, milk products and sugar with added harmless pure or imitation flavoring, with or without added harmless coloring, with or without added stabilizer, and with or without added emulsifier, and in the manufacture of which freezing has not been accompanied by stirring or agitation, generally known as quiescent freezing, it contains not less than 13% by weight of total milk solids, not less than 33% by weight of total food solids, not more than 1/2 of 1% by weight of stabilizer and not more than 1/5 of 1% by weight of emulsifier. Stabilizer and emulsifier must be composed of wholesome edible material. This confection must be manufactured in the form of servings individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. In the production of these quiescently frozen confections, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of 15% by volume.

(i) "Ice cream mix", "ice milk mix" and "sherbet mix" are unfrozen food products, made from wholesome ingredients as provided for use in the manufacturing or processing of ice cream, ice milk and sherbet, respectively, and shall meet the same requirements as the foods made from such mix.

(j) "Frozen desserts" means ice cream, frozen custard, french custard ice cream, french ice cream, ice milk, sherbet, fruit sherbet, ices, quiescently frozen confections, quiescently frozen dairy confections and other new related products which are defined in the future by rule and regulations.

(k) "Ice cream plant" means any place, premises or establishment where ice cream, frozen custard, french ice cream, french custard ice cream, ice milk, sherbet, fruit sherbet, ice, a quiescently frozen confection or a quiescently frozen dairy confection is manufactured, prepared, processed or frozen for distribution of sale.

¹So as original. Probably should read "Quiescently frozen dairy confection" means a clean and wholesome frozen product"
HISTORY: New 1968, p. 503, Act 298, Eff. Jul. 1.

288.323 Legislative intent; conformance to federal regulations; construction similar to corresponding federal regulations.

Sec. 3. Except where otherwise indicated, it is the intent of the legislature that Michigan law substantially conform with the federal regulations promulgated under the authority of the United States secretary of health, education and welfare insofar as

prescribing definitions and standards for frozen desserts published pursuant to section 701, 52 Stat. 1055 (21 USC 371). It is further intended that provisions of this act be construed in a manner similar to the corresponding federal regulations.

HISTORY: New 1966, p. 505, Act 296, Eff. Jul. 1.

288.324 Sale of adulterated frozen desserts prohibited.

Sec. 4. A person, his agents, servants or employees shall not sell, offer for sale, expose for sale or have in possession with intent to sell, ice cream mix, ice milk mix, ice cream, frozen cutard, [sic] french ice cream, french custard ice cream, ice milk, sherbet, fruit sherbet, ice, a quiescently frozen confection or a quiescently frozen dairy confection, coated or uncoated, or the coating thereof which is adulterated within the meaning of this act.

HISTORY: New 1966, p. 505, Act 296, Eff. Jul. 1.

288.325 Adulterated frozen, sweetened product.

Sec. 5. Any frozen, sweetened product referred to in this act shall be deemed to be adulterated within the meaning of this act if:

(a) Except as provided in section 6, it contains any added preservative or any other substance or compound that is deleterious to health.

(b) It contains any coloring substance deleterious to health. This shall not be construed to prohibit the use of harmless coloring matter from a list of permitted coloring material established by the department of agriculture.

(c) It contains any deleterious flavoring matter or flavoring matter not true to name.

(d) It contains any paraffin, synthetic fats, oils or fats other than milk fat added to or blended or compounded with it. Chocolate ice cream may contain cocoa butter and the coating of coated ice cream may contain cocoa butter or other clean and wholesome edible vegetable oils. The use of emulsifying products including lecithin of the nature of polyhydric alcohol esters of fatty acids when approved by the department of agriculture and used only to the extent herein provided shall not be deemed in violation of the foregoing provisions.

(e) It is any frozen, sweetened product regardless of the name under which it is manufactured, sold or offered for sale, which is made in imitation or semblance of, or is manufactured in a manner similar to the process used in manufacturing, but is not ice cream, frozen custard, french ice cream, french custard ice cream, ice milk, sherbet, fruit sherbet, ice, a quiescently frozen confection or a quiescently frozen dairy confection.

(f) It falls below the standards fixed for the particular product by the definition thereof contained in this act or is falsely labeled or labeled contrary to the provisions of this act.

(g) It is manufactured under conditions not in conformity with the provisions of section 8.

HISTORY: New 1966, p. 506, Act 296, Eff. Jul. 1.

288.326 Manufacture of ice cream or ice milk; standard; label; packaging.

Sec. 6. Subject to the standards provided by law or prescribed by the department of agriculture, any person may manufacture or prepare ice cream or ice milk containing an artificial sweetening agent approved by the department of agriculture to make the ice cream or ice milk suitable for those who must restrict their sugar intake. The manufacturer shall place the ice cream or ice milk in packages or containers which shall be conspicuously labeled "artificially sweetened" immediately preceding the words "ice cream" or "ice milk" in similar type at least 1/2 the size of the type used for the words "ice cream" or "ice milk" and on contrasting background and in addition shall label thereon any other warning statement which the department of agriculture may pre-

scribe. The label shall also contain a statement in terms of percentage by weight of protein fat and carbohydrates, the total number of calories per ounce, the number of calories contributed by carbohydrates and by carbohydrates other than lactose and the name of each ingredient entering into the composition other than flavors. The artificially sweetened ice cream or ice milk shall not be sold in any manner other than in sealed or unbroken packages.

HISTORY: New 1966, p. 506, Act 296, Eff. Jul. 1.

288.327 Mark or label by manufacturer; use of name defined in act, misleading representation; sale of products in marked containers or packages.

Sec. 7. (1) Every manufacturer shall plainly and distinctly mark every package or container or product sold as ice cream, ice cream mix, ice milk mix, sherbet mix, frozen custard, french ice cream, french custard ice cream, ice milk, sherbet, fruit sherbet, ice, a quiescently frozen confection or a quiescently frozen dairy confection or as a combination of these products. The products so marked or labeled shall conform with the definitions or standards for such product in this act.

(2) A person, firm, association or corporation shall not use the name of any product defined in this act, either orally, printed or written, in connection with the sale of any product or substance unless the product or substance conforms to the definitions and standards prescribed by this act. A person, firm, association or corporation shall not make or cause to be made any statement, either oral, written or printed, nor make or print, or cause to be made or printed, any design, symbol, picture or illustration in connection with the advertising or sale of any product, article or compound defined in this act, which statement, design, symbol, picture or illustration is false, deceptive or misleading in any manner.

(3) A person shall not sell, offer for sale, expose for sale or have in possession with intent to sell, any ice cream, ice cream mix, ice milk mix, frozen custard, french ice cream, french custard ice cream, ice milk, sherbet, fruit sherbet, ice, a quiescently frozen confection or a quiescently frozen dairy confection in any container or package which is not plainly and distinctly marked with the name and address of the manufacturer or the processor or the distributor or the retailer or a code approved by the department of agriculture identifying the manufacturer and the plant where manufactured.

HISTORY: New 1966, p. 506, Act 296, Eff. Jul. 1.

288.328 Operation of ice cream plant; use of pasteurized mixture; uniformity of standards or requirements; sale of products produced without the state; inspection of out-of-state facilities, cost; license, out-of-state products.

Sec. 8. (1) A person shall not operate any ice cream plant unless it is maintained and operated with strict regard for the purity and wholesomeness of the food products produced therein. The entire establishment, including fixtures, furnishings, machinery, apparatus, implements, utensils, receptacles and all equipment used in production, keeping, storing, handling or distributing shall be maintained and operated in a clean, sanitary manner. The equipment, containers and piping shall be constructed of a smooth, nontoxic, impervious, corrosion-resistant material and fabricated in such a manner that there is no contamination of the products handled therein and they can be easily sanitized. All equipment shall be kept in good working order and condition and shall be located so as to facilitate cleaning and practically eliminate the possibility of contamination. All equipment and utensils used in the production of food products defined herein whose surface comes in contact with any such products or any of the ingredients thereof shall be thoroughly cleaned after using and sanitized immediately

prior to using. The clothing habits and conduct of the employees shall be conducive to and promote cleanliness and sanitation. There shall be proper, suitable and adequate toilets and lavatories, and equipment for cleansing, constructed and operated in a clean and sanitary manner.

(2) No ice cream, ice cream mix, ice milk mix, frozen custard, french ice cream, french custard ice cream, ice milk, sherbet, sherbet mix, fruit sherbet, a quiescently frozen confection containing milk solids or a quiescently frozen dairy confection shall be manufactured, processed, sold, exposed or offered for sale or delivered unless it has been made from a mixture that has been properly pasteurized by heating every particle of the mixture:

(a) To a temperature not lower than 150 degrees Fahrenheit and holding at such temperature continuously for not less than 30 minutes and promptly cooling thereafter to a temperature of 50 degrees Fahrenheit or lower.

(b) To a temperature not lower than 175 degrees Fahrenheit for not less than 25 seconds in equipment provided with an accurate indicating thermometer, a flow diversion valve and an accurate recording thermometer so connected and operated as to automatically actuate the flow diversion valve diverting all of the mixture before the falling temperature of the mixture reaches 175 degrees Fahrenheit and promptly cooling thereafter to a temperature of 50 degrees Fahrenheit or lower. Such a mixture shall be pasteurized in equipment approved by the director of agriculture and with the use of an accurately operating self-recording thermometer, the charts for which shall be dated and held for a period of at least 60 days. Nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the department of agriculture to be equally efficient and which is approved by the department.

(3) A municipality or county shall not impose any different standards or requirements for unfrozen or frozen desserts than those provided for in this act, or prohibit the sale of same if they have been produced and processed under supervision of the department of agriculture.

(4) No sanitary requirement or standard issued under this act shall prohibit the sale of products defined in this act or the rules issued pursuant hereto which are produced or processed under laws or rules of any governmental unit without the state, which are substantially equivalent to the requirements of the rules issued under this act and which are enforced with equal effectiveness in the opinion of the department of agriculture and if the government unit accepts products defined in this act or the rules issued pursuant hereto which are manufactured in this state in compliance with this act.

(5) The department of agriculture reserves the right to inspect the equipment and sanitary conditions of any plant or place of business located outside the state where such products as defined in this act or rules issued pursuant hereto are manufactured or processed for sale or consumption within this state. When in the opinion of the department of agriculture that the rules of the out-of-state governmental units are not enforced with equal effectiveness as those within this state, the actual and reasonable cost of such inspections, including salary, transportation, meals and lodging of the representative of the department of agriculture shall be charged by the department of agriculture to and paid by the person, firm, association or corporation subject to such inspection. No person, firm, association or corporation shall sell, or have in his possession to sell or dispose of, any such products defined in this act or rules issued pursuant hereto unless such inspection shall have been made and the cost thereof paid to the department of agriculture, and unless such product shall have been found by the department of agriculture to comply with the requirements of this act and regulations is-

sued under this act, or unless the out-of-state governmental unit accepts the same products manufactured in this state.

(6) No license from the department of agriculture shall be required in respect to any product defined in this act, or the rules issued pursuant hereto, made, manufactured or processed without this state and shipped or delivered in interstate commerce into this state for sale or consumption therein.

HISTORY: New 1968, p. 507, Act 298, Eff. Jul. 1.

288.329 Licenses; required for each manufacturing or processing plant; exception; applications, fees; forms; investigation; issuance; expiration; renewal.

Sec. 9. (1) Every person, firm, association or corporation, before engaging in the business of manufacturing or processing ice cream, ice cream mix, ice milk mix, sherbet mix, ices, sherbet, fruit sherbet or any other product manufactured, processed or sold in imitation of or in semblance of ice cream, ice cream mix, ice milk mix, sherbet mix, ices, sherbet, fruit sherbet, regardless of the name under which such product is sold, shall first obtain a license from the department of agriculture. A license shall be obtained for each plant or place of business where ice cream, ice cream mix, ice milk mix, sherbet mix, ices, sherbet, fruit sherbet or products made in semblance of ice cream is manufactured or processed in the state. Hotels, restaurants, boarding houses, hospitals or other concerns or agents which shall manufacture or process or freeze ice cream, ices, sherbet, or products in semblance of ice cream or other similar frozen products for the use of their patrons, guests, patients or servants, shall be required to take out a license. Nothing in this section shall apply to private homes, churches or fraternal organizations manufacturing or processing such products for their own use or to retailers dealing in ice cream, ices, sherbet or products in semblance of ice cream, received in the final frozen form from a licensed manufacturer or processor. Applications for licenses shall be accompanied by the following fees: for each plant manufacturing or processing products defined in this act during the previous calendar year, not exceeding 5,000 gallons, \$10.00; exceeding 5,000 gallons but not exceeding 10,000 gallons, \$20.00; exceeding 10,000 gallons but not exceeding 25,000 gallons, \$30.00; exceeding 25,000 gallons, \$50.00. No other special license fees or taxes shall be levied by the state or any subdivision, except for taxes or fees that are generally levied on other than ice cream plants and ice cream plant operators. Gallons of ice cream mix or sherbet mix manufactured or processed into ice cream or sherbet within the same plant shall not be used in computing the license fee for such plant.

2) Applications shall be made to the department of agriculture, upon such forms and shall show such information as may be demanded by the department of agriculture. The department, upon receipt of application for licenses, shall investigate the equipment and the sanitary conditions of the plant or place of business for which a license application is made. If the condition of the plant or place of business is found to be satisfactory, the department shall issue a license to the applicant. Each license shall expire on April 30 following the date of issuance. All licenses for plants or places of business, when the manufacture or processing of ice cream, ice cream mix, ice milk mix, sherbet mix, ices, sherbet, fruit sherbet or products in semblance of ice cream is continued after the expiration of such licenses, shall be renewed annually on May 1. The department may withhold and refuse to issue a license for any plant or place of business that has not been conducted, or is not prepared to be conducted in accordance with the requirements of this act or any rules issued hereunder.

HISTORY: New 1968, p. 508, Act 298, Eff. Jul. 1.

288.330 Licenses; revocation; notice; hearing; evidence; appeal.

Sec. 10. The department may revoke any license issued under this act whenever it is determined by it that any of the provisions of this act have been violated. Any person, firm, association or corporation, whose license has been revoked, shall discontinue operation of the business for which the license was issued until such time as the provisions of the act have been complied with and a new license granted by the department. Before revoking any license, the department shall give written notice to the licensee affected, stating that it contemplates revocation of the license and giving its reasons therefor. The notice shall appoint a time and place for hearing and shall be mailed by certified mail to the licensee at least 10 days before the date set for the hearing or personal service rendered. The licensee may present to the department such evidence as may have a bearing on the case and, after hearing all of the testimony, the department shall make a determination. Any licensee who feels aggrieved at the decision of the department may appeal within 60 days to the circuit court of the county in which such person resides, if in the state, or in case of a firm, association or corporation in the state, the county in which is located its principal place of business.

HISTORY: New 1968, p. 509, Act 298, Eff. Jul. 1.

288.331 Enforcement of act; action; rules; quality standards; governing law.

Sec. 11. (1) The department of agriculture is charged with the enforcement of the provisions of this act. The department in the usual manner, or any person, committee or association composed of persons affected by this act or rules of the department may institute such action as may appear necessary to enforce compliance with any rule of the department made pursuant to the provisions of this act.

(2) The department shall adopt, promulgate and enforce rules to carry out the purpose of this act to establish additional definitions for new related products as they are developed, set reasonable quality standards and permit new food additives as they are approved by the United States secretary of health, education and welfare; to prevent deception in the sale of ice cream and the other products herein defined and to safeguard the health of consumers and to safeguard the manufacture, preparation, processing and distribution of ice cream and the other products herein defined whether manufactured, prepared or processed in a regular manufacturing plant, in a counter freezer or otherwise. Rules shall be in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 509, Act 298, Eff. Jul. 1.

288.332 Penalty; misdemeanor; injunction.

Sec. 12. Any person who violates any of the provisions of this act is guilty of a misdemeanor. The person may be enjoined from continuing the violations.

HISTORY: New 1968, p. 509, Act 298, Eff. Jul. 1.

288.333 Repeal.

Sec. 13. Act No. 222 of the Public Acts of 1931, as amended, being sections 288.301 to 288.315 of the Compiled Laws of 1948, is repealed. Any person, firm, association, or corporation licensed for the year 1968-69 under Act No. 222 of the Public Acts of 1931, does not have to obtain a new license under this act for 1968-69.

HISTORY: New 1968, p. 509, Act 298, Eff. Jul. 1.

288.334 Effective date.

Sec. 14. This act shall take effect July 1, 1968.

HISTORY: New 1968, p. 510, Act 298, Eff. Jul. 1.

288.351-288.353 Repealed. 1961, p. 414, Act 234, Imd. Eff. Jun. 7.

Sections provided for standard milk bottles and sealing thereof.

Act 257, 1911, p. 441; Eff. Aug. 1.

AN ACT to prohibit drivers of milk wagons and unauthorized persons from opening milk bottles, or in any way interfering with or molesting the caps or covers thereof after such bottles shall have been closed at the creamery, and during and after the process of delivery to patrons.

The People of the State of Michigan enact:

288.371 Milk bottles; molestation.

Sec. 1. From and after the date on which this act takes effect, it shall be unlawful for any driver of any milk wagon, or any distributor of milk, or any person whatsoever, except legally authorized milk inspectors and persons to whom such milk is delivered, to open milk bottles or in any way interfere with or molest the caps or covers of the same after such milk bottles shall have been closed at the creamery, or during the process of the delivery of said milk, or after said milk shall have been delivered in due course of business and in the ordinary manner.

HISTORY: CL 1915, 5164;—CL 1929, 5340;—CL 1948, 288.371.

288.372 Violation of act; penalty.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof in a court of competent jurisdiction shall be punished by a fine of not less than 50 dollars nor more than 100 dollars, or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 5165;—CL 1929, 5341;—CL 1948, 288.372.

288.381-288.391 Repealed. 1965, p. 781, Act 385, Eff. Jun. 30, 1966.

Sections regulated farm bulk milk tanks.

Act 235, 1961, p. 415; Eff. Sep. 8.

AN ACT to regulate the manufacture, distribution, display, advertisement, labeling and sale of imitation cream, and to prevent fraud and deception thereby and to prevent the passing off of imitation cream, as cream, half and half or milk; to provide penalties for violation thereof; and to provide for enforcement of this act.

The People of the State of Michigan enact:

288.401 Imitation cream; definition.

Sec. 1. As used in this act:

(a) "Imitation cream" means any substance, mixture or compound, excluding all dairy products but containing vegetable or animal fats or oils and other substances or compounds, which is made in imitation of cream, half and half or milk, and is used or mixed with coffee or other beverages, cereal, sauces, soups or other foods.

HISTORY: New 1961, p. 415, Act 235, Eff. Sep. 8.

288.402 Imitation cream; label, contents.

Sec. 2. Any container in which imitation cream is sold, exchanged or delivered, shall be clearly labeled with the name imitation cream, the name and address of the person processing and packaging the product for sale, the name of all ingredients, the name of

the plant or animal from which such oil or fat is derived, and the amount of fat and water in the product.

HISTORY: New 1961, p. 415, Act 235, Eff. Sep. 8.

288.403 Imitation cream; service at public eating place.

Sec. 3. No person shall serve or have in possession with intent to serve or vend, imitation cream, at a public eating place unless a notice that imitation cream is served, be displayed prominently in such place, and printed on menu in type or lettering not smaller than 2 line pica in size, and each serving of imitation cream be served in its original factory packaged container properly labeled.

HISTORY: New 1961, p. 415, Act 235, Eff. Sep. 8.

288.404 Imitation cream; use in vending machines.

Sec. 4. No person shall vend coffee or any other beverage containing imitation cream, from a vending machine unless such machine has prominently displayed on the front a notice that imitation cream is dispensed from the machine and listing the ingredients as required in section 2.

HISTORY: New 1961, p. 415, Act 235, Eff. Sep. 8.

288.405 Imitation cream; prohibited words.

Sec. 5. No person shall use in any way in connection or association with the sale, exposure for sale, advertisement, listing on a menu or serving of imitation cream, the word "creamed", "fresh", "dairy", "farm" or the name or representation of any breed of dairy cattle, or any combination or variation of such word or words, or representation, or any other words or symbols or combination thereof commonly used to describe dairy products.

HISTORY: New 1961, p. 415, Act 235, Eff. Sep. 8.

288.406 Violation of act; penalty.

Sec. 6. Whoever violates any of the provisions of this act is guilty of a misdemeanor, and shall be fined not less than \$25.00 nor more than \$100.00, and the costs of prosecution, or imprisoned in the county jail or state prison for not more than 6 months.

HISTORY: New 1961, p. 415, Act 235, Eff. Sep. 8.

CHAPTER 289. AGRICULTURE—PURE FOODS AND STANDARDS

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Act 263, 1917, p. 683; Eff. Apr. 1, 1918.

AN ACT to create the office of food and drug commissioner; to prescribe his powers, duties and compensation; to provide for the enforcement of the drug and liquor, dairy and food, and weights and measures laws; to abolish the office of dairy and food commissioner; and to provide for expenditures in connection therewith.

The People of the State of Michigan enact:

Sec. 1.

NOTE: This section created the office of food and drug commissioner and fixed his qualifications.

289.2 Food and drug commissioner, powers; transfer of certain powers; deputy, appointment, powers.

Sec. 2. The food and drug commissioner, on his appointment and qualification as such, shall have charge and supervision of the enforcement of all the laws of this state relating to the dairy and food, drug and liquor business, weights and measures, and such further powers and duties as may be imposed by law and as prescribed herein. All the powers and duties imposed by law upon the dairy and food commissioner, at the time this act takes effect, are hereby transferred to and vested in the food and drug commissioner. The food and drug commissioner, his deputies and inspectors, shall have the powers of a sheriff in making arrests and in enforcing the laws relating to the prohibition of the manufacture, sale, bartering, furnishing, giving away, receiving, possession and use of intoxicating liquors; and in enforcing the laws relating to dairy, foods, drugs and weights and measures in any place within this state. He shall appoint a deputy, who shall have the powers and duties of the food and drug commissioner as may be deputized to him by the food and drug commissioner.

HISTORY: Am. 1919, p. 558, Act 319, Eff. Aug. 14;—CL 1929, 5396;—CL 1948, 289.2.

FOOD AND DRUG COMMISSIONER: This office has been abolished, the powers and duties being transferred to the department of agriculture, see Compilers' § 285.2.

DAIRY AND FOOD COMMISSIONER: Powers and duties, see Compilers' §§ 289.35 to 289.49.

Secs. 3-4.

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

NOTE: Sec. 3 fixed the salary of the commissioner and deputy and manner of payment.

Sec. 4 provided for the appointment of the commissioner and his term of office.

289.5 Office of dairy and food commissioner abolished; transfer of powers, duties, records and unfinished business.

Sec. 5. On April first, 1918, the office of dairy and food commissioner, created by Act No. 211 of the Public Acts of 1893, shall cease and be discontinued, and all offices incident to the department of the dairy and food commissioner shall likewise cease and be discontinued; and all of the powers and duties devolving upon and vested in said dairy and food commissioner, by any law of this state, at or after the time this act takes effect, shall be and the same are transferred to and vested in the food and drug commissioner, as of April first, 1918. The dairy and food commissioner shall on said date cause all of his office equipment, and other state property, records and books, to be transferred to the food and drug commissioner; and all money accounts of the said dairy and food commissioner shall be closed with the state treasurer, and reopened with the food and drug commissioner created by this act. All actions pending under the dairy and food laws or other laws administered by the dairy and food commissioner; all matters pending investigation; all unfinished business of said dairy and food department, shall be continued under the food and drug commissioner, with like effect as if the office of dairy and food commissioner had continued to exist.

HISTORY: CL 1929, 5396;—CL 1948, 289.5.

NOTE: Act 211 of 1893, above referred to, is Compilers' §§ 289.35 to 289.49.

See notes under Sec. 2 of this act.

289.6 Analysts and employes; salaries.

Sec. 6. The food and drug commissioner shall have authority to appoint a state analyst, at a salary not to exceed 2,500 dollars per annum, a chief clerk at a salary of not to exceed 1,800 dollars a year, and necessary assistant analysts, who shall be competent chemists, at a salary not to exceed 1,800 dollars each per annum; and to discharge such analysts at pleasure. He shall appoint and employ such inspectors, investigators, assistants, clerks and other help as may be deemed necessary, subject to the approval of the governor, at a salary not to exceed 1,500 dollars each per annum.

HISTORY: CL 1929, 5397;—CL 1948, 289.6.

ADMINISTRATIVE BOARD: Supervisory control, see Compilers' § 17.3.

289.7 Aid and assistance; rendering to commissioner.

Sec. 7. The said food and drug commissioner shall be entitled to the advice and assistance of the attorney general, and all prosecuting attorneys, sheriffs, police officers, and other peace officers within the state shall, when called upon for aid and assistance by such commissioner, render such service as may be requested by him, within the scope of his authority. And it shall be the duty of the attorney general to assign to the office of the food and drug commissioner an assistant attorney general who shall have the authority of a deputy attorney general with relation to the enforcement of the laws administered by the food and drug commissioner.

HISTORY: CL 1929, 5398;—CL 1948, 289.7.

Sec. 8.

HISTORY: CL 1929, 5399;—Rep. 1933, Ex. Sess., p. 33, Act 8, Imd. Eff. Dec. 15.

NOTE: This section dealt with liquor law enforcement.

289.9 Refusal to give assistance, effect; duties of officers.

Sec. 9. Any officer required by this act to give assistance to the food and drug commissioner who shall fail or refuse so to do shall be deemed guilty of a misfeasance in office and such failure or refusal shall be deemed a ground for removal from office. Nothing in this act contained shall in any way be construed as relieving any of the said officers from the performance of duties devolving upon them by virtue of the laws of this state.

HISTORY: CL 1929, 5400;—CL 1948, 289.9.

Sec. 10.

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

NOTE: This section provided for oath and bond of the commissioner and bond of the deputy.

289.11 Salaries and expenditures; payment.

Sec. 11. All salaries and expenditures, authorized by this act and necessary for carrying out the provisions thereof, shall be paid out of the general fund of the state upon the warrant of the auditor general.

HISTORY: CL 1929, 5401;—CL 1948, 289.11.

289.12 Construction of act.

Sec. 12. This act shall be construed as supplementary to any act passed by the legislature relating to the liquor traffic, and any act or acts relating to the drug, dairy and food business, and weights and measures, and any laws heretofore administered by the dairy and food department.

HISTORY: CL 1929, 5402;—CL 1948, 289.12.

Sec. 13. (This was a severing clause section.)

HISTORY: CL 1929, 5403;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

Sec. 14. (This was a repeal section.)

HISTORY: CL 1929, 5404;—Rep. 1945, p. 455, Act 267, Imd. Eff. May 25.

Sec. 15. (This was a tax clause section.)

HISTORY: CL 1929, 5405;—Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

Act 211, 1893, p. 421; Eff. Aug. 28.

AN ACT to provide for the appointment of a dairy and food commissioner, and to define his powers and duties and fix his compensation.

The People of the State of Michigan enact:

Secs. 1-3.

HISTORY: CL 1897, 4973-4975;—CL 1915, 6360-6362.

Sec. 1 provided for the appointment of a dairy and food commissioner and his term of office; Sec. 2 for his removal and appointment to fill vacancy; Sec. 3 for his bond and oath of office.

CONSTITUTIONALITY: Amendatory Act 12 of 1905 is germane to the title of this act and is valid. *Pratt Food Co. v. Bird*, 148 Mich. 631, 112, N.W. 701.

DAIRY AND FOOD COMMISSIONER: Office abolished, powers and duties transferred to the food and drug commissioner, which in turn has been abolished and superseded by the department of agriculture, see Compilers' §§ 289.2 and 285.2 respectively.

Sec. 4.

HISTORY: Am. 1895, p. 538, Act 245, Imd. Eff. June 1;—Am. 1897, p. 189, Act 154, Imd. Eff. May 24;—CL 1897, 4976;—Am. 1901, p. 262, Act 186, Imd. Eff. May 29;—Am. 1903, p. 363, Act 230, Eff. Sept. 17;—Am. 1905, p. 15, Act 12, Imd. Eff. Mar. 9;—Am. 1913, p. 31, Act 18, Eff. Aug. 14;—CL 1915, 6363;—CL 1929, 5406;—Rep. 1933, p. 242, Act 163, Imd. Eff. June 22.

This section provided for compensation of dairy and food commissioner and assistants.

289.35 State food analyst, chemists, inspectors; oath, tenure, laboratory, salaries, expenses, chemical supplies.

Sec. 5. The commissioner shall appoint a suitable and competent person as state analyst [sic], who shall be a practical analytical chemist. The commissioner may appoint an assistant chemist and such inspectors as shall be necessary to carry out the provisions of this act. Before entering upon the duties of their offices, they shall take, subscribe and file in the office of the secretary of state the constitutional oath of office. Their term of office shall continue during the pleasure of the commissioner. The board of state auditors shall provide a room for the laboratory of the state analyst and his assistant, and the necessary furniture and fixtures therefor. In case of the absence or inability of the state analyst or his assistant to perform their duty, the commissioner may appoint some competent person to perform the same temporarily, which person shall take, subscribe and file the constitutional oath of office. The salaries of all employes hereby authorized, and the necessary expenses thereof while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other state officers and employes. Such an amount as is found to be necessary in the proper performance of the work of the analyst may be expended for chemical supplies.

HISTORY: Am. 1895, p. 539, Act 245, Imd. Eff. June 1;—Am. 1897, p. 189, Act 154, Imd. Eff. May 24;—CL 1897, 4977;—Am. 1901, p. 263, Act 186, Imd. Eff. May 29;—Am. 1903, p. 364, Act 230, Eff. Sept. 17;—Am. 1905, p. 15, Act 12, Imd. Eff. Mar. 9;—CL 1915, 6364;—CL 1929, 5407;—Am. 1933, p. 241, Act 163, Imd. Eff. June 22;—CL 1943, 299.35.

289.36 Dairy, food and drink products; inspection, analysis; commencement of proceedings; right of entry; warning notice; failure to obey, penalty.

Sec. 6. It shall be the duty of the dairy and food commissioner to carefully inquire into the dairy and food and drink products and the several articles which are foods or drinks, or the necessary constituents of foods or drinks, which are manufactured or sold or exposed or offered for sale in this state, and he may, in a lawful manner, procure samples of the same and direct the state analyst to make due and careful examination of the same, and report to the commissioner the result of the analysis of all and any of such food and drink products or dairy products as are adulterated, impure or unwholesome in contravention of the laws of this state; and it shall be the duty of the commissioner to make a complaint against the manufacturer or vendor thereof in the proper county and furnish all evidence thereof, to obtain a conviction of the offense charged. The dairy and food commissioner, or his deputy, or any person appointed by him for that purpose may make complaint and cause proceedings to be commenced against any person for the enforcement of any of the laws relative to adulterated, in

pure or unwholesome food or drink, and in such case he shall not be obliged to furnish security for costs and shall have power, in the performance of their duties, to enter into any creamery, factory, store, salesroom, drug store, or laboratory, or place where they have reason to believe food or drink are made, stored, sold or offered for sale and open any cask, tub, jar, bottle or package containing, or supposed to contain, any article of food or drink and examine or cause to be examined the contents thereof, and take therefrom samples for analysis. The person making such inspection shall take such sample of such article or product in the presence of at least 1 witness, and he shall, in the presence of said witness, mark or seal such sample and shall tender at the time of taking to the manufacturer or vendor of such product, or to the person having the custody of the same, the value thereof, and a statement in writing for the taking of such sample. Whenever it is determined by the dairy and food commissioner, his deputy or inspectors, that filthy or unsanitary conditions exist or are permitted to exist in the operation of any bakery, confectionary, or ice cream plant, or in any place where any food or drink products are manufactured, stored, deposited or sold for any purpose whatever, the proprietor or proprietors, owner or owners, of such bakery, confectionary or ice cream plant, or any person or persons owning or operating any plant where any food or drink products are manufactured, stored, deposited or sold, shall be first notified and warned by the commissioner, his deputy or inspectors to place such bakery, confectionary or ice cream plant, or any place where any food or drink products are manufactured, stored, deposited or sold in a sanitary condition within a reasonable length of time; and any person or persons owning and operating any bakery, confectionary or ice cream plant or any place where any food or drink products are manufactured, stored, deposited or sold, failing to obey such notice and warning, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than 25 dollars nor more than 300 dollars and costs of prosecution, or imprisonment in the county jail not to exceed 90 days, or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court.

HISTORY: Am. 1895, p. 539, Act 245, Imd. Eff. June 1;—Am. 1897, p. 189, Act 154, Imd. Eff. May 24;—CL 1897, 4978;—Am. 1899, p. 455, Act 268, Eff. Sept. 23;—Am. 1905, p. 16, Act 12, Imd. Eff. March 9;—CL 1915, 6305;—CL 1929, 5408;—CL 1948, 289.36.

SALT: Act 20 of 1899, being CL 1897, 4911 to 4953, regulating standards for salt, was repealed by Act 1 of 1913.

289.37 Seizure of certain products.

Sec. 7. The commissioner, his deputy, or any person by said commissioner duly appointed for that purpose, is authorized at all times to seize and take possession of any and all food and dairy products, substitutes therefor, or imitation thereof kept for sale, exposed for sale or held in possession or under the control of any person which in the opinion of the said commissioner, or his deputy, or such person by him duly appointed, shall be contrary to the provisions of this act or other laws which now exist or which may be hereafter enacted.

Taking of sample.

First, The person so making such seizure as aforesaid, shall take from such goods as seized a sample for the purpose of analysis and shall cause the remainder thereof to be boxed and sealed and shall leave the same in the possession of the person from whom they were seized, subject to such disposition as shall hereafter be made thereof according to the provisions of this act.

Sample forwarded; state analyst, duties; evidence.

Second, The person so making such seizure, shall forward the sample so taken to the state analyst for analysis, who shall make an analysis of the same and shall certify the results of such analysis, which certificate shall be prima facie evidence of the fact or facts therein certified to in any court where the same may be offered in evidence.

Product adulterated, procedure.

Third, If upon such analysis it shall appear that said food or dairy products are adulterated, substitutes or imitations within the meaning of this act, said commissioner, or his deputy or any person by him duly authorized, may make complaint before any justice of the peace or police justice having jurisdiction in the city, village or township where such goods were seized, and thereupon said justice of the peace shall issue his summons to the person from whom said goods were seized, directing him to appear not less than 6 nor more than 12 days from the date of the issuing of said summons and show cause why said goods should not be condemned and disposed of. If the said person from whom said goods were seized cannot be found, said summons shall be served upon the person then in possession of the goods. The said summons shall be served at least 6 days before the time of appearance mentioned therein. If the person from whom said goods were seized cannot be found, and no one can be found in possession of said goods, and the defendants shall not appear on the return day, then said justice of the peace shall proceed in said cause in the same manner provided by law where a writ of attachment is returned not personally served upon any of the defendants and none of the defendants shall appear upon the return day.

Justice, duty to render judgment; procedure; appeal.

Fourth, Unless cause to the contrary thereof is shown, or if said goods shall be found upon trial to be in violation of any of the provisions of this act or other laws which now exist or which may be hereafter enacted, it shall be the duty of said justice of the peace or police justice to render judgment that said seized property be forfeited to the state of Michigan, and that the said goods be destroyed or sold by the said commissioner for any purpose other than to be used for food. The mode of procedure before said justice shall be the same, as near as may be, as in civil proceedings before justices of the peace. Either parties may appeal to the circuit court as appeals are taken from justices' courts, but it shall not be necessary for the people to give any appeal bond.

Proceeds of sale.

Fifth, The proceeds arising from any such sale shall be paid into the state treasury and credited to the general fund: Provided, That if the owner or party claiming the property or goods so declared forfeited can produce and prove a written guarantee of purity, signed by the wholesaler, jobber, manufacturer or other party from whom said articles were purchased, then the proceeds of the sale of such articles, over and above the costs of seizure, forfeiture, and sale, shall be paid over to such owner or claimant to reimburse him, to the extent of such surplus, for his actual loss resulting from such seizure and forfeiture, as shown by the invoice.

Duty of prosecuting attorney.

Sixth, It shall be the duty of each prosecuting attorney when called upon by said commissioners [commissioner] or by any person by him authorized as aforesaid, to render any legal assistance in his power in proceedings under the provisions of this act, or any subsequent act relative to the adulteration of food, for the sale of impure or unwholesome food or food products.

HISTORY: Am. 1895, p. 540, Act 245, Imd. Eff. June 1;—CL 1897, 4979;—Am. 1899, p. 456, Act 268, Eff. Sept. 23;—Am. 1903, p. 364, Act 230, Eff. Sept. 17;—CL 1915, 6368;—CL 1929, 5409;—CL 1948, 289.37.

CITED IN OTHER SECTIONS: The above section is cited in § 289.644.

289.38 Giving of certificate by state analyst unlawful.

Sec. 8. It shall be unlawful for the state analyst, while he holds his office, to furnish to any individual, firm or corporation, any certificate as to the purity or excellence of any article manufactured or sold by them to be used as food or in the preparation of food.

HISTORY: CL 1897, 4980;—CL 1915, 6367;—CL 1929, 5410;—CL 1948, 289.38.

289.39 Annual report to governor; contents, publication; monthly bulletin, contents, distribution, number limited.

Sec. 9. The commissioner shall make an annual report to the governor on or before the first day of July in each year, and which shall be printed and published on or before the first day of September next thereafter, which report shall cover the doings of his office for the preceding fiscal year, which shall show, among other things, the number of manufacturies and other places inspected and by whom, the number of specimens of food articles analyzed, and the state analyst's report upon each one; the number of complaints entered against persons for violation of the laws relative to the adulteration of food, the number of convictions had, and the amount of fines imposed therefor, together with such recommendations relative to the statutes in force as his experience may justify. The commissioner shall also prepare, print and distribute to all the papers of the state, and to such persons as may be interested or may apply therefor a monthly bulletin, in suitable paper covers, containing results of inspections, the results of analyses made by the state analyst, with *popular explanation of the same, and such other information as may come to him in his official capacity relating to the adulteration of food and drink products and of dairy products, so far as he may deem the same of benefit and advantage to the public; also a brief summary of all the work done during the month by the commissioner and his assistants in the enforcement of the laws of the state, but not more than 10,000 copies of each such monthly bulletins shall be printed.

HISTORY: Am. 1895, p. 540, Act 245, Imd. Eff. June 1;—Am. 1897, p. 190, Act 154, Imd. Eff. May 24;—CL 1897, 4961;—Am. 1899, p. 456, Act 266, Eff. Sept. 23;—CL 1915, 6368;—CL 1929, 5411;—CL 1948, 289.39.

*NOTE: It is evident that the word "popular" should be "proper".

ANNUAL REPORT: To include account of receipts and expenditures, see Compilers' § 289.49.

289.40 Interference with food commissioners or inspectors; penalty.

Sec. 10. Any person who shall willfully hinder or obstruct the dairy and food commissioner, or his deputy, or other person or inspector by him duly authorized, in the exercise of the powers conferred upon him by this act, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than 10 dollars nor more than 100 dollars, or by imprisonment in the county jail for not less than 10 days nor more than 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1895, p. 541, Act 245, Imd. Eff. June 1;—CL 1897, 4962;—CL 1915, 6369;—CL 1929, 5412;—CL 1948, 289.40.

This section may be superseded by Compilers' § 289.61.

Sec. 11.

HISTORY: Add. 1895, p. 541, Act 245, Imd. Eff. June 1;—Am. 1897, p. 190, Act 154, Imd. Eff. May 24;—CL 1897, 4963;—Am. 1899, p. 457, Act 266, Eff. Sept. 23;—Am. 1901, p. 264, Act 186, Imd. Eff. May 29;—Am. 1905, p. 17, Act 12, Imd. Eff. Mar. 9;—CL 1915, 6370;—CL 1929, 5413;—Rep. 1933, p. 242, Act 163, Imd. Eff. June 22.

This section provided for an annual appropriation of \$35,000.

Sec. 12. (This was a tax clause section.)

HISTORY: Add. 1895, p. 541, Act 245, Imd. Eff. June 1;—Am. 1897, p. 190, Act 154, Imd. Eff. May 24;—CL 1897, 4964;—Am. 1899, p. 457, Act 266, Eff. Sept. 23;—Am. 1901, p. 264, Act 186, Imd. Eff. May 29;—Am. 1903, p. 366, Act 230, Eff. Sept. 17;—Am. 1905, p. 17, Act 12, Imd. Eff. Mar. 9;—CL 1915, 6371;—CL 1929, 5414;—Rep. 1947, p. 169, Act 128, Eff. Oct. 11.

289.43 Investigation of creameries, dairy products factories; giving of instruction.

Sec. 13. It shall also be the duty of the dairy and food commissioner to foster and encourage the dairy industry of the state, and, for that purpose, he shall investigate the general conditions of the creameries, cheese factories, condensed milk factories, skimming stations, milk stations and farm dairies in this state, with full power to enter upon any premises for such investigation, with the object in view of improving the quality and creating and maintaining uniformity of the dairy products of the state; and should it become necessary, in the judgment of the dairy and food commissioner, he may cause instruction to be given in any creamery, cheese factory, condensed milk factory, skimming station, milk station, or farm dairy, or in any locality in this state, and in or-

der to secure the proper feeding and care of cows, or the practical operation of any plant producing dairy products and in order to secure such a uniform and standard quality of dairy products in the state, he shall furnish a sufficient number of competent inspectors for that purpose, the appointment of whom is provided for in section 4 of this act, and they shall be duly qualified to act as such inspectors.

HISTORY: Add. 1905, p. 17, Act 12, Imd. Eff. Mar. 9;—CL 1915, 8372;—CL 1929, 5415;—CL 1948, 289.43.

289.44 Warning notice; distributors of impure milk or cream; failure to obey, penalty.

Sec. 14. Whenever it is determined by the dairy and food commissioner, his deputy or inspectors, that any person is using, selling or furnishing to any skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade or to any consumer of milk, any impure or unwholesome milk or cream, which impurity or unwholesomeness is caused by the unsanitary or filthy condition of the premises where cows are kept, or by the unsanitary or filthy care of handling of the cows, or from unclean utensils being used, or from unwholesome food, or from any other cause, the person so using, selling or furnishing to any skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade, or to any consumer of milk, any such milk or cream, shall first be notified and warned by the commissioner, his deputy or inspectors not to use, sell, or furnish such milk or cream to such skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade, or to any consumer of milk, and any person failing to obey such notice and warning, and continuing to use, sell or furnish to any skimming station, creamery, cheese factory, condensed milk factory, farm dairy, milk dealer or to the retail trade such impure or unwholesome milk or cream, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than 10 dollars, nor more than 50 dollars, and costs of prosecution, or imprisonment in the county jail, not to exceed 90 days, or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court.

HISTORY: Add. 1905, p. 18, Act 12, Imd. Eff. Mar. 9;—CL 1915, 8373;—CL 1929, 5416;—CL 1948, 289.44.

UNSANITARY MILK: Or cream, see Compilers' § 288.102.

289.45 Warning notice; operators of unsanitary creameries, dairy products factories; failure to obey, penalty.

Sec. 15. Whenever it is determined by the dairy and food commissioner, his deputy or inspectors, that unsanitary conditions exist or are permitted to exist in the operation of any skimming station, creamery, cheese factory, condensed milk factory, milk depot, or farm dairy, the proprietor or proprietors, or manager of said skimming station, creamery, cheese factory, condensed milk factory or farm dairy, shall be first notified and warned by the commissioner, his deputy or inspectors to place such skimming station, creamery, cheese factory, condensed milk factory, milk depot or farm dairy in a sanitary condition, within a reasonable length of time; and any person or persons owning or operating such skimming station, creamery, cheese factory, condensed milk factory, milk depot, or farm dairy, failing to obey such notice and warning, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than 25, nor more than 300 dollars, and costs of prosecution, or imprisonment in the county jail, not to exceed 90 days or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court.

HISTORY: Add. 1905, p. 18, Act 12, Imd. Eff. Mar. 9;—CL 1915, 8374;—CL 1929, 5417;—CL 1948, 289.45.

UNSANITARY PREMISES: See also Compilers' § 288.104.

Secs. 16-17.

HISTORY: Add. 1905, p. 19, Act 12, Imd. Eff. March 9;—CL 1915, 8375, 8376;—Rep. 1929, p. 465, Act 169, Eff. Aug. 28, being CL 1929, 5322. Sec. 16 was amended 1913, p. 463, Act 242, Eff. Aug. 14.

289.48 Concentrated commercial feeding stuff; statement furnished with bulk sales, copy of chemical analysis with retail sales.

Sec. 18. Any manufacturer, company, person or persons who shall sell, offer or expose for sale or for distribution, in this state, any concentrated commercial feeding stuff used for feeding live stock, shall furnish with each car, or other amounts shipped in bulk, and shall affix to every package of such feeding stuff, in a conspicuous place, on the outside thereof, a plainly printed statement, clearly and truly certifying the number of net pounds in the car or package sold or offered for sale, the name or trade-mark under which the article is sold, the name of the manufacturer or shipper, the place of manufacture, the place of business, and a chemical analysis, stating the percentages it contains of crude protein, crude fibre, nitrogen, free extract and ether extract, all constituents to be determined by the methods adopted by the association of official agricultural chemists. Whenever any feeding stuff is sold at retail, in bulk or in packages belonging to the purchaser, the agent or dealer shall furnish to him a certified copy of the chemical analysis named in this section.

Same; defined.

(a) The term concentrated commercial feeding stuffs as used in this act shall include linseed meal, cotton seed meal, pea meals, cocoanut meals, gluten meals, oil meals of all kinds, gluten feeds, maize feeds, starch feeds, mixed sugar feeds, hominy feeds, rice meals, oat feeds, corn and oat feeds, meat meals, dried blood, clover meals, mixed feeds of all kinds, slaughter house waste products; also all condimental stock foods, patented and proprietary stock foods, claimed to possess nutritive properties and all other materials intended for feeding to domestic animals: Provided, That such feeding stuffs, as defined above, shall not include hays, straws, fodders, ensilage, the whole seeds nor the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, flax-seed, maize, buckwheat, wet brewers' grains, malt sprouts, wet or dried beet pulp when unmixed with other materials. Neither shall it include wheat, rye and buckwheat brans or middlings not mixed with other substances, but sold separately as distinct articles of commerce, nor pure grains ground together.

Same; copy of chemical analysis, sample and affidavit filed annually; annual fee, payment before sale, disposition.

(b) Before any manufacturer, company, person or persons shall sell, offer or expose for sale in this state any concentrated commercial feeding stuff, he or they shall, for each and every feeding stuff bearing a distinguishing name or trade-mark, file annually, with the dairy and food commissioner a certified copy of the chemical analysis and certificate referred to in this section, and shall deposit with said dairy and food commissioner a sealed glass jar, or bottle, containing at least 1 pound of the feeding stuff to be sold or offered for sale, together with an affidavit that it is a fair sample of the article thus to be sold or offered for sale. He or they shall also pay annually into the state treasury a license fee of 20 dollars for each and every brand of feeding stuff he offers or exposes for sale in this state. Said fee is to be paid on or before April first of each year: Provided, That whenever the manufacturer or importer shall have paid this license fee, his agents shall not be required to do so. Whenever any manufacturer, importer, agent or seller of any commercial feeding stuff desires at any time to sell such material and has not paid the license fee therefor, he shall pay the license fee prescribed in this section, before making any such sale. The money collected under the provisions of this act shall be paid into the state treasury and be used to help defray the expenses of the office of the dairy and food commissioner, in addition to the regular appropriation therefor.

Issuance of license; term.

(c) Whenever the manufacturer, importer, agent or seller of any commercial feeding stuff shall have complied with the requirements of this section, the dairy and food commissioner shall issue or cause to be issued, a license, permitting the sale of said feeding stuff, which license shall terminate on April first following the date of issue.

Analyses.

(d) All such analyses of commercial feeding stuffs required by this act, shall be made under the direction of the dairy and food commissioner, and shall be paid for out of the funds arising from the license fees provided for in this section.

Same; publication.

(e) The dairy and food commissioner shall publish, or cause to be published in bulletin form, at least annually a correct statement of all analyses made, together with any incidental information concerning same which he may deem proper.

Penalty.

(f) Any manufacturer, importer, company, agent, person or persons, who shall sell, offer or expose for sale, without first complying with the provisions of this act, any commercial feeding stuff, or shall attach or cause to be attached to any car, package or other quantity of said feeding stuff, an analysis stating that it contains a larger percentage of any 1 or more of the constituents named in this section than it really does contain shall, upon conviction thereof, be fined not less than 100 dollars for the first offense, and not less than 300 dollars for every subsequent offense, and the offender shall also be liable for damages sustained by the purchaser of such feeding stuff on account of such misrepresentation.

Selection of sample, purposes.

(g) The dairy and food commissioner, by any duly authorized agent, is hereby authorized to select from any package of commercial or other feeding stuff exposed or offered for sale in this state, a quantity not exceeding 2 pounds for a sample, such sample to be used for the purposes of an official analysis and for comparison with the certificate filed with the dairy and food commissioner, and with the certificate affixed to the package on sale.

HISTORY: Add. 1905, p. 20, Act 12, Imd. Eff. Mar. 9;—CL 1915, 6377;—CL 1929, 5418;—CL 1948, 289.48.

289.49 Annual report to governor; contents.

Sec. 19. The published annual report of the dairy and food commissioner which shall be made to the governor, shall include a complete accounting of all moneys received by the department from every source, and the amount expended by the department.

HISTORY: Add. 1905, p. 22, Act 12, Imd. Eff. Mar. 9;—CL 1915, 6378;—CL 1929, 5419;—CL 1948, 289.49.

ANNUAL REPORT: For other contents, see Compilers' § 289.39.

Sec. 20. (This was a repeal section.)

HISTORY: Add. 1905, p. 22, Act 12, Imd. Eff. Mar. 9;—CL 1915, 6379;—CL 1929, 5420;—Rep. 1947, p. 168, Act 129, Eff. Oct. 11.

Act 167, 1899, p. 246; Imd. Eff. Jun. 23.

AN ACT in relation to the powers and duties of the dairy and food commissioner of the state of Michigan.

The People of the State of Michigan enact:

289.61 Interference with food commissioners or inspectors in their duties; penalty.

Sec. 1. That any person who shall obstruct the dairy and food commissioner, or his deputy, or any of his duly appointed inspectors, by refusing to allow him entrance to any place where he is authorized to enter in the discharge of his official duty, or refuses to deliver to him a sufficient sample for the analysis of any article of food or drink sold, offered or exposed for sale, or in his possession for the purpose of sale, wherever the same may be found, when the same is requested and when the value thereof is tendered, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 25 dollars or more than 100 dollars and the costs of prosecution, or by imprisonment in the county jail not less than 10 days or more than 90 days, or by both such fine and imprisonment, in the discretion of the court, for each and every offense.

HISTORY: CL 1915, 6399;—CL 1929, 5421;—CL 1948, 289.61. This section may supersede Compilers' § 289.40.

DAIRY AND FOOD COMMISSIONER: Office abolished; powers and duties transferred to food and drug commissioner, which in turn has been abolished and superseded by the department of agriculture, see Compilers' §§ 289.2 and 285.2 respectively.

Act 37, 1913, p. 56; Eff. Aug. 14.

AN ACT to provide for the collection of registration, license and other fees due the state dairy and food department, by means of a civil suit in the state courts.

The People of the State of Michigan enact:

289.71 Collection of fees; suit to recover fees due.

Sec. 1. Whenever any corporation, firm or person engaged as a dealer, manufacturer, storer or transporter of any food or beverage product for man or animal, doing business within the state shall for 30 days after the same becomes due refuse or neglect to pay any registration or license fee which the laws of Michigan require said corporation, firm or person to pay to the state dairy and food department, the state dairy and food commissioner may bring a civil suit in the name of the people of the state of Michigan for the use and benefit of the state dairy and food department for the recovery of said registration or license fee.

HISTORY: CL 1915, 6390;—CL 1929, 5422;—CL 1948, 289.71.

DAIRY AND FOOD COMMISSIONER: Office abolished; powers and duties transferred to food and drug commissioner, which in turn had been abolished and superseded by the department of agriculture, see Compilers' §§ 289.2 and 285.2 respectively.

COLLECTION DEPARTMENT: See Act 375 of 1927, being Compilers' § 14.131 et seq.

289.72 Suit to recover fees due; venue, procedure, judgment; disposition of moneys recovered; prerequisite notice to defendant.

Sec. 2. Said suit may be commenced in the circuit court for the county of Ingham or in the circuit court of the county where the principal business office of such defendant corporation, firm or person shall be located and shall be prosecuted in like manner as in civil suits between individuals, and judgment and execution may follow in like manner and costs may be recovered to be taxed as in other civil cases, and all moneys recovered shall be paid into the state treasury for the use and benefit of the state dairy and food department: Provided, That no suit as authorized by this act, shall be commenced until 30 days after the defendant in such suit has been duly notified of his or her delinquency either personally or by registered letter.

HISTORY: CL 1915, 6391;—CL 1929, 5423;—CL 1948, 289.72.

289.73 Expenses.

Sec. 3. All expenses incurred by the state dairy and food commissioner under this act shall be defrayed by the state dairy and food department out of its annual appropriation.

HISTORY: CL 1915, 6392;—CL 1929, 5424;—CL 1948, 299.73.

Act 193, 1895, p. 358; Eff. Aug. 30.

AN ACT to prohibit and prevent adulteration, fraud and deception in the manufacture and sale of articles of food and drink.

The People of the State of Michigan enact:

289.81 Adulterated or misbranded food; sale prohibited.

Sec. 1. No person, firm or corporation by themselves or their agents or servants shall within the state, have in their possession with intent to sell, or offer or expose for sale, or sell any article of food which is adulterated or misbranded within the meaning of this act.

HISTORY: Am. 1897, p. 128, Act 118, Eff. Aug. 30;—CL 1897, 5010;—Am. 1913, p. 279, Act 162, Eff. Aug. 14;—CL 1915, 6473;—CL 1929, 5425;—CL 1948, 299.81. The title of the amendatory act of 1913 lacks accuracy in referring to the sections of CL of 1897 amended.

The title of Amendatory Act 162 of 1913 erroneously refers to this section as being CL 1897, 5110.

PROTECTION OF OWNER OF BRAND: See Compilers' § 750.263 et seq.

289.82 Food; definition.

Sec. 2. The term food as used herein, shall include all articles used for food, drink, confectionery or condiment intended to be eaten or drank by man or other animals, whether simple, mixed or compound.

HISTORY: CL 1897, 5011;—Am. 1913, p. 279, Act 162, Eff. Aug. 14;—CL 1915, 6474;—CL 1929, 5426;—CL 1948, 299.82.

The title of amendatory Act 162 of 1913 erroneously refers to this section as being CL 1897, 5111.

289.83 Adulterated; definition.

Sec. 3. An article shall be deemed to be adulterated within the meaning of this act:

(1) If any substance has been mixed with it so as to lower or depreciate or injuriously affect its quality, strength or purity.

(2) If any inferior or cheaper substance has been substituted wholly or in part for it.

(3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it.

(4) If it consists wholly or in part of a diseased, decomposed, putrid, infected, infested, tainted or rotten animal or vegetable substance or article, whether manufactured or not, or if it is the product, including milk, of a diseased animal or of an animal which has died otherwise than by slaughter.

(5) If it is colored, coated, polished, bleached or powdered whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is.

(6) If it bears or contains any added poisonous or added deleterious substance which is unsafe, or if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe. For the purpose of this subdivision, any poisonous or deleterious substance added to a food, except where such substance is required in the product thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe when it exceeds the limited quantities as established by tolerances determined by the department of agriculture. Nothing in this act shall prevent the coloring of pure butter.

HISTORY: Am. 1897, p. 128, Act 118, Eff. Aug. 30;—CL 1897, 5012;—Am. 1913, p. 279, Act 162, Eff. Aug. 14;—CL 1915, 6475;—CL 1929, 5427;—CL 1948, 299.83;—Am. 1963, p. 396, Act 232, Eff. Sep. 6.
The title of amendatory Act 162 of 1913 erroneously refers to this section as being CL 1897, 5112.

289.83a Misbranded; definition; variations, exemptions.

Sec. 3a. An article shall be deemed to be misbranded within the meaning of this act:

(1) If it is an imitation of or is offered for sale under the name of another article, unless its label contains, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.

(2) If it is labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if its container is so made, formed or filled as to mislead the purchaser as to quantity of contents.

(3) If it purports to be or is represented for special dietary use, unless its label contains such information concerning its vitamin, mineral or other dietary properties as is necessary in order fully to inform the purchaser as to its value for such use.

(4) If it bears or contains any artificial flavor, artificial color or chemical preservative, unless its label states that fact, except as exempted by specific standards.

(5) If in package form every package, box, bottle, basket or other container does not bear the true net weight, excluding the wrapper or container, which shall be stated in terms of pounds, ounces and grains, or pounds and decimals or fractions thereof, avoirdupois weight or the true net measure, which measure, in case of liquids, shall be in terms of gallons of 231 cubic inches or fractions thereof, as quarts, pints and ounces or the true numerical count, as the case may be, expressed on the face of the principal label in plain English words or numerals, so that it can be plainly read. Reasonable variations shall be permitted and tolerances therefor and also exemptions as to small packages shall be established and promulgated by the department of agriculture.

(6) If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular.

(7) If any article of food in package form sold or offered for sale does not bear a label containing in a distinctive and plain manner the name of such article of food, together with the name and address of the manufacturer, distributor, jobber or retail merchant with an established business. Every article of food as defined in the statutes of this state shall be sold by weight, measure or numerical count and as now generally recognized by trade custom, and shall be labeled in accordance with the provisions of the food and beverage laws of this state. Only those products shall be sold by numerical count which cannot well be sold by weight or measure. All foods not liquid, if sold by measure, shall be sold by standard dry measure, the quart of which contains 67-20/100 cubic inches.

HISTORY: Passed over governor's veto. Add. 1913, p. 280, Act 162, Eff. Aug. 14;—Am. 1915, p. 562, Act 311, passed over veto May 19, 1915, Eff. Aug. 24;—CL 1915, 6476;—CL 1929, 5388;—CL 1948, 299.83a;—Am. 1966, p. 234, Act 126, Eff. Aug. 11;—Am. 1957, p. 15, Act 10, Eff. Sep. 27;—Am. 1963, p. 396, Act 232, Eff. Sep. 6.

The title and enacting clause of amendatory Act 311 of 1915 refers to CL 1897, 5112. But Sec. 3a of this act was not added until 1913.

289.84 Sale as butter of product not made exclusively of milk or cream; penalty.

Sec. 4. No person, by himself or his agents or servants, shall manufacture for sale or offer or expose for sale, or sell, as butter, and the legitimate product of the dairy or creamery, any article not made exclusively of milk or cream, but into which the oil or fat of animals or any other oils not produced from milk, enters as a component part, has been introduced to take the place of cream. Whoever violates the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 50 nor more than 500 dollars, and the costs

of prosecution, or by imprisonment in the county jail, or the state house of correction and reformatory at Ionia for not less than 90 days nor more than 2 years, or by both such fine and imprisonment in the discretion of the court for each and every offense.

HISTORY: CL 1897, 5013;—CL 1915, 6477;—CL 1929, 5429;—CL 1948, 289.84.

289.85 Department of agriculture; rules and regulations.

Sec. 5. The department of agriculture may promulgate rules and regulations necessary to administer and enforce this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1963, p. 397, Act 232, Eff. Sep. 6.

Original section 5 of Act 37 of 1913, p. 56, dealt with cheese and its adulteration and was repealed by Act 267 of 1945.

289.86 Director of agriculture; regulations, permits, suspensions; access for inspection.

Sec. 6. (1) Whenever the director of agriculture finds after investigation that the distribution of any class of food, by reason of contamination with microorganisms, may be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered commerce, he then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time as may be necessary to protect the consumers. The director shall issue permits to all manufacturers, processors or packers, which are required to have permits and refusal of the director to issue permits may be appealed to circuit court. After the effective date of the regulations, and during the temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed or packed by such manufacturer, processor, or packer unless the manufacturer, processor, or packer holds a permit issued by the director as provided by the regulations.

Suspension of permit; notice; reinstatement; hearing, inspection; review.

(2) The director may suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a suspended permit at any time may apply for reinstatement of the permit, and the director, after prompt hearing and inspection of the establishment, shall reinstate the permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended. The decision of the hearing shall be subject to review in circuit court.

Access to establishments; denial of access, penalty.

(3) Any officer or employee duly designated by the director shall have access to any factory or establishment the operator of which holds a permit from the director for the purpose of ascertaining whether or not the conditions of the permit are being complied with. Denial of access for the inspection is ground for suspension of the permit until access is freely given by the operator.

HISTORY: Add. 1965, p. 233, Act 148, Imd. Eff. Jul. 12.

Original section 6 of Act 37 of 1913, p. 56, dealt with cheese and its adulteration and was repealed by Act 267 of 1945.

Secs. 7-8.

HISTORY: CL 1897, 5014-17;—Am. 1913, p. 106, Act 73, Eff. Aug. 14;—CL 1915, 6478-81;—Rep. 1923, p. 52, Act 30, Eff. Aug. 30;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. Sec. 6 was amended 1897, p. 129, Act 118, Eff. Aug. 30.

These sections dealt with cheese and its adulteration which subjects are covered in Act 30 of 1923, being Compilers' §§ 288.281 to 288.284.

289.89 Lard substitute; sale as lard prohibited.

Sec. 9. No person shall within this state manufacture for sale, have in his possession with intent to sell, offer or expose for sale, or sell as lard, any substance not the legitimate and exclusive product of the fat of the hog.

HISTORY: CL 1897, 5018;—CL 1915, 6482;—CL 1929, 5430;—CL 1948, 289.89.

289.90-289.92 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for labeling of lard substitutes.

289.93 Imitation fruit butter and jellies; regulation of manufacture and sale; penalty.

Sec. 13. No person, firm or corporation in this state shall manufacture for sale, or sell, or offer or expose for sale, as fruit jelly, or fruit butter, any jelly or imitation fruit butter or other similar compound made or composed in whole or in part of glucose, dextrine, starch, or other substances, and colored in imitation of fruit jelly or fruit butter; nor shall any such jelly, fruit butter or compound be manufactured, or sold, or offered for sale, under any name or designation whatever, unless the same shall be composed entirely of ingredients not injurious to health and shall not be colored in imitation of fruit jelly, and every can, pail or package of such jelly or butter sold in this state shall be distinctly and durably labeled "imitation fruit jelly or butter," with the name of the manufacturer and the place where made. Whoever violates the provisions of this section shall be deemed guilty of a misdemeanor, and when convicted thereof, shall be punished by a fine of not less than 50 nor more than 500 dollars, or by imprisonment in the county jail or state house of correction and reformatory at Ionia for not less than 90 days nor more than 2 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 5023;—CL 1915, 6486;—CL 1929, 5434;—CL 1948, 289.93.

289.94 Canned foods to be free from deleterious substances; labels.

Sec. 14. No packer or dealer in preserved or canned fruits and vegetables, or other articles of food, shall sell or offer for sale such canned articles, unless such articles shall be entirely free from substances or ingredients deleterious to health, and unless such articles bear a mark, stamp, brand or label bearing the name and address of the firm, person or corporation that packs or distributes the same. All "soaked or bleached goods" or goods put up from products dried before canning, shall be plainly marked, branded, stamped or labeled as such, with the words "soaked or bleached goods," in letters not less than 2-line pica in size, showing the name of the article and the name and address of the packer or distributor.

HISTORY: CL 1897, 5023;—Am. 1915, p. 380, Act 226, Eff. Aug. 24;—CL 1915, 6487;—CL 1929, 5435;—CL 1948, 289.94.

289.95 Imitation coffee berry; sale as genuine berry prohibited; labels; molasses, syrup, glucose or mixture, branding.

Sec. 15. No person shall manufacture or sell, or offer for sale any manufactured or artificial coffee berry in imitation of the genuine berry. No person shall manufacture, sell or offer or expose for sale any ground or prepared coffee, which is adulterated with chickory or other substance not injurious to health, unless each package thereof shall be distinctly labeled or marked "coffee compound," together with the name and address of the manufacturer or compounder thereof, and has no other label of whatever name or designation: Provided, however, That each package thereof may be distinctly labeled or marked in type of the same size and kind showing the ingredients contained therein instead of being labeled or marked "coffee compound." No person shall offer or expose for sale, have in his possession with intent to sell, or sell any molasses, syrup or glucose, unless the barrel, cask, keg, can or pail containing the same shall be distinctly branded or labeled with the true and appropriate name; nor shall any person offer or expose for sale, have in his possession with intent to sell, or sell any

molasses or syrup mixed with glucose, unless the barrel, cask, keg or pail containing the same be distinctly branded or labeled "glucose mixture," and the per cent in which glucose enters into its composition. Such barrel, cask, keg or pail shall be branded or labeled in a conspicuous place; and such brands or labels shall be in letters of not less than 1/2 inch in length. Glucose and glucose mixtures shall have no other designation than herein required.

HISTORY: Am. 1897, p. 129, Act 118, Eff. Aug. 30;—CL 1897, 5024;—CL 1915, 6488;—CL 1929, 5436;—Am. 1937, p. 637, Act 324, Imd. Eff. July 27;—CL 1948, 289.95.

289.96 Spirituous, fermented or malt liquors.

Sec. 16. No person shall within this state manufacture, brew, distill, have or offer for sale, or sell, any spirituous or fermented or malt liquors, containing any substance or ingredient not normal or healthful, to exist in spirituous, fermented or malt liquors, or which may be deleterious or detrimental to health when such liquors are used as a beverage.

HISTORY: CL 1897, 5025;—CL 1915, 6489;—CL 1929, 5437;—CL 1948, 289.96.
LIQUOR LAW: See Compilers' § 436.1 et seq.

289.97 Sale construed.

Sec. 17. The taking of orders, or the making of agreements or contracts, by any person, firm or corporation, or by any agent or representative thereof, for the future delivery of any of the articles, products, goods, wares or merchandise embraced within the provisions of this act, shall be deemed a sale within the meaning of this act.

HISTORY: CL 1897, 5026;—CL 1915, 6490;—CL 1929, 5438;—CL 1948, 289.97.

289.98 False branding or marking; penalty.

Sec. 18. Whoever shall falsely brand, mark, stencil or label any article or product required by this act to be branded, marked, stenciled or labeled, or shall remove, alter, deface, mutilate, obliterate, imitate or counterfeit any brand, mark, stencil or label so required, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 100 nor more than 1,000 dollars and the costs of prosecution, or by imprisonment in the county jail or state house of correction and reformatory at Ionia for not less than 6 months nor more than 3 years, or by both such fine and imprisonment in the discretion of the court for each and every offense.

HISTORY: CL 1897, 5027;—CL 1915, 6491;—CL 1929, 5439;—CL 1948, 289.98.

289.99 Violation of act; penalty.

Sec. 19. Whoever shall do any of the acts or things prohibited, or wilfully neglect or refuse to do any of the acts or things enjoined by this act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and where no specific penalty is prescribed by this act shall be punished by a fine of not less than 25 nor more than 500 dollars, or by imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1897, 5028;—Am. 1899, p. 168, Act 117, Imd. Eff. June 15;—CL 1915, 6492;—CL 1929, 5440;—CL 1948, 289.99.

289.100 Duties of various officers.

Sec. 20. It shall be the duty of the dairy and food commissioner of the state to investigate all complaints of violations of this act, and take all steps necessary to its enforcement. It shall be the duty of all prosecuting officers of this state to prosecute to completion all suits brought under the provisions of this act upon the complaint of the commissioner or of any citizen. It shall be the duty of all food inspectors in cities to examine all complaints made to them of violation of this act, and to render assistance in

enforcing its provisions. It shall also be the duty of all health boards in cities and health officers in townships to take cognizance of and report or prosecute all violations of this act that may be brought to their notice or they may have cognizance of, within their jurisdiction.

HISTORY: CL 1897, 5029;—CL 1915, 6493;—CL 1929, 5441;—CL 1948, 289.100.

Sec. 21. (This was a repeal section.)

HISTORY: CL 1915, 6494;—CL 1929, 5442;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 64, 1913, p. 92; Eff. Aug. 14.

AN ACT to define and fix standards of purity for foods, beverages, condiments, confectionary and drugs in this state in prosecutions arising under the food, beverage and drug laws of the state of Michigan.

The People of the State of Michigan enact:

289.111 Food products; legal standards of purity.

Sec. 1. In all prosecutions arising under the food and drug laws of this state for the manufacture or sale of an adulterated, misbranded or otherwise unlawful article of food, drink, condiment or drug, the latest standards of purity for food products, established by the United States secretary of agriculture, shall be accepted as the legal standards, except in cases where other standards are specifically prescribed by the laws of this state.

HISTORY: CL 1915, 6535;—CL 1929, 5443;—CL 1948, 289.111.

Act 411, 1919, p. 737; Eff. Aug. 14.

AN ACT to regulate the business of canning and preserving; and to prescribe penalties for the violations of the provisions of this act. Am. 1941, p. 146, Act 117, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

289.121 Canner's license.

Sec. 1. All persons, firms, corporations and associations except domestic housewives and clubs of boys and girls 20 years of age or under, organized under the jurisdiction and supervision of the Michigan agricultural college or otherwise to compete in canning and other contests are prohibited from engaging in the business of canning or preserving fruits and vegetables for sale without first having been licensed so to do by the food and drug commissioner (commissioner of agriculture) of the state of Michigan.

HISTORY: Am. 1925, p. 290, Act 195, Eff. Aug. 27;—CL 1929, 5444;—CL 1948, 289.121.

FOOD AND DRUG COMMISSIONER: Office abolished; powers and duties transferred to the department of agriculture, see Compilers' 1952.

289.122 Canner's license; issuance, fees, renewal; fees credited to general fund.

Sec. 2. License to engage in the business specified in section 1 shall be granted by the commissioner of agriculture to any person, firm, corporation or association, lawfully entitled to do business within the state, annually, upon the production of evidence satisfactory to the commissioner in such form as he may require that the applicant can and will comply with the provisions of this act, and upon the payment of a license fee of \$25.00. Said license shall expire on the first day of February of each year following the issuance thereof: Provided, That annual licenses renewed on the first

day of July, 1941, shall be renewed until the following first day of February on the payment of a license fee based on the portion of the year covered by said renewal license. Moneys received by the commissioner of agriculture under the provisions hereof shall be paid by him into the state treasury, and any accumulated balance as of June 30, 1949, shall be credited to the general fund.

HISTORY: CL 1929, 5445;—Am. 1941, p. 147, Act 117, Eff. Jan. 10, 1942;—CL 1948, 289.122;—Am. 1949, p. 135, Act 129, Imd. Eff. May 20.

289.123 Factories; location.

Sec. 3. All factories engaged in the business specified in section 1 hereof shall be located so as to receive raw material and distribute their products promptly without danger of damage or deterioration. Such factories shall not be located in any place which is insanitary or which cannot be made sanitary, or in the immediate vicinity of any works from which noxious odors are given off, or in which decomposed substances are kept or used. Such factories shall not be located where refuse and by-products cannot be disposed of in a sanitary manner and in such manner as not to create a nuisance.

HISTORY: CL 1929, 5446;—CL 1948, 289.123.

289.124 Disposition of waste, decomposed matter; retention of by-products.

Sec. 4. Persons, firms, corporations and associations engaged in the business specified in section 1 shall prevent the accumulation of litter, waste, refuse or decomposed matter in or around the buildings, yards or grounds used by them. All liquid waste shall be conducted from the buildings by suitable drains. By-products suitable for other uses may be retained in a sanitary manner. Gross by-products may be stacked or may be placed in silos separate from the factory properly drained.

HISTORY: CL 1929, 5447;—CL 1948, 289.124.

289.125 Buildings and equipment; specifications.

Sec. 5. All buildings used in the canning of fruit and vegetables shall be clean and properly lighted and ventilated. The ceilings shall be of sufficient height to permit ample clearance for all work under any shafting, hangers, piping or other apparatus suspended therefrom. When natural light and ventilation are not sufficient the same shall be augmented by mechanical methods. The interiors of all working rooms shall be kept a light color by paint, whitewash or other similar substances. The floors of all factories shall be water tight and pitched so as to properly drain all waste to the sewers. Gratings shall be provided around cookers and washers and other places where overflow is unavoidable. All scalders, blanchers and tanks of water in which any goods are held shall be provided with a continuous fresh supply of water and an overflow.

HISTORY: CL 1929, 5448;—CL 1948, 289.125.

289.126 Cans; brining or syruing; use of potable water.

Sec. 6. Cans shall not be brined or syrued by submergence. Only potable water shall be used in making syrup or brine, or to wash equipment coming in contact with food.

HISTORY: CL 1929, 5449;—CL 1948, 289.126.

289.127 Sterilization; cleanliness of factory; prevention of dust.

Sec. 7. All tables, pails, pans, trays, utensils, conveyors, machines and floors shall be cleaned and sterilized with steam and water at least as often as at the close of business each day, and as much oftener as is necessary to prevent souring and insure proper

sanitation. Ample water and steam supply shall be furnished to keep the factory clean. Roadways about the factory shall be sprinkled, oiled or otherwise treated to prevent dust.

HISTORY: CL 1929, 5450;—CL 1948, 289.127.

289.128 Washing fruits and vegetables.

Sec. 8. All fruits and vegetables shall be washed before canning.

HISTORY: CL 1929, 5451;—CL 1948, 289.128.

289.129 Wash rooms for employees; drinking fountains; persons not to be employed; tobacco, clothing, dressing rooms; fingernails and hands.

Sec. 9. Wash rooms shall be provided for employees conveniently located and of sufficient size and equipment for the accommodation of all employees. Separate rooms shall be provided for each sex, and such rooms shall be equipped with running water and provided with individual and sanitary towels and plenty of soap. Sanitary drinking fountains shall be conveniently placed for employees, and the use of common drinking cups or cans or apparatus used about the factory for drinking purposes is prohibited. No person afflicted with any infectious or contagious disease, or who is suffering from any infected wound shall be employed or shall work in any factory engaged in the business specified herein. The use of tobacco and spitting on the floor is prohibited. Employees shall be properly clothed for the work they are to do, and if a change from street clothing to working clothing is necessary, dressing rooms for each sex shall be provided by the employer with suitable hangers or lockers. Employees are required to keep their finger nails clean and short, and to wash their hands each time before commencing their work after any absence from the work room.

HISTORY: CL 1929, 5452;—CL 1948, 289.129.

289.130 License; suspension, revocation.

Sec. 10. The food and drug commissioner shall have authority to suspend any license granted by him upon cause shown, and any circuit court may revoke any license which has been granted hereunder upon the filing of a petition therefor by the food and drug commissioner or by the prosecuting attorney of the county and the practice and procedure upon such petition shall be the same as in civil actions at law.

HISTORY: CL 1929, 5453;—CL 1948, 289.130.

289.131 License; violators of act required to give bond; payment of producers by licensees required before renewal.

Sec. 11. License shall not be granted to persons, firms, corporations and associations who shall have been convicted of violating any of the provisions of this act in the preceding year until in addition to the showing required by section 2 hereof and the payment of the fee hereinbefore provided they shall in the discretion of the commissioner give a bond with 1 or more sureties to be approved by the commissioner conditioned that they shall under penalty of not less than \$500.00 nor more than \$10,000.00 obey the provisions of this act.

Renewal license shall not be granted to any licensee until said licensee shall have reimbursed producers for purchases of fruits or vegetables during the preceding year unless otherwise provided for by written contract.

HISTORY: CL 1929, 5454;—Am. 1941, p. 147, Act 117, Eff. Jan. 10, 1942;—CL 1948, 289.131.

289.132 Duties of commissioner; rules.

Sec. 12. It shall be the duty of the food and drug commissioner to foster and encourage the canning industry in this state, and for that purpose, he shall investigate the general conditions of canning factories with full power to himself, his deputies or inspectors, to enter upon any premises for such investigation with the object in view of improving the quality and creating and maintaining uniformity of the products canned

and produced in such factories. The commissioner shall, as soon as practicable after this law becomes effective, make such rules and regulations as he deems necessary to successfully carry into effect the provisions of this act.

HISTORY: CL 1929, 5455;—CL 1948, 289.132.

289.133 Violation of act; penalty.

Sec. 13. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 25 dollars, nor more than 500 dollars or by imprisonment in the county jail for not more than 90 days or by both fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5456;—CL 1948, 289.133.

289.141, 289.142 Repealed. 1968, p. 75, Act 39, Eff. Jan. 1, 1969.

Sections related to branding of products containing preservatives; exceptions; penalty.

Act 165, 1943, p. 228; Imd. Eff. Apr. 17.

AN ACT to permit the manufacture and sale of foods, beverages and drinks for human consumption by the use of saccharin, sodium cyclamate or calcium cyclamate, or a combination thereof, when so labeled; and to repeal conflicting acts. Am. 1955, p. 665, Act 275, Eff. Oct. 14;—Am. 1956, p. 35, Act 29, Imd. Eff. Mar. 28.

The People of the State of Michigan enact:

289.151 Saccharin, sodium cyclamate or calcium cyclamate; use for sweetening, labeling.

Sec. 1. It shall be lawful for any person, firm or corporation to manufacture and sell or cause to be sold within the state of Michigan any article of food, beverage or drink intended for human consumption, when the same is sweetened or made palatable with saccharin, sodium cyclamate or calcium cyclamate, or a combination thereof: **Provided**, That the package containing said food, beverage or drink in which the same is offered for sale to the public bears a label stating that it is sweetened with saccharin, sodium cyclamate or calcium cyclamate, or a combination thereof, and designed to be used by those where sugar is restricted in the diet and may be used only for special dietary products and then only when the labeling conforms to the special regulations of the federal food, drug and cosmetic act.

HISTORY: CL 1948, 289.151;—Am. 1955, p. 665, Act 275, Eff. Oct. 14;—Am. 1956, p. 35, Act 29, Imd. Eff. Mar. 28.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 344, 1917, p. 854; Eff. Aug. 10.

AN ACT to regulate warehouses, cold storage plants, slaughter houses and other places where articles of food are manufactured for sale, received, kept, stored, sold or offered for sale, and to provide for enforcement and inspection; and to prescribe penalties for the violation of the provisions of this act. Am. 1937, p. 197, Act 125, Imd. Eff. Jun. 26.

The People of the State of Michigan enact:

289.201 Sanitary conditions in warehouses, cold storage plants, slaughter houses; unfit food.

Sec. 1. It shall be unlawful to permit filthy or insanitary conditions to exist in the operation of any warehouse, cold storage plant, slaughter house or other place within the state in which food intended for human consumption is manufactured for sale, slaughtered, received, kept, stored, sold or offered for sale, and it shall further be unlawful to place, receive or keep, or distribute in or from any warehouse, cold storage plant, slaughter house, store or other place where food products intended for human consumption are kept, any article intended for sale as food if same is diseased, decomposed, putrid, infected or tainted.

HISTORY: CL 1929, 5459;—CL 1948, 289.201.

SLAUGHTER HOUSES: In cities and villages, see Compilers' §§ 327.101 to 327.111; and within one mile of any city or village, see Compilers' § 750.533; within twenty rods of any public highway, see Compilers' § 750.534.

MEAT INSPECTORS: See Compilers' § 327.101 et seq.

289.202 Dairy and food commissioner; powers and duties.

Sec. 2. The dairy and food commissioner shall make necessary rules and regulations to carry into effect all legislative enactments pertaining to the manufacture for sale, receiving, keeping, storing, selling or offering for sale of food products intended for human consumption, and such commissioner, his deputy or inspectors shall, for the purposes of inspection and to take samples for analysis, have right to entrance to warehouses, cold storage plants, slaughter houses and other places where food products are manufactured for sale, placed, received, kept, stored, sold or offered for sale.

HISTORY: CL 1929, 5480;—CL 1948, 289.202.

DAIRY AND FOOD COMMISSIONER: Office abolished; powers and duties transferred to food and drug commissioner, which in turn has been abolished and superseded by the department of agriculture, see Compilers' §§ 289.2 and 285.2 respectively.

289.203 Violation of act; penalty.

Sec. 3. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: Add. 1937, p. 198, Act 125, Imd. Eff. June 26;—CL 1948, 289.203.

Act 355, 1941, p. 617; Eff. Jan. 10, 1942.

AN ACT to regulate the maintenance and operation of frozen food locker plants; to provide for the licensing thereof including the packing therein of frozen fruits and vegetables for resale, and to prescribe the license fee therefor; to authorize the commissioner of agriculture to enforce the provisions of this act and to make rules and regulations to carry out the purposes thereof; and to prescribe penalties for the violation of the provisions of this act. Am. 1943, p. 155, Act 117, Imd. Eff. Apr. 13.

The People of the State of Michigan enact:

289.211 Frozen food locker plants; definitions.

Sec. 1. Definitions. The following terms as used in this act shall have the meaning ascribed to them in this section.

"Frozen food locker plant" shall mean any place artificially cooled to or below a temperature of 45 degrees above zero Fahrenheit in which "articles of food" are sharp frozen and stored in lockers, such lockers being rented to the public.

"Articles of food" shall mean and include fresh meat as defined in Act No. 193 of the Public Acts of 1895, being section 5426 of the Compiled Laws of 1929, fresh meat products, and all eggs, butter and butter substitutes, fruits and vegetables.

“Fresh meat” shall refer to meat from animals recently slaughtered and properly cooled until delivered to the consumer. The term “animals” as used herein shall include not only mammals, but also fish, fowl, crustaceans, mollusks and all other animals used as food.

“Fresh meat products” shall refer to and include all meat trimmings, meat byproducts and meat products made from fresh meat except such products other than fish as are sold in the smoked, salted or cured condition.

“Fruits” shall refer to the clean, sound, edible, fleshy fructifications of plants, distinguished by their sweet, acid and ethereal flavors.

“Vegetables” shall refer to the succulent, clean, sound, edible parts of herbaceous plants used for culinary purposes.

“Person” shall include 1 or more natural persons, copartnerships, associations or corporations.

HISTORY: CL 1948, 289.211.

NOTE: Act 193, 1965, above referred to, is Compilers' § 289.81 et seq.

289.212 Frozen food locker plants; license, application, fee.

Sec. 2. No person shall maintain or operate any frozen food locker plant unless he is the holder of a license therefor issued by the commissioner of agriculture and is in full force and effect. Application for such license shall be made upon forms to be prescribed and furnished by the commissioner of agriculture, specifying such information as he may require, be accompanied with a fee equal to 2 cents per locker for each locker located in the frozen food locker plant sought to be licensed, but such fee shall in any event be at least \$5.00; such license shall expire of its own limitations upon the thirty-first day of December next following the issuance thereof. Renewal license may be obtained upon filing an application therefor upon forms to be prescribed and furnished by the commissioner of agriculture specifying such information as he may require and upon paying the fee above prescribed for the original license. No license issued under the provisions of this act shall be transferable.

HISTORY: CL 1948, 289.212.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

289.213 Commissioner of agriculture to enforce act; rules; inspections.

Sec. 3. The commissioner of agriculture shall be charged with the enforcing of the provisions of this act; he shall make rules and regulations as may be incidental to or necessary for enforcement of the provisions of this act and the protection of the public health. The commissioner of agriculture, his deputies and any representative of the department of agriculture shall have the right at any time during reasonable business hours to inspect any frozen food locker plant licensed hereunder and it shall be their duty to inspect the same prior to the issuance of an original license to any such plant under this act.

HISTORY: CL 1948, 289.213.

289.214 Revocation or suspension of license.

Sec. 4. The commissioner of agriculture shall have the power to revoke any license issued under the provisions of this act whenever the provisions of this act, or the rules and regulations adopted by the commissioner pursuant to the provisions thereof have been violated. Any person whose license has been so revoked shall discontinue the operation of such frozen food locker plant until the provisions of this act and of said rules and regulations have been complied with and a new license issued. The commissioner of agriculture may in his discretion either suspend such license temporarily until there has been a compliance of such conditions as he may prescribe, or permanently for the unexpired period of such license.

HISTORY: CL 1948, 289.214.

289.215 Revocation or suspension of license; notice, hearing.

Sec. 5. Before revoking or suspending any license, the commissioner of agriculture shall give written notice to the licensee affected, stating that he contemplates the revocation or suspension thereof and giving his reasons therefor; said notice shall designate a time and place for appearing before the commissioner and shall be mailed by registered mail to the licensee at the address shown upon the records of the commissioner of agriculture. At such hearing the licensee may present such evidence to the commissioner of agriculture as he deems fit, and after hearing all the testimony, the commissioner shall decide the question in such manner as to him appears just and right.

HISTORY: CL 1948, 289.215.

289.216 Revocation or suspension of license; appeal.

Sec. 6. Any licensee who feels aggrieved at the decision of the commissioner may appeal from said decision within 10 days by writ of certiorari to the circuit court of the county in which such frozen food locker plant is situated.

HISTORY: CL 1948, 289.216.

289.217 Moneys credited to general fund.

Sec. 7. Any moneys collected hereunder by the commissioner of agriculture shall be deposited at the state treasury and any accumulated balance as of June 30, 1949, shall be credited to the general fund.

HISTORY: CL 1948, 289.217.—Am. 1949, p. 138, Act 128, Imd. Eff. May 20.

289.218 Violation of act or rules; penalty.

Sec. 8. Any person who shall do any of the acts or things prohibited, or neglect, or refuse to do any of the acts or things required either by this act, or by the rules and regulations of the commissioner of agriculture adopted pursuant to this act, or in any way violates any of the provisions or said rules and regulations shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment at the discretion of the court.

HISTORY: CL 1948, 289.218.

289.219 Packing for resale of frozen fruits and vegetables not deemed canning and preserving.

Sec. 9. The packing for resale of frozen fruits and vegetables in any frozen food locker plant duly licensed hereunder shall not be deemed "canning and preserving" within the meaning of Act No. 411 of the Public Acts of 1919, as amended; and any license issued hereunder shall be inclusive of the right to pack frozen fruits and vegetables for resale, subject to the provisions of this act and the rules and regulations herein authorized.

HISTORY: Add. 1943, p. 155, Act 117, Imd. Eff. April 13;—CL 1948, 289.219.

NOTE: Act 411, 1919, above referred to, is Compilers' § 289.121 et seq.

289.231-289.242 Repealed. 1952, p. 379, Act 228, Eff. Sep. 18.

Sections prohibited sale of adulterated sausages and provided for grading, licensing and labeling.

Act 340, 1913, p. 645; Eff. Aug. 14.

AN ACT to prevent and punish the sale of immature and unwholesome calves, pigs, kids and lambs. Am. 1959, p. 218, Act 156, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

289.251 Immature veal, transportation or sale unlawful; deacons; unwholesome meat from young animals; possession.

Sec. 1. No person shall transport in interstate or intrastate commerce, or sell for transportation in interstate or intrastate commerce, any calf unless such calf is at least 1 week old. This provision shall not apply to transportation or sale of live calves known as deacons from 1 farmer to another. No person shall sell, offer or expose for sale, for human consumption, the carcass or meat of calves, pigs, kids or lambs which are unwholesome. The carcasses or meat shall be declared unwholesome if (1) the carcass or meat has the appearance of being water soaked, is loose, flabby, tears easily and can be perforated with the fingers; or (2) if its color is grayish red; or (3) if good muscular development as a whole is lacking, especially noticeable on the upper shank of the leg, where small amounts or serous infiltrates or small edematous patches are sometimes present between the muscles; or (4) if the tissue which later develops as the fat capsule of the kidneys is edematous, dirty yellow or grayish red, tough and intermixed with islands of fat. Such carcasses or meats as herein described and declared to be unwholesome shall be condemned. Possession of such carcass or meat in any place where meat for human consumption is stored, sold or offered for sale shall be evidence of possession of such carcass or meat for sale. This section shall not be deemed to prohibit the shipment in interstate commerce of hog-dressed young veal calves, commonly known as "deacons".

HISTORY: CL 1915, 6514;—CL 1929, 5469;—Am. 1945, p. 226, Act 162, Eff. Sep. 6;—CL 1948, 289.251;—Am. 1952, p. 322, Act 206, Imd. Eff. Apr. 29;—Am. 1959, p. 218, Act 156, Eff. Mar. 19, 1960.

289.252 Violation of act; penalty.

Sec. 2. Whoever shall do any of the acts or things prohibited by this act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than 25 dollars nor more than 100 dollars, and the costs of the prosecution, or by imprisonment in the county jail not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 6515;—CL 1929, 5470;—CL 1948, 289.252.

289.253 Declaration of necessity.

Sec. 3. This act is immediately necessary for the public health.

HISTORY: CL 1915, 6516;—CL 1929, 5471;—CL 1948, 289.253.

Act 166, 1957, p. 187; Eff. Sep. 27.

AN ACT to prevent the false advertising of meat and meat products; to specify the proper conditions of display and storage of meat and meat products; to provide for the enforcement of the provisions of this act, inspection and procurement of samples; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

289.261 False advertising of meat and meat products.

Sec. 1. It shall be unlawful for any person, partnership or corporation to:

(a) Make, publish, disseminate, circulate or place before the public any advertisement containing any assertion, representation or statement which is untrue, deceptive or misleading or falsely represents the kind, classification, grade or quality of meat;

(b) Use any term of quality without using or having for sale the quality of meat advertised or offered for sale;

- (c) Use the term "USDA" unless the official grade is also designated; or
- (d) Designate or use any brand name of a company unless the meat so advertised or displayed for sale is of a quality which the use or designation of the brand name of such company would reasonably indicate.

HISTORY: New 1957, p. 187, Act 188, Eff. Sep. 27.

289.262 Unlawful advertising or display.

Sec. 2. It shall be unlawful to advertise or display for sale:

- (a) Any meat of the ovine species that is 2 years old or over as "yearling" or "lamb." Such meat shall be clearly designated "mutton";
- (b) Any meat described by the use of the words "prime," "choice" or "good" unless such meat advertised for sale actually bears the "USDA" federal stamp designating such grade or is of equal quality as the federal grade would designate;
- (c) Any ham unless the advertisement or display states whether the ham is skinned or regular;
- (d) Any ham portion described by the use of the words "one-half" or "half ham" that has had a center slice removed;
- (e) Any pork shoulder described as "ham"; or
- (f) Any meat or meat product which has been branded or marked as imitation by a manufacturer or processor unless the advertisement or display clearly states that such meat or meat product is an imitation.

HISTORY: New 1957, p. 187, Act 188, Eff. Sep. 27.

289.263 Substitutions.

Sec. 3. It shall be unlawful to substitute in any sale any inferior or cheaper cut of meat without informing the purchaser that such substitution is being made.

HISTORY: New 1957, p. 188, Act 188, Eff. Sep. 27.

289.264 Temperature of refrigerated meats.

Sec. 4. It shall be unlawful to keep or display any canned meats or canned meat products at a temperature exceeding 50 degrees Fahrenheit if the label of such meats or meat products specifies that they shall be kept under refrigeration.

HISTORY: New 1957, p. 188, Act 188, Eff. Sep. 27.

289.265 Director of agriculture; enforcement, inspection.

Sec. 5. The director of agriculture is hereby charged with the enforcement of sections 1, 2, 3 and 4, and pursuant thereto is given the right to enter without warrant any premises where meat or meat products are sold or offered for sale, while the premises are open for business, to inspect the same as to grade or quality, quantity or cut, temperature or other conditions as to display or storage.

HISTORY: New 1957, p. 188, Act 188, Eff. Sep. 27.

289.266 Samples for inspection.

Sec. 6. Whenever it becomes necessary for the purposes of this act to procure a sample or samples of meat or meat products, the person in charge of the place where inspection is made must permit the same to be obtained upon being tendered the advertised or offered price of the item being procured.

HISTORY: New 1957, p. 188, Act 188, Eff. Sep. 27.

289.267 Violation of act.

Sec. 7. Any person, which includes private corporations, copartnerships and unincorporated or voluntary associations who shall violate any of the provisions of this act, shall be guilty of a misdemeanor.

HISTORY: New 1957, p. 188, Act 188, Eff. Sep. 27.

289.268 Application of act.

Sec. 8. This act shall not apply to retail sales of prepared foods served on the premises.

HISTORY: New 1957, p. 188, Act 166, Eff. Sep. 27.

289.301-289.313 Repealed. 1963, p. 434, Act 244, Eff. Sep. 6.

Sections prohibited sale of unfit eggs and provided for regulation of advertising and labeling.

Act 244, 1963, p. 432; Eff. Sep. 6.

AN ACT to promote the egg industry in this state; to provide for federal quality and size standards for eggs; to regulate the processing, marking, branding, advertising and sale of eggs, and the licensing of egg breaking establishments; and to provide penalties for the violation of this act. Am. 1964, p. 125, Act 131, Eff. Aug. 28.

The People of the State of Michigan enact:

289.321 Eggs; definitions.

Sec. 1. As used in this act:

- (a) "Director" means the director of agriculture.
- (b) "Person" means an individual, partnership, association, corporation and any other business unit, or a receiver, trustee or assignee thereof.
- (c) "Producer" means a person directly responsible for the production of eggs from domesticated chickens.
- (d) "First receiver" means a person who receives eggs from a producer at any place of business where such eggs are to be candled, graded, sorted and packed or packaged.
- (e) "Wholesaler" means a person who sells eggs to anyone for resale to a consumer.
- (f) "Retailer" means a person offering or selling eggs direct to a consumer.
- (g) "Consumer" means a person purchasing eggs for his own family use or consumption.
- (h) "Candling" means the examination, in a partially darkened room or place, of the interior of an egg by twirling the same before a bright light passing through an aperture in an opaque shield or by another approved method.
- (i) "Atmospheric temperature" means temperature of the atmosphere within the enclosure in which the temperature is being measured.

HISTORY: New 1963, p. 432, Act 244, Eff. Sep. 6;—Am. 1965, p. 202, Act 132, Eff. Mar. 31, 1966.

289.321a United States department of agriculture, state director of agriculture; standards.

Sec. 1a. Whenever the terms "standard" or "standards of quality and grade" are used in this act they shall mean those standards not less than those established by the United States department of agriculture and promulgated by the state director of agriculture.

HISTORY: New 1963, p. 432, Act 244, Eff. Sep. 6.

289.322 Eggs unfit for human consumption; denaturing, destruction.

Sec. 2. No person shall sell, offer or expose for sale to the consumer or to the retail trade, or have in his possession with intent to sell to the consumer or to the retail trade, any egg which is unfit for human food. Such an egg shall be broken out of the shell and denatured or destroyed by methods approved by the director so that it cannot be used for human food.

HISTORY: New 1963, p. 432, Act 244, Eff. Sep. 6.

289.323 Eggs unfit for human consumption; description of unfit eggs.

Sec. 3. Eggs described by the United States department of agriculture as black rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, stuck yolks, blood rings, or embryos beyond blood ring stage, moldy eggs, musty eggs, bloody whites, crusted yolks, eggs with abnormal odors, and any eggs which contain wholly or in part a tainted, disease, filthy, decomposed or putrid substance are deemed to be unfit for human food. Such eggs shall be denatured or disposed of by a method approved by the director.

HISTORY: New 1963, p. 432, Act 244, Eff. Sep. 6.

289.324 False or misleading advertising; sale prohibited.

Sec. 4. No person shall sell, offer or expose for sale, or advertise for sale, eggs for human consumption, if the package containing them, or any stamp or label on the package or on the eggs, or any advertising concerning or accompanying them, shall bear any statement, symbol or device regarding the eggs which may be false or misleading in any particular.

HISTORY: New 1963, p. 432, Act 244, Eff. Sep. 6.

289.325 Visual examination; certification of results; evidence.

Sec. 5. The final determination of all grade and quality factors of an official sample of shell eggs, shall be made by visual examination of the egg to determine cleanliness, soundness of shell and exterior quality, and by candling or breaking to determine interior quality. The examination shall be made by a competent representative authorized by the director. The representative shall certify the results of the examination and his certificate shall be prima facie evidence of the facts therein certified to in any court where the certificate is offered in evidence.

HISTORY: New 1963, p. 433, Act 244, Eff. Sep. 6.

289.326 Grades; standards, nomenclature.

Sec. 6. (a) All standards of quality and grades for shell eggs in this state shall conform to the latest standards of quality and grades for eggs prescribed and promulgated by the director, or the United States department of agriculture except tolerances designated in section 10.

(b) For the purpose of interpreting grade specifications and terms descriptive of exterior and interior quality the latest specifications for official United States standards or standards prescribed and promulgated by the director for individual eggs shall be used.

(c) The voluntary use of the United States standards and grades for eggs and their nomenclature in accordance with the rules and regulations prescribed by the United States department of agriculture, cooperating with the state department of agriculture, is adopted.

HISTORY: New 1963, p. 433, Act 244, Eff. Sep. 6.

289.327 Grades as to size; designation in advertising, container label.

Sec. 7. All eggs sold, offered or exposed for sale, or advertised for sale by a retailer or wholesaler shall be marked to conform to one of the following size requirements. When the term "jumbo" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 30 ounces per dozen, with no eggs below the rate of 29 ounces per dozen. When the term "extra large" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 27 ounces per dozen with no eggs below the rate of 26 ounces per dozen. When the term "large" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 24 ounces per dozen, with no eggs below the rate of 23 ounces per dozen. When the term "medium" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 21 ounces per

dozen, with no eggs below the rate of 20 ounces per dozen. When the term "small" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 18 ounces per dozen with no eggs below the rate of 17 ounces per dozen. When the term "peewee" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 15 ounces per dozen. All advertising shall include the correct unabbreviated size designation in describing eggs and the correct unabbreviated size designation shall also appear on the exterior of any container, open or closed, in which eggs are offered for sale to the retailer or the consumer.

HISTORY: New 1963, p. 433, Act 244, Eff. Sep. 6.

289.328 Representation as fresh.

Sec. 8. No person by himself or his agents or servants shall sell, offer or expose for sale, advertise, or in any manner represent for sale as strictly fresh, hennery, new laid, best, grade A, number 1, fancy, special, extra, selected, direct from the farm, or under any word, figures, symbols, or description of similar import, any eggs which are not fresh. No egg shall be deemed fresh which does not meet the standards of quality specified for the U.S. AA or A quality, or the equivalent thereof, as designated in the latest United States department of agriculture standards for individual eggs or standards prescribed and promulgated by the director.

HISTORY: New 1963, p. 433, Act 244, Eff. Sep. 6.

289.329 Quality markings.

Sec. 9. All eggs sold, offered or exposed for sale, or advertised for sale by a retailer or wholesaler shall be labeled or marked to conform to one of the following grade requirements:

(a) Eggs which fully meet the specifications of U.S. AA quality or fresh fancy quality, or the equivalent thereof, as described in the latest United States department of agriculture standards for individual eggs, shall be labeled and advertised as grade AA or fresh fancy eggs, Michigan seal of quality eggs, grade A or grade B eggs.

(b) Eggs which fully meet the specifications of the U.S. A quality, or the equivalent thereof, as described in the latest United States department of agriculture standards for individual eggs, shall be labeled and advertised as grade A or grade B eggs.

(c) Eggs which fully meet the specifications of a U.S. B quality, or the equivalent thereof, as described in the latest United States department of agriculture standards for individual eggs, shall be labeled and advertised as grade B eggs.

HISTORY: New 1963, p. 433, Act 244, Eff. Sep. 6.

289.329a Cull eggs; egg breaking plant, license, fee.

Sec. 9a. Eggs described in the United States department of agriculture standards for individual shell eggs, as cracks, checks, dirties or grade c eggs, may not be offered for sale or sold, in the shell. Such eggs may be broken out of the shell at the grading plant or grading station or may be offered for sale or sold to an egg breaking plant. All egg breaking plants shall be licensed by the director before engaging in the business of breaking out eggs. Application for license shall be made to the director upon forms furnished by him which contain such information as he may require and shall be accompanied by a fee of \$10.00. After satisfactory investigation, the director shall issue to the applicant a license to operate an egg breaking plant. All licenses shall expire on December 31 following the date of issuance and shall be renewed annually on or before January 1 upon payment of a fee of \$10.00. All egg breaking plants shall comply with the sanitary and food laws of the state. The director may revoke, refuse or suspend any license when he determines that the provisions of this act have been violated.

HISTORY: Add. 1964, p. 125, Act 131, Eff. Aug. 28.

289.330 Quality tolerances.

Sec. 10. Not more than 10% of the eggs of any given lot may be below the designated quality, and not less than 80% of the eggs below the designated quality shall meet the requirements for the next lower quality. Not more than 3% of the eggs of any given lot may be below the minimum weight requirements for that designated weight class, and the eggs below the designated size shall meet the requirements for the next lower size. The dozen or the average weight of all eggs in a given lot shall not be less than the minimum requirements for that size designation.

HISTORY: New 1963, p. 434, Act 244, Eff. Sep. 6.

289.331 Incubated eggs; definition, sale, denaturing or destruction, research or pharmaceutical use.

Sec. 11. "Incubated eggs" include all eggs which have been subjected to incubation practices, whether natural or artificial, for more than 48 hours. It is unlawful to transport, sell, offer for sale or advertise for sale incubated eggs in the shell. Incubated eggs shall be denatured or disposed of on the premises where such eggs were incubated, by a method approved by the director. Incubated eggs produced for research or pharmaceutical purposes may be removed from the premises upon the written approval of the director.

HISTORY: New 1963, p. 434, Act 244, Eff. Sep. 6.

289.332 Temperature control.

Sec. 12. Any person engaged in the business of buying for resale, selling, dealing in, trading in, transporting, candling, grading, sorting, packing or packaging eggs for human consumption shall maintain the temperature of the eggs not to exceed 60 degrees Fahrenheit except when such eggs are being candled, graded, sorted, packed or packaged, or transported to a first receiver. When eggs are being candled, graded, sorted, packed or packaged the atmospheric temperature in the working area, as measured 5 feet above the floor, shall not exceed 75 degrees Fahrenheit.

HISTORY: New 1963, p. 434, Act 244, Eff. Sep. 6.

289.333 Sale by producer to consumer or first receiver.

Sec. 13. All producers shall comply with this act except those selling eggs of their own production direct to consumers or when delivering or selling to a first receiver.

HISTORY: New 1963, p. 434, Act 244, Eff. Sep. 6.

289.334 State director of agriculture; rules and regulations.

Sec. 14. The director may make reasonable rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, in the enforcement of the provisions of this act.

HISTORY: New 1963, p. 434, Act 244, Eff. Sep. 6.

289.335 Violations of act; penalty.

Sec. 15. Any person who violates any provision of this act shall be guilty of a misdemeanor.

HISTORY: New 1963, p. 434, Act 244, Eff. Sep. 6.

289.336 Repeal.

Sec. 16. Act No. 115 of the Public Acts of 1939, as amended, being sections 289.301 to 289.313 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1963, p. 434, Act 244, Eff. Sep. 6.

289.401-289.418 Repealed. 1963, p. 201, Act 146, Eff. Sep. 6;—1969, p. 194, Act 106, Eff. Mar. 20, 1970.

Sections provided for regulation of manufacture, bottling and sale of soft drinks and beverages; exemption; penalty; enforcement by commissioner of agriculture; standard for distilled water.

Act 208, 1903, p. 309; Eff. Sep. 17.

AN ACT in relation to the manufacture and sale of buckwheat flour.

The People of the State of Michigan enact:

289.501 Buckwheat flour compound; sale without label prohibited.

Sec. 1. Within this state no person shall manufacture, offer or expose for sale, keep in possession with intent to sell, or sell any ground buckwheat containing any product of wheat, corn, rice or other foreign substance, unless each and every package thereof be distinctly and legibly branded or labeled "Buckwheat Flour Compound" in letters not less than 1/2 inch in length and be followed with the name of the maker and factory and the location of such factory.

HISTORY: CL 1915, 6452;—CL 1929, 5481;—CL 1948, 289.501.

FORMER ACT: Act 84 of 1897, being CL 1897, 4994-5002.

SALE AS MICHIGAN WHEAT: See Compilers' §§ 429.103 and 429.104.

289.502 Distinguishing label; printed matter.

Sec. 2. Any brand or label herein required shall be an inseparable part of the general or distinguishing label, and such label shall be that principal and conspicuous sign under which it is sold, and any other label or printed matter upon the package shall not be in contravention of the requirements of this act.

HISTORY: CL 1915, 6453;—CL 1929, 5482;—CL 1948, 289.502.

289.503 Possession deemed intent to sell.

Sec. 3. The having in possession of any buckwheat flour compound, which is not branded or labeled as hereinbefore required and directed upon the part of any person engaged in the public or private sale of such article, shall, for the purpose of this act, be deemed prima facie evidence of intent to sell the same.

HISTORY: CL 1915, 6454;—CL 1929, 5483;—CL 1948, 289.503.

289.504 Sale.

Sec. 4. The taking of orders or the making of agreements or contract by any person, firm or corporation or by any agent or representative thereof, for the future delivery of buckwheat flour compound shall be deemed a sale within the meaning of this act.

HISTORY: CL 1915, 6455;—CL 1929, 5484;—CL 1948, 289.504.

289.505 Violation of act; penalty.

Sec. 5. Whoever shall do any of the acts or things prohibited, or neglect or refuse to do any of the acts or things enjoined by this act, or in any way violate any of the provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than 25 dollars nor more than 100 dollars, or by imprisonment in the county jail for a period of not less than 30 nor more than 90 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 6456;—CL 1929, 5485;—CL 1948, 289.505.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1915, 6457;—CL 1929, 5486;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 418, 1919, p. 750; Eff. Aug. 14.

AN ACT to provide for the manufacture and sale of black pepper, white pepper, red pepper, cloves and nutmegs, and to provide a penalty for the violation of this act.

The People of the State of Michigan enact:

289.521 Black pepper; standards.

Sec. 1. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole black pepper which contains not less than 6-75/100 per cent of non-volatile ether extract, not less than 30 per cent of starch, not more than 7 per cent of total ash, nor more than 1 and 5/10 per cent of ash insoluble in hydrochloric acid.

HISTORY: CL 1929, 5487;—CL 1948, 289.521.

FORMER ACT: This act undoubtedly supersedes Act 180 of 1901, being CL 1915, 6519-6520.

SALT: Act 29 of 1869, being CL 1897, 4911 to 4953, providing standards for salt, was repealed by Act 1 of 1913.

289.522 White pepper; standards.

Sec. 2. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole white pepper which contains not less than 7 per cent of non-volatile ether extract, not less than 52 per cent of starch, not more than 5 per cent of crude fiber, not more than 3-5/10 per cent of total ash, nor more than 3/10 per cent of ash insoluble in hydrochloric acid.

HISTORY: CL 1929, 5488;—CL 1948, 289.522.

289.523 Red pepper; standards.

Sec. 3. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole red pepper which contains not more than 8 per cent of total ash, nor more than 1 per cent of ash insoluble in hydrochloric acid.

HISTORY: CL 1929, 5489;—CL 1948, 289.523.

289.524 Cloves; standards.

Sec. 4. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver any ground or whole cloves which contain not more than 5 per cent of clove stems, not less than 15 per cent of volatile ether extract, not less than 12 per cent of quercitannic acid (calculated from the total oxygen absorbed by the aqueous extract), not more than 10 per cent of crude fiber, not more than 7 per cent of total ash, nor more than 5/10 per cent of ash insoluble in hydrochloric acid.

HISTORY: CL 1929, 5490;—CL 1948, 289.524.

289.525 Nutmegs; standards.

Sec. 5. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole nutmegs which contain not less than 25 per cent of non-volatile ether extract, not more than 10 per cent of crude fiber, not more than 5 per cent of total ash, nor more than 5/10 per cent of ash insoluble in hydrochloric acid.

HISTORY: CL 1929, 5491;—CL 1948, 289.525.

289.526 Violation of act; penalty.

Sec. 6. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not more than 500 dollars and costs of prosecution or by imprisonment in the county jail not more than 100 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5492;—CL 1948, 289.526.

Sec. 7. (This was a repeal section.)

HISTORY: CL 1929, 5493;—Rep. 1945, p. 405, Act 287, Imd. Eff. May 25.

289.541, 289.542 Repealed. 1968, p. 75, Act 39, Eff. Jan. 1, 1969.

Sections regulated sale of corn syrup; labeling; penalty.

Act 384, 1913, p. 729; Eff. Aug. 14.

AN ACT in relation to the manufacture and sale of vinegar, and to repeal Act No. 71 of the Public Acts of 1897, being sections 5003 to 5006 inclusive of the Compiled Laws of 1897, and all other acts and parts of acts inconsistent with this act.

The People of the State of Michigan enact:

289.551 Vinegar; unlawful manufacture or sale.

Sec. 1. No person shall manufacture for sale, offer or expose for sale, sell or deliver, or have in his possession with intent to sell or deliver, any vinegar not in compliance with the provisions of this act.

HISTORY: CL 1915, 6458;—CL 1929, 5506;—CL 1948, 289.551.

FORMER ACT: Act 71 of 1897, being CL 1897, 5003-5006.

289.552 Vinegar; definition, source.

Sec. 2. The word "vinegar" as used herein is limited to a water solution of acetic acid derived by the alcoholic and subsequent acetous fermentations of fruits, grain, vegetables, sugar or syrups, and if not distilled must carry in solution the extractive matter derived solely from the substances indicated on the label as its source.

HISTORY: CL 1915, 6459;—CL 1929, 5507;—CL 1948, 289.552.

289.553 Cider vinegar; definition, labeling.

Sec. 3. No vinegar shall be sold or exposed for sale as apple or cider vinegar which is not the legitimate product of pure apple juice. The term "cider vinegar" as used herein shall be construed to mean vinegar derived by the alcoholic and subsequent acetous fermentation of the expressed juice of apples, the acidity, solids and ash of which have been derived exclusively from apples, and which contains not less than 4% of absolute acetic acid. Cider vinegar which during the course of manufacture has developed in excess of 4% acetic acid, may be reduced to a strength of not less than 4%, and cider vinegar so reduced shall not be regarded as adulterated. Every manufacturer or producer of cider vinegar shall plainly label on the head of the cask, barrel or keg or other container of such vinegar, his name, place of business, and the words "cider vinegar," and no person shall mark or label as cider vinegar any package containing that which is not cider vinegar. Any vinegar sold or offered for sale shall be marked or labeled plainly upon the package or container from which it is sold and also on the original package or container in which it is sold or delivered, in a manner to show its true character and source.

HISTORY: CL 1915, 6460;—CL 1929, 5508;—CL 1948, 289.553;—Am. 1962, p. 102, Act 113, Eff. Mar. 28, 1963.

289.554 Sugar vinegar.

Sec. 4. All sugar vinegar sold or exposed for sale as such shall be strictly and distinctly fermented from sucrose, molasses or refiner's syrup.

HISTORY: CL 1915, 6461;—CL 1929, 5509;—CL 1948, 289.554.

289.555 Malt vinegar.

Sec. 5. No vinegar shall be sold or exposed for sale as malt vinegar which is not fermented strictly and distinctly from barley malt, or cereals whose starch has been converted to malt.

HISTORY: CL 1915, 6462;—CL 1929, 5510;—CL 1948, 289.555.

289.556 Vinegar; purity.

Sec. 6. No vinegar shall be sold or exposed for sale in which foreign substances, drugs or acids shall have been introduced. No vinegar shall contain any artificial coloring matter, and all vinegar shall have an acidity of not less than 4 per cent by weight of absolute acetic acid. If vinegar contains any artificial matter, or less than the required amount of acidity, it shall be deemed to be adulterated.

HISTORY: CL 1915, 6463;—CL 1929, 5511;—CL 1948, 289.556.

289.557 Fermented vinegar; labeling.

Sec. 7. All vinegar made by fermentation and oxidation without the intervention of distillation, shall be labeled with the name of the fruit or substance from which such vinegar has been made.

HISTORY: CL 1915, 6464;—CL 1929, 5512;—CL 1948, 289.557;—Am. 1962, p. 102, Act 113, Eff. Mar. 28, 1963.

289.558 Distilled vinegar; labeling.

Sec. 8. All vinegar made by acetous fermentation of dilute distilled alcohol shall be labeled "distilled" vinegar, and all vinegar made in part from distilled vinegar shall be conspicuously labeled "vinegar" and shall have component vinegars prominently declared on the label.

HISTORY: CL 1915, 6465;—CL 1929, 5513;—CL 1948, 289.558;—Am. 1962, p. 102, Act 113, Eff. Mar. 28, 1963.

289.559 Violation of act; penalty.

Sec. 9. Whoever violates any of the provisions of this act shall, upon conviction, be punished by a fine of not more than 200 dollars or imprisonment in the county jail not to exceed 6 months or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 6466;—CL 1929, 5514;—CL 1948, 289.559.

Sec. 10. (This was a repeal section.)

HISTORY: CL 1915, 6467;—CL 1929, 5515;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 71, 1897, CL 1897, 5003-5008.

Act 228, 1952, p. 375; Eff. Sep. 18.

AN ACT providing for the protection of the public health and the prevention of fraud and deception by prohibiting the manufacture, sale, the offering for sale or exposing for sale or having in possession with intent to sell, sausage, meat loaf, hamburger, chili con carne, liver sausage, head cheese, sulze, blood sausage, New York (New England) (pressed luncheon), and tongue sausage, that is adulterated or deleterious or not in compliance with this act; defining the mentioned products and other terms used; providing for licensing; regulating labeling and advertising; prescribing penalties for violations of this act; and repealing certain acts and parts of acts.

The People of the State of Michigan enact:

289.581 Comminuted meat law; definitions.

Sec. 1. For the purpose of this act, the following definition of terms used therein shall apply:

- (a) Cattle means bovine bulls, cows, steers and calves only.
- (b) Beef is meat derived from cattle 1 year of age or older.
- (c) Veal is meat derived from a calf not more than 1 year of age slaughtered in compliance with Michigan laws.
- (d) Mutton is meat derived from sheep 1 year of age or older.
- (e) Lamb is meat derived from sheep less than 1 year of age.
- (f) Pork is meat derived from swine, excluding boars and from stags slaughtered in compliance with Michigan laws.

(g) Carcass is the commercially prepared or dressed body of any cattle, sheep or swine.

(h) Meat is the properly dressed, clean, sound flesh derived from cattle, swine or sheep sufficiently mature and in good health at the time of slaughter.

(i) Skeletal meat is any clean edible part of striated muscle including head meat and cheek meat.

(j) Fresh meat is meat which has undergone no substantial change in character since the time of slaughter.

(k) Comminuted meat is meat that has been subjected to a process whereby it has been reduced to minute particles.

(l) Tripe is the properly cleaned, scalded and cooked, stomach obtained from the slaughter of healthy cattle, swine or sheep.

(m) Pork sausage is sausage composed of fresh meat and fresh fat derived solely from swine.

(n) Breakfast sausage shall be composed of fresh meat and fresh fat derived from cattle, swine or sheep or a mixture of such meats.

(o) The word "person" shall include 1 or more natural persons, copartnerships, associations or corporations.

HISTORY: New 1952, p. 375, Act 228, Eff. Sep. 18.

289.582 Comminuted meat law; definitions.

Sec. 2. For the purpose of this act the products within its purview are defined as follows:

Grade 1 sausage, moisture, protein, bacterial starters.

(a) Grade 1 sausage shall consist only of skeletal fresh meat prepared from the animal carcass of cattle, swine or sheep or a mixture of such meats, or the striated muscle of chicken or turkey, either fresh, cured, salted, pickled or smoked, with or without added salt or spice, sodium or potassium nitrate, sodium or potassium nitrite, ascorbic acid, or the salts thereof, and with or without the addition of water or ice, with or without the addition of edible animal fat from the animals specified, non-fat dry milk solids or dry whole milk, eggs or egg products, chives, tomatoes, parsley, peppers, onions, garlic, celery, seasoning, flavoring, honey, sirup, sugar, pure refined dextrose or subsequent cooking or smoking.

(1) It may contain not to exceed 4 pounds non-fat dry milk solids or dry whole milk per 100 pounds of sausage.

The total percentage of moisture in the finished product shall not exceed 65%. The total percentage of protein shall not be less than 12%. The protein content requirement shall not apply to pork sausage, breakfast sausage, or roasted sausage but the finished product shall contain not more than 50% of fat by chemical analysis, the equivalent of 45% of trimmable fat, and shall not contain added water or ice, that is water or moisture of greater content than found normally in the meat itself. Fresh and fresh frozen pork sausage, smoked and unsmoked dry sausage, may contain butylated hydroxyanisole, butylated hydroxytoluene or propyl gallate, or a combination of these antioxidants, with or without citric acid, in amounts not to exceed specifications established by regulation of the United States department of agriculture meat inspection service and in effect on the date this 1968 amendatory act becomes effective. When such antioxidants are added the label on the product shall declare the presence of antioxidants in the manner required by the United States department of agriculture meat inspection service.

(2) It shall not contain any cereal, vegetable flour, vegetable product, except those vegetable products specifically provided for, soya products, coal tar color, artificial

color, vegetable coloring, stabilizer, gum, thickeners, excess added water or ice, boric acid or borates, sulphites, sulphur dioxide, sulphurous acid or any other harmful preservative. It shall not contain slaughter house by-products, heart, tongue, liver cracklings or crackling meal, tripe, lungs, melts, eyes, stomachs, weasand meats, udder, lips, ears or snouts. No other parts of the animal or any other substance excepting as above specified shall be permitted in sausage.

(3) Harmless bacterial starters of the acidophilus type may be used in the preparation of such kinds of sausage as thuringer, lebanon bologna, cervelat, salami and pork roll in an amount not to exceed 1/2 of 1%. When used, the harmless bacterial starter shall be included in the list of ingredients in the order of its predominance.

Sausages.

(b) The following products are considered to be sausage, whether processed or inserted in either natural or artificial casings or other containers: Weiners, bologna, ring bologna, knackwurst, roasted sausage, breakfast sausage, pork sausage, chicken sausage, turkey sausage, leona, beer salami, cooked salami, polish sausage, minced luncheon, all varieties of dry or semi-dry sausage, and other products prepared in sausage form and excluding loaves, liver products, head cheese, sulze, blood sausage, potato sausage, bockwurst, kiszka, tongue sausage and New York (New England) (pressed luncheon).

Hamburger, ground beef.

(c) Fresh beef that has been comminuted, chopped, diced or ground shall be identified as either hamburger or ground beef and shall meet the following standards. Hamburger shall consist of comminuted, chopped, diced, or ground fresh beef with or without the addition of beef fat as such, and shall not contain more than 30% of fat. Ground beef shall meet the same requirements as hamburger except that it shall not contain more than 20% fat. Monosodium glutamate may be added if declared. It shall not contain heart, liver, tongue, tripe, stomach, cracklings or crackling meal, lungs, melts, eyes, weasand meats, head meat, cheek meat, udder, lips, ears, snouts, packing house by-products or added water or ice, that is, water or moisture of greater content than found normally in the meat itself. It shall not contain any cereal, vegetable flour, vegetable product, bread or bread crumbs, dry milk, soya products, coal tar color, artificial color, vegetable coloring, stabilizer, gum, thickeners, cracker, roll, cereal by-product, starch, chemical preservative, boric acid or borates, sulphites, sulphur dioxide or sulphurous acid. No other parts of the animal or any other substance excepting as above specified shall be permitted in hamburger or ground beef.

Chili con carne.

(d) Chili con carne is a product that shall contain not less than 40% of meat computed on the weight of the fresh meat from cattle, swine or sheep. Head meat, cheek meat and heart meat, exclusive of the heart cap, may also be used. The mixture may contain cereal or non-fat dry milk solids and seasoning. It shall not contain liver, tongue, cracklings or crackling meal, lungs, melts, spinal cords, eyes, stomach, udders, lips, ears or snouts. It shall not contain gum, thickeners, stabilizer, coal tar color, artificial color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulphur dioxide or sulphurous acid. No other parts of the animal shall be permitted in chili con carne.

Meat loaf.

(e) Meat loaf is a product, processed in the form of a loaf, consisting of a mixture of meat from cattle, swine or sheep or mixture of such meats that are not necessarily skeletal but shall be wholesome and edible. It may also contain salt, seasoning, sodium or potassium nitrate, ascorbic acid, or the salts thereof, sodium or potassium nitrite, cereal, vegetable, non-fat dry milk solids, soya flour, eggs or egg products, macaroni,

cheese, condiments, nuts, fruits or gelatin. It shall not contain gum, thickener, stabilizer, coal tar color, artificial color, vegetable coloring, chemical preservative, boric acid or borates, sulphur dioxide, sulphites or sulphurous acid. It shall not contain cracklings or crackling meal, lungs, melts, eyes, lips, udders, ears or spinal cords. No other parts of the animal or any other substance excepting as above specified shall be permitted in meat loaf.

Liver sausage.

(f) Liver sausage is the product, either cooked or smoked prepared from sound, edible liver with or without the addition of edible fat, meat, tripe, brains, pork skins, pork and beef tongues, cereal, soya flour, non-fat dry milk solids, nuts, eggs or egg products, pimentos, salt, sugar, dextrose, ascorbic acid, or the salts thereof, honey, spice, flavorings, seasonings and with or without sodium or potassium nitrate or sodium or potassium nitrite. It shall not contain liver or meat from animals other than cattle, swine or sheep. It shall not contain gum, thickener, stabilizer, coal tar color, artificial color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulphur dioxide, sulphurous acid, crackling meal, lungs, melts, eyes, lips, udders, ears or spinal cords. No other parts of the animal or any other substance excepting as above specified shall be permitted in liver sausage.

Head cheese and sulze.

(g) Head cheese and sulze are the products of which the main constituents are meat or snouts, ears or tongues obtained from swine or cattle or sheep and with addition of gelatin or salt, vinegar, sugar, spice and sodium or potassium nitrate, ascorbic acid, or the salts thereof, and sodium or potassium nitrite. They shall not contain more than 40% of gelatin by weight of the finished product. They shall not contain liver, cracklings or crackling meal, melts, spinal cords, eyes, stomach, udders or lungs. They shall not contain gum, thickener, stabilizer, coal tar color, artificial color, vegetable coloring, chemical preservative, boric acid or borates, sulphite, sulphur dioxide or sulphurous acid. No other parts of the animal or any other substance excepting as above specified shall be permitted in head cheese or sulze.

Blood sausage, tongue sausage.

(h) Blood sausage and tongue sausage are products in sausage form consisting of meat or blood and other edible parts obtained from the slaughter of cattle, swine or sheep cooked with seasoning and flavoring material, with or without the addition of non-fat dry milk solids or cereal. They shall not contain gum, thickener, stabilizer, coal tar color, artificial color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulphur dioxide or sulphurous acid. They shall not contain cracklings or crackling meal, lungs, melts, spinal cords, eyes, udders, lips or any other substance not above specified.

HISTORY: New 1952, p. 376, Act 228, Eff. Sep. 18;—Am. 1954, p. 128, Act 104, Eff. Aug. 13;—Am. 1955, p. 274, Act 183, Eff. Oct. 14;—Am. 1957, p. 619, Act 315, Eff. Sep. 27;—Am. 1958, p. 125, Act 119, Eff. Sep. 13;—Am. 1959, p. 220, Act 159, Eff. Mar. 19, 1960;—Am. 1960, p. 223, Act 152, Eff. Aug. 17;—Am. 1962, p. 392, Act 184, Eff. Mar. 28, 1963;—Am. 1968, p. 605, Act 331, Imd. Eff. Jul. 14.

289.583 Sausage; grading.

Sec. 3. No product shall be sold as sausage, except liver sausage, potato sausage, tongue sausage, blood sausage, bockwurst, kishka and New York (New England) (pressed luncheon), which is not graded as above and which does not meet the specifications for grade I sausage.

HISTORY: New 1952, p. 378, Act 228, Eff. Sep. 18.

289.584 Markings on packages and pieces; all meat or all beef labels.

Sec. 4. The name of any product manufactured or sold under the provisions of this act, together with the name and address of the manufacturer, and also in the case of sausage, the term "Grade 1", shall be plainly marked or tagged on each package and true container as delivered to the retailer. Sausage in casings of the ordinary "ring" va-

nety or larger shall be marked or tagged at least once to every piece, and sausage of the smaller varieties shall bear 1 or more marks or 1 or more tags to each pound, as hereinabove provided. Sausage labeled or advertised as all meat or all beef shall not contain any nonfat dry milk solids or dry whole milk.

Address of manufacturer; Michigan registration number; U.S. department of agriculture number.

It shall be sufficient to give the address of the manufacturer's main or executive office if the package or true container of the product as delivered to the retailer is plainly marked or tagged with a Michigan registration number assigned by the department of agriculture or the United States department of agriculture establishment number of the plant at which the product was manufactured.

HISTORY: New 1952, p. 378, Act 228, Eff. Sep. 18;—Am. 1962, p. 394, Act 184, Eff. Mar. 28, 1963;—Am. 1963, p. 171, Act 123, Imd. Eff. May 10.

289.585 Colored artificial casings or containers.

Sec. 5. All products manufactured under terms of this act may be sold in colored artificial casings or container: Provided, That no such products shall be sold in colored natural casings.

HISTORY: New 1952, p. 378, Act 228, Eff. Sep. 18.

289.586 Adulteration.

Sec. 6. Any product within the purview of this act shall be deemed to be adulterated if it bears or contains any poisonous or deleterious substance which may render it injurious to health or if it contains any diseased, contaminated, filthy or decomposed substance, or is manufactured in whole or in part, from a diseased, contaminated, filthy or decomposed substance, or if it is the product of an animal which has died otherwise than by slaughter, and any person who manufactures, sells, offers for sale, exposes for sale, or has in his possession with intent to sell such adulterated product, shall be guilty of a misdemeanor and punished therefor.

HISTORY: New 1952, p. 378, Act 228, Eff. Sep. 18.

289.587 Manufacture or sale in violation of standards.

Sec. 7. Sausage shall be deemed in violation of the standards of this act if it contains excessive non-fat dry milk solids or dry whole milk, moisture and/or fat. Sausage, loaf, hamburger and chili con carne, liver sausage, head cheese, sulze, blood sausage and tongue sausage shall be deemed in violation of the standards of this act if it contains any substance or product either specifically prohibited or not specifically provided for in its class according to the definitions set forth in section 2 of this act, and any person who manufactures, sells, offers for sale, exposes for sale or has in his possession with intent to sell any such product in violation of the standards herein set forth or any such product that is not properly branded or labeled within the meaning of this act, shall be guilty of a misdemeanor and punished therefor.

HISTORY: New 1952, p. 378, Act 228, Eff. Sep. 18.

289.588 License; application, form, contents, fees, issuance, renewal; exceptions, sale incident to regularly established business.

Sec. 8. Before any person or persons, firm or corporation, packer or manufacturer shall manufacture any product within the meaning of this act, he or they shall first obtain a license from the Michigan agricultural commission. A license shall be obtained for each plant or place of business where sausage, loaves, hamburger, chili con carne, liver sausage, head cheese, sulze, blood sausage, New York (New England) (pressed luncheon), or tongue sausage is manufactured. Applications for such licenses shall be made to the Michigan agricultural commission, upon such forms as furnished by it, and shall show such information as may be demanded by the department of agriculture and shall be accompanied by a statutory fee as follows:

(a) Twenty-five dollars in the case of a manufacturer who manufactures and sells at retail at but 1 place in the state, which place shall be designated in the license.

(b) Fifty dollars in the case of a manufacturer making distribution through more than 1 and not exceeding 5 of his own establishments, for sale to the ultimate consumer, which place or places shall be designated in the license.

(c) One hundred dollars in the case of manufacturers or packing houses, making distribution through the usual trade channels for resale, and, in the case of a manufacturer making distribution through more than 5 of his own establishments for sale to the ultimate consumer, which place or places shall be designated in the license.

Upon receipt of such application the Michigan agricultural commission shall, after satisfactory investigation, issue to the person, firm or corporation making such application a license to manufacture sausage, meat loaf, hamburger, chili con carne, liver sausage, head cheese, sulze, blood sausage, New York (New England) (pressed luncheon), or tongue sausage as defined in this act: Provided, That it shall be within the discretion of the commission to refuse any license upon application of a former licensee whose license was revoked by the commission upon 3 or more convictions of violations of the law. All licenses issued under the provisions hereof shall be due and payable on or before August 1 and shall expire July 31 following the date of issuance; said licenses shall be renewed annually. The moneys received by the Michigan agricultural commission in payment of licenses issued under this section shall be paid into the state treasury general fund. The provisions of this section shall not apply to any farmer manufacturing and/or selling not to exceed 300 pounds of sausage in any 1 calendar year from pork and/or other meat produced or grown on his own farm. A farmer as used in this section shall be construed to include the owner, tenant or lessee of the farm. The provisions of this section shall not apply to any retailer who grinds fresh pork sausage and/or other meat products for sale at retail to the ultimate consumer upon his premises or in isolated cases sells such products to other retailers, or a sale incident to his regularly established business.

HISTORY: New 1952, p. 378, Act 228, Eff. Sep. 18;—Am. 1954, p. 130, Act 104, Eff. Aug. 13;—Am. 1958, p. 46, Act 43, Imd. Eff. Apr. 7.

289.589 False advertising.

Sec. 9. Any person or persons, firm or corporation, who shall publicly advertise in or by newspapers, window banners, hand bills, bulletins, bulletin boards, radio, television or otherwise, falsely with reference to the composition of products within the scope of this act manufactured, sold or offered for sale by him shall be deemed guilty of a misdemeanor.

HISTORY: New 1952, p. 379, Act 228, Eff. Sep. 18.

289.589a Foods for infants.

Sec. 9a. Foods especially prepared for infants are exempt from the provisions of this act when manufactured, sold, advertised or offered for sale for such purposes.

HISTORY: Add. 1962, p. 394, Act 184, Eff. Mar. 28, 1963.

289.589b Prior notice to potential violator.

Sec. 9b. The department of agriculture shall give prior notice to any potential violator of this act that a complaint may be filed against him.

HISTORY: Add. 1962, p. 394, Act 184, Eff. Mar. 28, 1963.

289.590 Violation of act; penalty.

Sec. 10. Whoever shall do any of the acts or things prohibited by this act or in any way violate any of its provisions shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not more than \$100.00 and the costs of prosecution, or by imprisonment in the county jail for not more than 90 days or by both such fine and imprisonment in the discretion of the court.

Revocation or suspension of license, hearing, appeal.

It shall be mandatory for the director of agriculture to summon to appear before him any licensee who shall have been convicted 2 times for violation of any provision of this act in any 12-month period. The director shall give written notice to the licensee stating that he contemplates the suspension or revocation of the license herein provided and naming his reasons therefor. Said notice shall designate a time of hearing before said director and shall be mailed by registered mail to the licensee not less than 10 days prior to the date set for said hearing. On the day of the hearing the licensee may present such evidence as he deems fit. After hearing the testimony the director shall revoke or may temporarily suspend such license. Any person, firm, corporation, packer, or manufacturer whose license has been so revoked or temporarily suspended shall discontinue the manufacture, sale, or offer for sale within this state of any of the comminuted meat products within the purview of this act. Any licensee who feels aggrieved at the decision of the director may appeal within 10 days through writ of certiorari to the circuit court of the county where licensee resides.

HISTORY: New 1952, p. 379, Act 228, Eff. Sep. 18;—Am. 1957, p. 621, Act 315, Eff. Sep. 27;—Am. 1962, p. 394, Act 184, Eff. Mar. 28, 1961.

289.591 Repeal.

Sec. 11. Act No. 259 of the Public Acts of 1933, as amended, being sections 289.231 to 289.242, inclusive, of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1952, p. 379, Act 228, Eff. Sep. 18.

289.592 Michigan comminuted meat law; short title.

Sec. 12. This act shall be known and may be cited as the Michigan comminuted meat law.

HISTORY: New 1952, p. 379, Act 228, Eff. Sep. 18.

Act 69, 1956, p. 150; Imd. Eff. Apr. 2.

AN ACT providing for the coloration of wheat, oats, rye or barley, field corn, field peas or field beans when being treated with an injurious or poisonous substance and authorizing the promulgation of rules and regulations by the state department of agriculture to carry out the provisions of this act; and to provide penalties for the violation of the provisions of this act and any rule and regulation promulgated thereunder. Am. 1957, p. 126, Act 107, Eff. Sep. 27.

The People of the State of Michigan enact:

289.611 Grain treated with poisonous or injurious substance; contrasting coloration.

Sec. 1. Any wheat, oats, rye or barley, field corn, field peas or field beans treated with any poisonous or injurious substance shall at the same time be colored or dyed a color contrasting with the natural color of such wheat, oats, rye or barley, field corn, field peas or field beans so that the treated wheat, oats, rye or barley, field corn, field peas or field beans is readily identifiable as having been treated with a poisonous or injurious substance.

HISTORY: New 1956, p. 151, Act 69, Imd. Eff. Apr. 2;—Am. 1957, p. 126, Act 107, Eff. Sep. 27.

289.612 Grain treated with poisonous or injurious substance; possession or sale; bin treatment for insects.

Sec. 2. No person, firm, corporation or copartnership shall have in their possession, sell or offer for sale any wheat, oats, rye or barley, field corn, field peas or field beans which has been treated with a poisonous or injurious substance unless the treated

wheat, oats, rye or barley, field corn, field peas or field beans has been colored or dyed a color contrasting with the natural color of the wheat, oats, rye or barley, field corn, field peas or field beans. This act shall not apply to the bin treatment of any wheat, oats, rye or barley, field corn, field peas or field beans which treatment is solely for the killing of insects that might be present in such wheat, oats, rye or barley, field corn, field peas or field beans.

HISTORY: New 1956, p. 151, Act 69, Imd. Eff. Apr. 2;—Am. 1957, p. 126, Act 107, Eff. Sep. 27.

289.613 Grain treated with poisonous or injurious substance; rules and regulations for dyeing.

Sec. 3. The department of agriculture, by rules and regulations, shall establish standards and specifications for the coloring or dyeing of wheat, oats, rye or barley, field corn, field peas or field beans pursuant to the provisions of this act. The rules and regulations so established shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 151, Act 69, Imd. Eff. Apr. 2;—Am. 1957, p. 126, Act 107, Eff. Sep. 27.

289.614 Violation of act; penalty.

Sec. 4. Any person, firm, corporation or copartnership who shall violate any of the provisions of this act or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor.

HISTORY: New 1956, p. 151, Act 69, Imd. Eff. Apr. 2.

Act 70, 1961, p. 68; Eff. Sep. 8.

AN ACT to promote the development and to encourage consumption of Michigan agricultural products by use of a seal denoting quality; to prescribe the powers and duties of the state department of agriculture; to establish procedures for standards; to provide for fees; to authorize the appointment of commodity committees; and to prescribe penalties for violations.

The People of the State of Michigan enact:

289.631 Seal of quality act; short title.

Sec. 1. This act shall be known and may be cited as the "seal of quality act".

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

CITED IN OTHER SECTIONS: Sections 289.631 to 289.646 are cited in § 290.151.

289.632 Seal of quality act; definitions.

Sec. 2. As used in this act:

- (a) "Commission" means the commission of agriculture.
- (b) "Department" means the state department of agriculture.
- (c) "Director" means the state director of agriculture.
- (d) "Person" means individuals, partnerships, trusts, associations, corporations, and any and all other business units, devices and arrangements, or receiver, trustee or assignee of such business units.
- (e) "Michigan seal of quality" means any label, tag or other device bearing the official emblem promulgated under the provisions of this act containing the term "Michigan seal of quality" attached to, affixed or placed upon any crate, carton, package or other container of agricultural products grown, packed and processed within this state.

(f) "Products" mean agricultural products grown, packed and processed within this state.

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

289.633 Emblems; designation of products; quality and grade standards.

Sec. 3. The commission shall design emblems bearing the inscription "Michigan seal of quality", to be used as a seal denoting quality for the purpose of identifying the products to which it may be applied; to designate the products upon which it may be used; and to promulgate the quality and grade standards for products to which it may be applied.

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

289.634 Agricultural products; standards of quality, establishment.

Sec. 4. Upon the request of any commodity group of producers of agricultural products stating that it is essential to the successful marketing of the products that standards of quality be established, the commission, after not less than 10 days' notice, shall call a public hearing at which any interested person shall have the right to be heard, and thereafter the commission shall determine whether the establishment of standards of quality for the products is necessary to the successful marketing thereof.

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

289.635 Agricultural products; order establishing standard of quality, size and condition.

Sec. 5. The commission, if it determines that it is necessary to establish standards of quality for any products, shall promulgate an order establishing standards of quality for the products, which standards shall relate to the quality, size and condition thereof.

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

289.636 Seal of quality; protection; inspection; application.

Sec. 6. The commission shall:

- (a) Establish a seal denoting quality which shall be registered, advertised and protected by the director.
- (b) Promulgate rules for the inspection of products to which the seal is applied.
- (c) Authorize the application of the seal to those products conforming to the standards of quality as established by the commission under the provisions of this act.

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

289.637 Seal of quality; interstate commerce.

Sec. 7. The seal of quality shall not be used as a barrier to interstate commerce, nor is it a substitute for federal grades and standards, or for the federal grading and inspection service on products entering into interstate commerce.

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

289.638 Seal of quality; supervision of packaging.

Sec. 8. Products to be sold to the consumer in packages to which the seal of quality is applied shall be graded by or under the supervision of competently trained inspectors approved by the department or by graders or supervisors of grading supplied under cooperative agreement between the department and the United States department of agriculture.

HISTORY: New 1961, p. 68, Act 70, Eff. Sep. 8.

289.639 Seal of quality; elective use; conformance.

Sec. 9. Use of the seal of quality shall be elective by any person offering products for sale or other disposition to any other person, but, upon election to use the seal, confor-

mance with the rules and regulations promulgated by the commission shall be mandatory.

HISTORY: New 1961, p. 69, Act 70, Eff. Sep. 8.

289.640 Seal of quality; agreements for grading, supervision of grading.

Sec. 10. For the purpose of giving effect to the provisions of this act, the commission may enter into agreements with any person on such terms and conditions as the commission deems best for the grading, or for the supervision of grading, of products to which the seal of quality is to be applied.

HISTORY: New 1961, p. 69, Act 70, Eff. Sep. 8.

289.641 Seal of quality; fees for labels, grading, supervision of grading.

Sec. 11. The commission shall adopt and may amend from time to time schedules of fees to be charged for labels bearing the seal of quality, for grading and supervision of grading, or for such other services as may be rendered under this act. All fees shall be sufficient to make self-sustaining the grading services performed under this act. All fees shall be deposited in the state treasury and credited to the general fund. The fees assessed under the provisions of this act shall be payable by the person for whom the services are performed and the director shall prescribe the method by which and times when the fees shall be collected.

HISTORY: New 1961, p. 69, Act 70, Eff. Sep. 8.

289.642 Cooperation with agencies of the United States, other states and organizations.

Sec. 12. The director may cooperate with the United States department of agriculture, any other agency of the United States, with any governmental agency or instrumentality of any state, and with any association or organization or persons representative of any product, in market and food investigations, grading, packing, handling, storing and merchandising of products, and in the enforcement of laws, rules and regulations pertaining thereto and in any manner that is desirable for the purpose of this act.

HISTORY: New 1961, p. 69, Act 70, Eff. Sep. 8.

289.643 Inspection of containers; certificates, evidence.

Sec. 13. The director or any person authorized by him shall have free access to any place or conveyance wherein products bearing the "seal of quality" are being marketed, transported or held for commercial purposes; may open any container bearing the seal and examine the contents thereof; and upon tender of the market price may take samples therefrom. The director may employ inspectors to inspect products bearing the seal of quality. Certificates of inspection shall state the date and place of inspection, the grade, condition and approximate quality of the products inspected, and any other pertinent facts that the director requires. The certificate and all federal certificates relative to the condition of quality of the products shall be prima facie evidence in all courts of the state of the facts required to be stated therein.

HISTORY: New 1961, p. 70, Act 70, Eff. Sep. 8.

289.644 Rules and regulations; seizure of nonconforming products.

Sec. 14. The commission shall enforce this act and may promulgate such orders, rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as are necessary to carry out the purposes of this act. When the director, or any person appointed by him, determines that products bearing the seal fail to conform to the quality characteristics and standards promulgated by the commission, the director or his appointee may seize and dispose of the products as

provided by section 7 of Act No. 211 of the Public Acts of 1893, as amended, being section 289.37 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 70, Act 70, Eff. Sep. 8.

289.645 Violation of act; penalty.

Sec. 15. Any person who holds for sale, offers for sale or sells any product, to which the seal of quality is applied, which does not conform with the quality characteristics and standards for that product is guilty of a misdemeanor and shall be punished by a fine of not less than \$25.00 and not more than \$100.00, or by imprisonment in the county jail for not more than 90 days, or both.

HISTORY: New 1961, p. 70, Act 70, Eff. Sep. 8.

289.646 Commodity committees; term, compensation.

Sec. 16. The commission, after adopting rules and regulations to carry out the provisions of this act, shall establish commodity committees to disseminate information relative to the purposes of this act and to report to the commission in reference to the functioning thereof. Commodity committees shall consist of representatives of producers, first handlers, wholesalers, retailers and consumers capable of being recognized as representative of the specific commodity interests involved by that industry. The commission may establish committees for any specific commodity when requested to do so by any representative segment of that commodity industry. The commission shall create a central committee representative of all commodity committees and of such other governmental agencies as may have interests in furthering the purposes of this act, upon the request of 3 existing commodity committees. The members of all committees shall be that number determined and approved by the commission. The members of committees shall hold office for a period of 1 year. The commission may reappoint any member of any committee. No member of any committee shall receive any salary or other compensation.

HISTORY: New 1961, p. 70, Act 70, Eff. Sep. 8.

Act 39, 1968, p. 67; Eff. Jan. 1, 1969.

AN ACT to regulate the manufacture, distribution and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution and sale of foods in violation of this act; to provide for enforcement of the act; to provide penalties for violation of the act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

289.701 Michigan food law of 1968; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan food law of 1968".

HISTORY: New 1968, p. 68, Act 39, Eff. Jan. 1, 1969.

289.702 Food law; definitions.

Sec. 2. (1) "Department" means the department of agriculture.

(2) "Food" means articles used for food or drink for man or other animals, chewing gum and articles used for components of any such article.

(3) "Label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement or other information appearing on the label shall not be considered to be complied with unless the word, statement or other information also ap-

pears on the outside container or wrapper of the retail package of the article, or is easily legible through the outside container or wrapper.

(4) "Immediate container" does not include package liners.

(5) "Labeling" means all labels and other written, printed or graphic matter upon an article or any of its containers or wrappers, or accompanying the article.

(6) "Regulations" means rules and regulations subject to Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948.

(7) "Person" means an individual, partnership, association or corporation.

HISTORY: New 1968, p. 68, Act 39, Eff. Jan. 1, 1969;—Am. 1969, p. 192, Act 106, Eff. Mar. 20, 1970.

289.703 Food law; definitions.

Sec. 3. (1) "Advertisement" means all representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

(2) "Contaminated with filth" applies to any food not securely protected from dust, dirt and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(3) "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with 1 or more other substances is an "economic poison" within the meaning of the federal insecticide, fungicide and rodenticide act of 1949, as amended, and which is used in the production, storage or transportation of raw agricultural commodities.

(4) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.

HISTORY: New 1968, p. 68, Act 39, Eff. Jan. 1, 1969.

289.704 Food additive; definition.

Sec. 4. "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting or holding food; and including any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures, or in case of a substance used in a food before 1958 through scientific procedures or experience based on common use in food, to be safe under the conditions of its intended use. However, the term does not include: (1) a pesticide chemical in or on a raw agricultural commodity; or (2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage or transportation of any raw agricultural commodity; or (3) a color additive; or (4) any substance used in accordance with a sanction or approval granted prior to the enactment of the food additives amendment of 1958 to the federal act; the federal poultry products inspection act or the federal meat inspection act, as amended.

HISTORY: New 1968, p. 68, Act 39, Eff. Jan. 1, 1969.

289.705 Color additive; definition.

Sec. 5. (1) "Color additive" means a material which is a dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral or other source, or when added or applied to a food or any part thereof is capable alone or through reaction with other substance of imparting color

thereto; except that the term does not include any material which has been or hereafter is exempted under the federal act. Nothing in this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient or other agricultural chemical solely because of its effect in aiding, retarding or otherwise affecting, directly or indirectly, the growth of other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(2) "Color" includes black, white and intermediate grays.

(3) "Federal act" means the federal food, drug and cosmetic act, as amended.

HISTORY: New 1968, p. 69, Act 39, Eff. Jan. 1, 1969.

289.706 Scope of law.

Sec. 6. The provisions of this act regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any food for sale; and the sale, dispensing and giving of food, and the supplying of food in the conduct of any food establishment.

HISTORY: New 1968, p. 69, Act 39, Eff. Jan. 1, 1969.

289.707 Prohibited acts.

Sec. 7. The following acts and the causing thereof are prohibited:

(a) The manufacture, sale or delivery, holding or offering for sale of any food that is adulterated or misbranded.

(b) The adulteration or misbranding of any food.

(c) The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale or offering for sale of any food in violation of section 18.

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 24.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person from whom he received the food in good faith.

(h) The removal or disposal of detained or embargoed food in violation of sections 11 or 12.

(i) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, if the act is done while the food is held for sale and results in the food being adulterated or misbranded.

(j) Forging, counterfeiting, simulating or falsely representing, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by regulations promulgated under the provisions of this act.

HISTORY: New 1968, p. 69, Act 39, Eff. Jan. 1, 1969.

289.708 Determination of violation; exception.

Sec. 8. If a food is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the food to which the labeling or advertisement relates under the conditions of use pre-

scribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual. No label, labeling nor advertising which comply with the federal act shall be deemed violative under this act.

HISTORY: New 1968, p. 69, Act 39, Eff. Jan. 1, 1969.

289.709 Additional remedy; injunction.

Sec. 9. In addition to the remedies hereinafter provided the department may apply to circuit court for, and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 7 irrespective of whether or not there exists an adequate remedy at law.

HISTORY: New 1968, p. 70, Act 39, Eff. Jan. 1, 1969.

289.710 Penalty; exceptions.

Sec. 10. Any person who violates any provision of this act is guilty of a misdemeanor. No person shall be subject to the penalties for having violated subdivisions (a) or (c) of section 7 if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person from whom he received in good faith the food, to the effect that the food is not adulterated or misbranded within the meaning of this act.

HISTORY: New 1968, p. 70, Act 39, Eff. Jan. 1, 1969;—Am. 1969, p. 193, Act 106, Eff. Mar. 20, 1970.

289.711 Tagging adulterated or misbranded food; condemnation.

Sec. 11. (1) Whenever a duly authorized agent of the department finds or has probable cause to believe that any food is adulterated, or so misbranded as to be dangerous to public health or fraudulent, within the meaning of this act, he shall affix to the food a tag or other appropriate marking, giving notice that the food is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the food by sale or otherwise until permission for removal or disposal is given by the agent or the court. It is unlawful for any person to remove or dispose of the detained or embargoed food by sale or otherwise without permission.

(2) When food detained or embargoed under subsection (1) has been found by the agent to be adulterated or misbranded, he shall cause a petition to be filed in the circuit court in whose jurisdiction the food is detained or embargoed for a libel for condemnation of the food. When the agent has found that the food so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

HISTORY: New 1968, p. 70, Act 39, Eff. Jan. 1, 1969.

289.712 Destruction of adulterated or misbranded food; costs; return of corrected food; conditions.

Sec. 12. If the court finds that detained or embargoed food is adulterated or misbranded, after entry of the decree, it shall be destroyed at the expense of the claimant thereof, under the supervision of the agent, and all court costs and fees and storage and other proper expenses shall be taxed against the claimant of the food or his agents. If the adulteration or misbranding can be corrected by proper labeling or processing of the food, the court, after entry of the decree and after the costs, fees and expenses have been paid and a good and sufficient bond, conditioned that the food shall be so labeled or processed, has been executed, may direct that the food be delivered to claimant for labeling or processing under the supervision of an agent of the department. The expense of the supervision shall be paid by claimant. The food shall be re-

turned to the claimant of the food on the representation to the court by the department that the food is no longer in violation of this act, and that the expenses of supervision have been paid.

HISTORY: New 1968, p. 70, Act 39, Eff. Jan. 1, 1969.

289.713 Unsound perishable foods; condemnation or destruction.

Sec. 13. When the department or any of its authorized agents finds in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit or other perishable food which is unsound, or contains any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being declared to be a nuisance, the department or its authorized agent shall forthwith condemn or destroy or in any other manner render the same unsaleable as human food.

HISTORY: New 1968, p. 70, Act 39, Eff. Jan. 1, 1969.

289.714 Proceedings; notice; minor violations.

Sec. 14. The prosecuting attorney, to whom the department reports any violation of this act, shall cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. If action is to be taken against named goods, the prosecuting attorney, either prior to or at the time of instituting action, shall give notice by mail of such action to the manufacturer and distributor as named on the goods. Nothing in this act shall be construed as requiring the department to report for the institution of proceedings under this act, minor violations of this act, whenever the department believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

HISTORY: New 1968, p. 71, Act 39, Eff. Jan. 1, 1969.

289.715 Promulgation of regulations; optional ingredients; conformance of definitions and standards with federal act.

Sec. 15. When in the judgment of the department such action will promote honesty and fair dealing in the interest of consumers, the department shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and reasonable standard of quality and fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the department shall designate the optional ingredients which shall be named on the label. The definitions and standards shall conform so far as practicable to the definitions and standards promulgated under authority of the federal act.

HISTORY: New 1968, p. 71, Act 39, Eff. Jan. 1, 1969.

289.716 Adulterated food; definition.

Sec. 16. A food is deemed adulterated:

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but if the substance is not an added substance, the food shall not be considered adulterated under this clause if the quantity of such substance in the food does not ordinarily render it injurious to health; or (2) (A) If it bears or contains any added poisonous or added deleterious [sic] substance, other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive, which is unsafe within the meaning of section 21; or (B) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 21; or (C) if it is or it bears or contains any food additive which is unsafe within the meaning of section 21; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 21, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing,

dehydrating or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of sections 21 and 22 and clause (C) of this section, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon uncooked garbage or uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(c) If it is confectionery and (1) has partially or completely imbedded therein any nonnutritive object: This clause shall not apply in the case of any nonnutritive object if, in the judgment of the director as provided by regulations, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or (2) bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or (3) bears or contains any nonnutritive substance: This clause shall not apply to a safe nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act: For the purpose of avoiding or resolving uncertainty as to the application of this clause, the director may issue regulations allowing or prohibiting the use of particular nonnutritive substances.

(d) If it is or bears or contains any color additive which is unsafe within the meaning of section 21.

HISTORY: New 1968, p. 71, Act 39, Eff. Jan. 1, 1969.

289.717 Misbranded food; definition.

Sec. 17. A food is deemed misbranded:

- (a) If its labeling is false or misleading in any particular.
- (b) If it is offered for sale under the name of another food.
- (c) If it is an imitation of another food for which a definition and standard of identity has been prescribed by regulations as provided by section 15 or under the federal act; or if it is an imitation of another food that is not subject to subsection (g) of this section, unless its label bears, in type of uniform size and prominence, the word "imitation", and, immediately thereafter, the name of the food imitated.
- (d) If its container is so made, formed or filled as to be misleading.

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count, except that reasonable variations are permitted, and exemptions as to small packages shall be established by regulations prescribed by the department.

(f) If any word, statement or other labeling required by or under authority of this act is not prominently placed on the label with conspicuousness, and in such terms as to render it likely to be read and understood.

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 15 or under the federal act, unless it conforms to such definition and standard, and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the regulations, the common names of optional ingredients, other than spices, flavoring and coloring, present in such food.

(h) If it purports to be or is represented as:

(1) A food for which a standard of quality has been prescribed by regulations as provided by section 15 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(2) A food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 15, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as the regulations specify, a statement that it falls below the standard.

(i) If it is not subject to the provisions of subdivision (g) of this section, unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from 2 or more ingredients, the common or usual name of each ingredient; except that spices, flavorings and colorings, other than those sold as such, may be designated as spices, flavorings and colorings, without naming each. To the extent that compliance with the requirements of clause (2) of this subdivision is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the department.

(j) If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating that fact. To the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the director.

(k) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral or other dietary properties as the department determines to be and by regulations prescribed, as necessary in order to fully inform purchasers as to its value for such uses. To the extent that compliance with the requirements of this subdivision is impracticable, exemptions shall be established by regulations promulgated by the department.

(l) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.

(m) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

HISTORY. New 1968, p. 72, Act 39, Eff. Jan. 1, 1969;—Am. 1969, p. 183, Act 106, Eff. Mar. 20, 1970.

289.718 Distribution; investigation and regulation; permits.

Sec. 18. When the department finds after investigation that the distribution in this state of any class of food may be injurious to health, by reason of contamination with

microorganisms during manufacture, processing or packing thereof in any locality, and that the injurious nature cannot be adequately determined after the food has entered commerce, and in such case only it shall promulgate regulations providing for the issuance to manufacturers, processors or packers of such class of food in the locality of permits, to which shall be attached such conditions governing the manufacture, processing or packing of the class of food, for such temporary period of time, as may be necessary to protect the consumers. After the effective date of the regulations, and during the temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed or packed by any manufacturer, processor or packer unless the manufacturer, processor or packer holds a permit issued by the department as provided by the regulations.

HISTORY: New 1968, p. 73, Act 39, Eff. Jan. 1, 1969.

289.719 Suspension of permit; reinstatement.

Sec. 19. The department may suspend immediately upon notice any permit issued under section 18 if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended at any time may apply for reinstatement of the permit. The department, immediately after prompt hearing and inspection of the establishment, shall reinstate the permit if it finds that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

HISTORY: New 1968, p. 73, Act 39, Eff. Jan. 1, 1969.

289.720 Inspection; access to factory or establishment; denial of access.

Sec. 20. Any officer or employee duly designated by the department shall have access to any factory or establishment, the operator of which holds a permit issued by the department for the purpose of ascertaining whether or not the conditions of the permit are being complied with. Denial of access for inspection is ground for suspension of the permit until access is freely given by the operator.

HISTORY: New 1968, p. 73, Act 39, Eff. Jan. 1, 1969.

289.721 Unsafe food containing additives; exemptions.

Sec. 21. Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity, or any color additive, with respect to any particular use or intended use shall be deemed unsafe for the purpose of application of clause (2) (A) of subdivision (a) of section 16 with respect to any food, unless there is in effect a federal regulation or exemption from regulation under the federal food, drug and cosmetic act, meat inspection act, poultry products inspection act or other federal acts, or a regulation pursuant to section 22 limiting the quantity of the substance, and the use or intended use of the substance conforms to the terms prescribed by the regulation. While such regulation is in effect, a food shall not, by reason of bearing or containing the substance in accordance with the regulation, be considered adulterated within the meaning of clause (1) of subdivision (a) of section 16.

HISTORY: New 1968, p. 74, Act 39, Eff. Jan. 1, 1969.

289.722 Additives; regulations.

Sec. 22. The department, when consumer safety or other considerations in the state so require, after public hearing clearly establishing a necessity, may adopt, amend or repeal regulations whether or not in accordance with regulations promulgated under the federal act prescribing therein tolerances for any added poisonous or deleterious substances, for food additives, for pesticide chemicals in or on raw agricultural commodities or for color additives, including, but not limited to, zero tolerances, and exemptions from tolerances in the case of pesticide chemicals in or on raw agricultural commodities, and prescribing the conditions under which a food additive or a color additive may be safely used and exemptions where the food additive or color additive

is to be used solely for investigational or experimental purposes, upon its own motion or upon the petition of any interested party requesting that a regulation be established.

HISTORY: New 1968, p. 72, Act 39, Eff. Jan. 1, 1969.

289.723 General rules and regulations.

Sec. 23. After public hearing, the department shall make reasonable rules and regulations for the implementation of this act in accordance with the provisions of Act No. 55 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 72, Act 39, Eff. Jan. 1, 1969.

289.724 Access to factory, warehouses, establishment or vehicles for inspection; samples or specimen.

Sec. 24. The department or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse or establishment in which foods are manufactured, processed, packed or held for introduction into commerce, or sold to the consuming public, or to enter any vehicle being used to transport or hold such foods in commerce, for the purpose of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this act are being violated, and to secure samples or specimens of any food after paying or offering to pay for such sample. The department may make examinations of samples secured under the provisions of this section to determine whether or not any provision of this act is being violated.

HISTORY: New 1968, p. 72, Act 39, Eff. Jan. 1, 1969.

289.725 Annual report to governor and legislature; dissemination of information.

Sec. 25. The department shall submit to the governor and the legislature an annual report summarizing all judgments, decrees and court orders which have been rendered under this act, including the nature of the charge and the disposition thereof. The department may disseminate such information regarding food as it deems necessary to protect the health of the consumer and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the department from collecting, reporting and illustrating the results of the investigations of the department.

HISTORY: New 1968, p. 72, Act 39, Eff. Jan. 1, 1969.

289.726 Effective date.

Sec. 26. This act shall take effect on January 1, 1969.

HISTORY: New 1968, p. 73, Act 39, Eff. Jan. 1, 1969.

289.727 Repeals.

Sec. 27. The following acts and parts of acts, as amended, are repealed:

Year	Public Act No.	Compiled Law Sections (1948)
1961	254	752.4 to 752.6
1903	123	289.541 and 289.542
1905	7	289.141 and 289.142
1931	328	750.17 and 750.19
	Sections 17 and 19 to 24	to 750.24

HISTORY: New 1968, p. 73, Act 39, Eff. Jan. 1, 1969.

CHAPTER 290. AGRICULTURE—WEIGHTS, MEASURES AND STANDARDS

WEIGHTS AND MEASURES Act 168 of 1913		290.61b	Referendum on change of rate of assessment.
290.1-290.10 Repealed.		290.62	Violation of act; misdemeanor.
WEIGHTS AND MEASURES Ch. 31, R.S. 1846		290.63	Prosecutions, venue; restraint of violations.
290.17	Repealed.	290.64	Law enforcement officials; department of agriculture, duty.
290.19	Repealed.	290.65	Construction of act; saving clause.
FRUIT STANDARDS Act 17 of 1929		290.66	Rules and regulations; filing, publication, effective date.
290.21	Legal fruit standards.	BUSHEL OF APPLES Act 63 of 1877	
WEIGHT PER BUSHEL Act 223 of 1863		290.71	Apples; weight of bushel.
290.31	Weight per bushel.	GRADES FOR APPLES Act 132 of 1937	
WEIGHT OF LIME Act 84 of 1871		290.81	Standard grades for apples; authority of commissioner of agriculture.
290.41	Stone lime; weight of bushel.	290.82	Sales of unclassified apples, restrictions; sales to canning factories, cider mills or other by-product plants; shipment of by-product apples, containers.
APPLES, TAXATION Act 87 of 1939		290.83	Person; definition.
290.51	Apples; taxation; declaration of policy.	290.84	Unlawful acts.
290.52	Apples; definitions.	290.85	Unlawful acts; labels, tags, cards.
290.52a	Districts.	290.86	Enforcement of act; duty of commissioner of agriculture.
290.53	Michigan state apple commission; members, qualifications, appointment, terms; quorum; salary, expenses.	290.87	Inspection; samples.
290.54	Michigan state apple commission; corporate body; seal; copies of records admissible in evidence, effect.	290.88	Rules and regulations.
290.55	Repealed.	290.89	Intent and purpose; application.
290.56	Michigan state apple commission; treasurer, bond; deposit of moneys.	290.90	Violation of act; misdemeanor.
290.57	Liability, state and members exempt; disbursements limited to collections.	STANDARD BARREL Act 88 of 1917	
290.58	Michigan state apple commission; powers and duties.	290.101	Standard barrel for fruits, vegetables and dry commodities other than cranberries.
	Officers, rules and regulations.	290.102	Violation; definition; penalty.
	Administration of act.	290.103	Variations; prosecutions; commodities sold by weight or count.
	Secretary-manager, attorneys, clerks, employees, compensation.	290.104	Effective date.
	Offices, expenses, contracts.	WEIGHTS OF FLOURS, CORN MEAL, HOMINY Act 10 of 1945	
	Investigation; prosecution.	290.111	Flours, meals, hominy and hominy grits; packing for sale, standard weights, exceptions.
	Scientific research.	290.112	Violation; misdemeanor.
	Advertising manager, agents, agencies.	290.113	Enforcement and prosecution.
	Advertising contracts.	PEACH BASKETS Act 101 of 1871	
	Books, records, accounts, inspection.	290.121	Repealed.
	Dissemination of information as to market and crop conditions.	CLIMAX BASKETS AND OTHER CONTAINERS Act 74 of 1917	
290.59	Assessment upon apples; exemptions; use of proceeds.	290.131	Standard climax baskets for fruits and vegetables.
290.60	Growers, dealers, processors; records, form, preservation, inspection.	290.132	Standard containers for small fruits, berries and vegetables.
290.61	Assessment; method of collection; stamps, refunds to non-participating growers.	290.133	Violations of act; penalty; foreign shipments.
	Non-participating growers; exemption certificate.	290.134	Examination and test; variation regulations.
	Same; refund on sales as fresh fruit.	290.135	Duty of prosecuting attorney.
	Same; payment of refunds.	290.136	Guaranty relieving dealer from prosecution; liability of guarantor.
	Same; notice to processor of exemption.	290.137	Effective date.
	Transportation, storage, processing without stamps prohibited.		
290.61a	Assessment; payment, refund.		

GRAPE STANDARDS

Act 145 of 1925

- 290.141 Fancy table grapes; definition, packing.
- 290.142 No. 1 grapes; definition, packing.
- 290.143 No. 2 grapes; definition, packing.
- 290.144 Frosted grapes.
- 290.145 Marking requirements.
- 290.146 Definition of terms.
- 290.147 Right of entry.
- 290.148 Violation of act; misdemeanor, penalties.

IRISH POTATOES, STANDARDS

Act 220 of 1929

- 290.151 Table stock potatoes; standard grades.
- 290.152 Potatoes; definitions.
- 290.153 Unlawful sale or commerce in ungraded potatoes.
- 290.154 Sale and transportation without required branding on container unlawful; cards; conclusive evidence.
- 290.155 Inspection of potatoes in storage or in transit.
- 290.156 Inspection of potatoes in storage or in transit; taking samples, payment.
- 290.157 Enforcement; right of entry for inspection.
- 290.158 Enforcement; rules and regulations.
- 290.159 Intent of act.
- 290.161 Person, definition; liability for violation by employee.
- 290.162 Violation of act; misdemeanor, penalty.

TRANSPORTATION OF POTATOES

Act 227 of 1929

- 290.171-290.174 Repealed.

POTATO INDUSTRY COUNCIL

Act 208 of 1961

- 290.181-290.192 Repealed.

BREAD STANDARDS

Act 317 of 1941

- 290.201 Standard pan sizes for bread.
- 290.202 Act applicable only to white bread sold at retail; restaurants exempted.
- 290.203 Violation of act; misdemeanor.

LINSEED OR FLAXSEED OIL

Act 110 of 1909

- 290.251 Linseed or flaxseed oil; raw or boiled, requirements; adulterated.
- 290.252 Linseed or flaxseed oil; name on barrel or container; evidence of violation.
- 290.253 Linseed or flaxseed oil; compounds, branding; misbranded, definition.
- 290.254 Enforcement.
- 290.255 Right of access; samples; duty to prosecute; hindering prohibited.
- 290.256 Penalty; suit to recover fine.

NAVAL STORES STANDARDS

Act 57 of 1925

- 290.301 Naval stores standards; definitions.
- 290.302 Standards of quality and purity.
- 290.303 Prohibited acts.
- 290.304 Enforcement; rights and duties of commissioner and agents.
- 290.305 Violation of act; penalty.

GALVANIZED WIRE FENCE

Act 227 of 1915

- 290.351 Galvanized wire fence; standard test gauge.
- 290.352 Galvanized wire fence; galvanizing test.
- 290.353 Galvanized wire fence; standard grades.
- 290.354 Galvanized wire fence; label.
- 290.355 Galvanized wire fence; label, annexing conditions; fee.
- 290.356 Galvanized wire fence; test, board of agriculture; permit; label contents.
- 290.357 Galvanized wire fence; unlawful sales, penalty; civil liability.
- 290.358 Galvanized wire fence; taking samples; tests.
- 290.359 Tests, accounts, publication; expenses; unexpended balance.
- 290.360 Effective date.

STANDARD LOG RULE

Act 208 of 1941

- 290.401 Standard log rule; establishment.

POTATO INDUSTRY COMMISSION

Act 29 of 1970

- 290.421 Potato industry commission; definitions.
- 290.422 Potato industry commission; creation, composition, qualifications.
- Geographic districts.
- Terms, limit, length; vacancies.
- Annual meeting of growers; vacancies.
- Chairman; quorum; meetings.
- Compensation.
- Funds.
- Retailers; processors, voluntary fee.
- Gifts and grants.
- Books and records; inspection; audit.
- Financial report.
- 290.423 Potato industry commission; duties.
- Sales promotion.
- Rules.
- Assessment, increase.
- Committees.
- Personnel; expenses.
- 290.424 Assessment on growers and shippers.
- 290.425 Assessment; failure to pay, penalty.
- 290.426 False information; penalty.
- 290.427 Enforcement of act; reimbursement for costs.
- 290.428 Assessment; referendum; vote required.
- 290.429 Referendum on commission's continuance.
- 290.430 Repeal.
- WHOLESALE POTATO DEALERS
- Act 158 of 1964
- 290.451 Wholesale potato dealers; definitions.
- 290.452 Wholesale potato dealers; licenses, exemptions.
- 290.453 Wholesale potato dealers; application, contents, fees.
- 290.454 Wholesale potato dealers; display of license, inspection.
- 290.455 Wholesale potato dealers; identification cards, fee; disposition of fees.
- 290.456 License; refusal, cancellation, suspension and expiration.

- 290.457 Records; examination.
- 290.458 Surety bond; conditions, exemptions.
- 290.459 Coverage and amount of bond; failure to file additional bond, license suspension or revocation.
- 290.460 Default of licensee; claim by grower.
- 290.461 Repealed.
- 290.461a Examination of records; inquiries; seizures; hearing report of findings; appeal; surety bond; settlement of claims.
- 290.462 Default of licensee; late claims.
- 290.463 Rules and regulations.
- 290.464 Waiver.
- 290.465 Violation of act; misdemeanor, penalty.
- 290.466 Repeal.

CHERRIES

Act 228 of 1947

- 290.501 Cherries; purpose of act.
- 290.502 Cherries; definitions.
- 290.503 Michigan cherry commission; members, term, appointment, quorum, compensation, expenses.
- 290.504 Cherry commission; corporate powers; seal; certified records as evidence.
- 290.505 Cherry commission; secretary-manager, compensation.
- 290.506 Cherry commission; treasurer; moneys, deposit, disbursement; fidelity bond.
- 290.507 Non-liability of state, members or employees for acts of cherry commission; disbursement of funds.
- 290.508 Powers and duties of cherry commission.
- 290.509 Taxation of cherries; deducting or remitting assessment; grower's election; expenditures.
- 290.510 Keeping of records; form, inspection by commission; reports based on records.
- 290.511 Violation of act; misdemeanor.
- 290.512 Prosecutions under act; jurisdiction of courts.
- 290.513 Enforcement of act.
- 290.514 Rules, regulations, orders; filing, publication, effective date.
- 290.515 Repealed.

LIMING MATERIAL

Act 162 of 1955

- 290.531 Liming material; definition; container label, contents; exception.
- 290.532 Liming material; vendor's certificates of analysis and contents, samples.
- 290.533 Liming material; license fee; records.
- 290.534 Liming material; annual analysis.
- 290.535 Annual report of director of agriculture; surplus from license fees.
- 290.536 Violation; penalty, damages for misrepresentation.
- 290.537 Selection of material for analysis; inspection; seizure.
- 290.538 Enforcement; rules and regulations.

BEANS

Act 114 of 1965

- 290.551 Beans; definitions.
- 290.552 Beans; districts.
- 290.553 Michigan bean commission; members, terms.

- 290.554 Bean commission; appointment, meetings.
- 290.555 Bean commission; quorum, compensation, expenses.
- 290.556 Bean commission; chairman, treasurer, other officers.
- 290.557 Bean commission; deposit of moneys received; treasurer's bond.
- 290.558 Bean commission; body corporate, seal, records as evidence.
- 290.559 Bean commission; state and employees not liable for acts; disbursements.
- 290.560 Bean commission; powers and duties.
- 290.561 Enforcement; reimbursement for costs.
- 290.562 Assessment on beans grown.
- 290.563 Nonparticipating grower; election, form, certificate.
- 290.564 Rate of assessment; petition, referendum.
- 290.565 First receiver; records, grower's records.
- 290.566 Violation of act; misdemeanor, penalty.
- 290.567 Continuation of act; petition, referendum, transfer of assets.
- 290.568 Effective date.

WEIGHTS AND MEASURES ACT OF 1964

Act 283 of 1964

- 290.601 Weights and measures act of 1964; short title.
- 290.602 Weights and measures; definitions.
- 290.603 Weights and measures; systems and definitions recognized.
- 290.604 State standards; location, removal, certification.
- 290.605 State standards; office standards, field standards, verification.
- 290.606 State director of weights and measures; deputy, inspectors.
- 290.607 State director of weights and measures; standards; custody, enforcement, supervision, reports.
- 290.608 State director of weights and measures; rules and regulations.
- 290.609 State director of weights and measures; testing of standards, inspections; testing of weights and measures for state purchases.
- 290.610 State director of weights and measures; inspecting and testing of weights and measures kept for sale or used commercially; sampling.
- 290.611 State director of weights and measures; investigation of complaints; commercial transactions.
- 290.612 State director of weights and measures; weight, measurement, or inspection of packages of commodities, sampling procedures.
- 290.613 State director of weights and measures; stop-use orders, stop-removal orders, removal orders.
- 290.614 State director of weights and measures; approval, rejection, condemnation, confiscation.
- 290.615 State director of weights and measures; enforcement, seizure without formal warrant.

- 290.616 State director of weights and measures; powers of deputy director and inspectors.
- 290.617 Sealer of weights and measures, deputy sealers, supervising inspectors, city and county inspectors; appointment.
- 290.618 Sealer of weights and measures, deputy sealers, supervising inspectors, city and county inspectors; jurisdiction; city or county ordinances.
- 290.619 City and county official standards; comparison with state standards.
- 290.620 Joint county and city weights and measures jurisdiction; powers.
- 290.621 State director of weights and measures; concurrent enforcement powers.
- 290.622 Rejected or condemned weights and measures; disposition.
- 290.623 Commodities, liquid, nonliquid, measurement; exceptions.
- 290.624 Package labels; contents; allowable variations.
- 290.625 Package labels; random weights, measures or counts, additional declarations.
- 290.626 Packages; misleading wrappers.
- 290.627 Packages; advertisement, declaration of quantity.
- 290.628 Commodities; sale by weight, net weight.
- 290.628a Meat, meat products, poultry and seafood sold by weight; food combination sold by weight, quantity representation by total weight of product or combination.
- 290.628b Commodity or service; sale by weight, measure or count; misrepresentation; display of price including fraction of a cent.
- 290.629 Obstruction of enforcement officers.
- 290.630 Impersonation of officers.
- 290.631 Prohibited acts.
- 290.632 Injunction.
- 290.633 Proof of existence of weight, measure or device; presumption.
- 290.634 Repeal.
- AGRICULTURAL COMMODITIES MARKETING ACT
Act 232 of 1965
- 290.651 Agricultural commodities marketing act; short title.
- 290.652 Agricultural commodities marketing act; definitions.
- 290.653 Marketing agreements; provisions allowed.
- 290.654 Inspection and grading; approved inspectors.
- 290.655 Assessments; collection, maximum.
- 290.656 Marketing program; temporary suspension, duration.
- 290.657 Commodity committee; membership, appointment, expenses, duties.
- 290.658 Deposit of moneys collected; expenditures.
- 290.659 Refunds.
- 290.660 Petition for program or amendment; notice, hearing, decision by director.
- 290.661 Referendum; conditions for assent.
- 290.662 Referendum; director to establish procedures for determination of volume.
- 290.663 Termination of program; petition, hearing, recommendation, referendum.
- 290.664 Program approved by referendum; duties of director.
- 290.665 Proposed programs; necessary provisions.
- 290.666 Deposit by applicants of funds for expenses; reimbursement.
- 290.667 Marketing agreements with producers, handlers and others; effective date.
- 290.668 Rules and regulations; duty of director.
- 290.669 Actions at law or in equity; director may institute.
- 290.670 Suspension of statute where marketing program approved; exception.
- 290.671 Referendum; required each fifth year.

290.1-290.10 Repealed. 1964, p. 538, Act 283, Eff. Aug. 28.

Sections provided for state superintendent of weights and measures, state and local sealers and inspectors, prescribed their powers and duties, and provided penalties for fraud and deception in use of false weights and measures and confiscation thereof.

R.S. 1846, Ch. 31.

WEIGHTS AND MEASURES.

Secs. 1-16.

HISTORY: CL 1857, 1241-1256;—CL 1871, 1528-1543;—How. 1550-1565;—CL 1897, 4862-4897;—Rep. 1913, p. 292, Act 168, Eff. Aug. 14, being CL 1929, 5543.

290.17 Repealed. 1968, p. 460, Act 264, Eff. Nov. 15.

Section defined hundred weight; contracts construed accordingly unless inconsistent with special agreement of contracting parties.

Sec. 18.

HISTORY: CL 1857, 1258;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

This section was superseded by Act 223 of 1863, being Compilers' § 290.31.

290.19 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section provided standard measure for fruits, charcoal and other commodities sold by heaped measure.

Act 17, 1929, p. 41; Eff. Aug. 28.

AN ACT to define and fix standards for fruits in this state where other standards are not specifically prescribed by law.

The People of the State of Michigan enact:

290.21 Legal fruit standards.

Sec. 1. That standards established by the United States secretary of agriculture for fruits shall be accepted as the legal standards, except in cases where other standards are specifically prescribed.

HISTORY: CL 1929, 5546;—CL 1948, 290.21.

U.S. STANDARDS: Use of pure food standards established by U.S. Secy. of Agriculture, see Compilers' § 290.111.

GRAPES: Standards, see Compilers' § 290.141 et seq.

APPLES: Standards, see Compilers' § 290.81 et seq.

Act 223, 1863, p. 378; Eff. Jun. 22.

AN ACT to provide for the weight per bushel, of certain grain, dried fruit, coal, vegetables and products.

The People of the State of Michigan enact:

290.31 Weight per bushel.

Sec. 1. That whenever wheat, rye, shelled corn, corn on the cob, corn meal, oats, buckwheat, beans, clover seed, timothy seed, flax seed, hemp seed, millet seed, blue grass seed, red top seed, barley, dried apples, dried peaches, potatoes, potatoes (sweet), onions, turnips, peas, cranberries, dried plums, castor beans, salt, mineral coal, Hungarian grass seed, orchard grass seed, osage orange seed, beets, carrots or parsnips, shall be sold by the bushel, and no special agreement as to the measure or weight thereof shall be made by the parties, the measure thereof shall be ascertained by weight, and shall be computed as follows, viz:

- 60 pounds for a bushel of wheat;
- 56 pounds for a bushel of rye;
- 56 pounds for a bushel of shelled corn;
- 70 pounds for a bushel of corn on the cob;
- 50 pounds for a bushel of corn meal;
- 32 pounds for a bushel of oats;
- 48 pounds for a bushel of buckwheat;
- 60 pounds for a bushel of beans;
- 60 pounds for a bushel of clover seed;
- 45 pounds for a bushel of timothy seed;
- 56 pounds for a bushel of flax seed;
- 44 pounds for a bushel of hemp seed;
- 50 pounds for a bushel of millet or Hungarian grass seed;
- 14 pounds for a bushel of blue grass seed;
- 14 pounds for a bushel of red top seed;
- 48 pounds for a bushel of barley;
- 22 pounds for a bushel of dried apples;
- 28 pounds for a bushel of dried peaches;
- 60 pounds for a bushel of potatoes;

56 pounds for a bushel of sweet potatoes;
 54 pounds for a bushel of onions;
 58 pounds for a bushel of turnips;
 60 pounds for a bushel of peas;
 40 pounds for a bushel of cranberries;
 28 pounds for a bushel of dried plums;
 46 pounds for a bushel of castor beans;
 56 pounds for a bushel of Michigan salt;
 80 pounds for a bushel of mineral anthracite coal;
 60 pounds for a bushel of mineral bituminous coal;
 14 pounds for a bushel of orchard grass seed;
 33 pounds for a bushel of osage orange seed;
 56 pounds for a bushel of beets;
 50 pounds for a bushel of carrots;
 50 pounds for a bushel of parsnips.

HISTORY: CL 1871, 1546;—How. 1566;—CL 1897, 4900;—CL 1915, 6247;—Am. 1925, p. 78, Act 59, Eff. Aug. 27;—CL 1929, 5567;—CL 1948, 290.31.

MILL PRODUCTS: Weights and measures, see Compilers' §§ 290.111 to 290.113.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1871, 1546;—How. 1569;—CL 1915, 6248;—CL 1929, 5568;—Rep. 1945, p. 402, Act 267, Imd. Eff. May 25.

Act 84, 1871, p. 112; Imd. Eff. Apr. 8.

AN ACT to establish the weight of lime.

The People of the State of Michigan enact:

290.41 Stone lime; weight of bushel.

Sec. 1. That whenever stone lime is sold, and no special agreement is made by the parties, the bushel shall consist of 70 pounds.

HISTORY: CL 1871, 1547;—How. 1570;—CL 1897, 4901;—CL 1915, 6249;—CL 1929, 5569;—CL 1948, 290.41.

Act 87, 1939, p. 143; Imd. Eff. May 12.

AN ACT relating to apples; declaring the public policy of this state to promote the consumption and sale of apples by providing a research and a publicity and sales promotion program to increase the consumption of Michigan grown apples; levying an assessment on apple production and providing for its collection; creating an apple commission and vesting in it the administration of this act; providing for the powers, duties and authority of said commission; and providing penalties for the violation of this act.

The People of the State of Michigan enact:

290.51 Apples; taxation; declaration of policy.

Sec. 1. This act is passed:

(a) In the exercise of the police power of the state to protect the public health, to promote the welfare of the state, and to stabilize and protect and promote the apple industry of the state.

(b) Because it is necessary and expedient to enhance the reputation of Michigan apples in domestic markets, because Michigan apples may be forced out of domestic markets by competition from other highly advertised fruits, in many cases promoted by other states.

(c) Because the apple crop grown in Michigan comprises 1 of the major agricultural crops of Michigan, and, therefore, the business of selling and distributing such crop and the expansion and protection of its market is of public interest.

(d) Because it is desirable to discover the health-giving qualities and the food and dietetic value of Michigan apples, and to spread such knowledge.

(e) Because the successful continuance of the Michigan apple industry, the enlarging of its markets, and increasing of the consumption of Michigan apples are necessary to assure the payment of taxes to the state and its subdivisions, to provide employment within the state, and increase the wages of agricultural labor.

(f) To disseminate information giving the public knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell apples of the finest quality, the methods and care used in preparing for market, and the methods of sale and distribution, for the purpose of reducing the cost of distribution so that the spread between the cost to the consumer and the amount received by the producer will be reduced to a minimum.

(g) To protect the general public by informing it with reference to the various varieties and grades and brands of Michigan apples and Michigan apple products, and the uses to which they may be put.

HISTORY: CL 1948, 290.51;—Am. 1955, p. 680, Act 274, Imd. Eff. Jun. 30.

CITED IN OTHER SECTIONS: Sections 290.51 to 290.66 are cited in § 16.283.

290.52 Apples; definitions.

Sec. 2. When used in this act:

(a) "Commission" means the Michigan state apple commission.

(b) "Person" means individuals, corporations, partnerships, trusts, associations, co-operatives, and any and all other business units, devices and arrangements.

(c) "Grower" means any person who grows apples, whether as owner, agent, or otherwise.

(d) "Grower's agent" means any person who grows, handles, packages, processes, ships or sells apples for a grower's account.

(e) "Participating grower" means a grower who has not exempted himself from the payment of assessments under this act for a particular year, as in this act provided.

(f) "Dealer" means any person who handles, packages, processes, ships, buys or sells apples on his own account, or for the account of any person other than a grower.

(g) "Processing plant" means any place to which apples are delivered for the purpose of packaging, drying, dehydrating, canning, freezing, pressing, fermenting, powdering, extracting, cooking, or for use in producing or manufacturing a product or manufactured article; and a "processor" is any person who performs any of said processes.

(h) "Shipment" takes place and apples are deemed to be "shipped" when they are loaded for delivery to any person other than the grower or grower's agent, processor or dealer within this state authorized by the commission to withhold the amount of the apple advertising assessment made by participating growers.

(i) Apples are "handled" by any person who has possession of them before the payment of the assessment thereon.

(j) "Bushel" means a quantity of apples filling a container having between 2,150 and 2,500 cubic inches.

HISTORY: CL 1948, 290.52;—Am. 1955, p. 680, Act 274, Imd. Eff. Jun. 30.

290.52a Districts.

Sec. 2a. For the purposes of this act, the state shall be divided into districts as follows:

District No. 1 shall consist of the counties of Berrien, Cass and St. Joseph.

District No. 2 shall consist of the counties of Van Buren, Kalamazoo, Allegan and Barry.

District No. 3 shall consist of the counties of Ottawa, Kent, Ionia, Muskegon and Montcalm.

District No. 4 shall consist of the counties of Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, Mason, Lake, Osceola, Clare, Gladwin and Arenac.

District No. 5 shall consist of the counties of Branch, Hillsdale, Lenawee, Calhoun, Jackson, Eaton, Ingham, Clinton, Shiawassee, Gratiot and Saginaw.

District No. 6 shall consist of the counties of Monroe, Washtenaw, Wayne, Livingston, Oakland, Macomb, Genesee, Lapeer, St. Clair, Tuscola, Sanilac and Huron.

District No. 7 shall consist of the counties of the state not included in any of the aforesaid districts.

HISTORY: Add. 1955, p. 661, Act 274, Eff. Jan. 30.

290.53 Michigan state apple commission; members, qualifications, appointment, terms; quorum; salary, expenses.

Sec. 3. There is hereby created the Michigan state apple commission. The commission shall be composed of the director of agriculture, ex officio, a staff member of Michigan state college appointed by the dean of agriculture of that college to serve at his pleasure, ex officio, and 7 participating growers appointed by the governor with the advice and consent of the senate. The ex officio members of the commission shall have no vote thereon. The members appointed by the governor shall each be a citizen and resident of this state and of the district from which he is appointed, over the age of 25 years, who is a participating grower as defined in this act and actually has been engaged in growing and producing apples within this state for a period of at least 5 years immediately prior to his appointment, and has derived during said period a substantial portion of his income therefrom. No member shall be eligible to serve more than 2 terms in succession. If at any time during his term he shall cease to possess any of the qualifications herein provided, his office shall be thereby vacated. The term of office of the members of the commission shall be 3 years from the date of appointment and until their successors are appointed and qualified. On the effective date of this amendatory act, the 5 members of the commission appointed by the governor for the term ending July 1, 1957, shall choose by lot 2 of their number whose term shall expire April 1, 1956. The term of the remaining 3 shall expire April 1, 1957. The term of the 2 members added to the commission by this amendatory act shall expire April 1, 1958. After the expiration of the terms of members of the commission in office at the effective date of this amendatory act, not more than 1 member appointed by the governor shall reside in each district as defined in this act. To assist the governor in making qualified appointments to the commission, the Michigan apple growers and storage association, the Michigan state horticultural society and other recognized state organizations of apple growers in this state may recommend to the governor twice the number of appointments to be made, and the governor shall choose from such list.

A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission.

Each member of the commission, including ex officio members, shall receive the sum of \$15.00 per day for each day spent in actual attendance at meetings of the commission, together with traveling expenses while on commission business at the rate al

lowed by law to state employees. Payment thereof shall be made out of funds available to the commission. No member shall receive any further salary or other compensation from the commission.

HISTORY: CL 1948, 290.53;—Am. 1955, p. 661, Act 274, Imd. Eff. Jun. 30.

290.54 Michigan state apple commission; corporate body; seal; copies of records admissible in evidence, effect.

Sec. 4. The commission shall be a corporate body. It shall have the power to sue and be sued; to contract and be contracted with; it shall have and possess all the powers of a corporation. The commission shall adopt a corporate seal. Copies of the proceedings, records and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in evidence in all courts of this state, and shall be prima facie evidence of the truth of all statements therein contained.

HISTORY: CL 1948, 290.54.

290.55 Repealed. 1955, p. 665, Act 274, Imd. Eff. Jun. 30.

Section provided for election of secretary-manager by apple commission.

290.56 Michigan state apple commission; treasurer, bond; deposit of moneys.

Sec. 6. The commission shall appoint a treasurer. All moneys received by the commission, or any other state official from the assessments hereinafter levied, shall be paid to the treasurer of the commission, shall be deposited in such banks as the commission may designate, and shall be disbursed by order of the commission. The treasurer shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state, in favor of the commission and the state of Michigan, jointly and severally, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission, in the penal sum of \$20,000.00.

HISTORY: CL 1948, 290.56.

290.57 Liability, state and members exempt; disbursements limited to collections.

Sec. 7. The state of Michigan shall not be liable for the acts of said commission or its contracts. All disbursements shall be limited to the funds collected by the commission, and no member of the commission or any employe or agent thereof shall be liable on the contracts of the commission. All salaries, expenses, costs, obligations, and liabilities incurred by said commission shall be payable only from the funds collected by the commission under this act.

HISTORY: CL 1948, 290.57.

290.58 Michigan state apple commission; powers and duties.

Sec. 8. The powers and duties of the commission shall include the following:

Officers, rules and regulations.

(1) To elect a chairman and from time to time such other officers as it may deem advisable, and to adopt and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations and orders for the exercise of its powers and the performance of its duties, which rules and regulations shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948;

Administration of act.

(2) To administer and enforce this act, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purpose of this act;

Secretary-manager, attorneys, clerks, employees, compensation.

(3) To employ and at its pleasure discharge a secretary-manager, and such attorneys, clerks and employees as it deems necessary; and to prescribe their duties and powers and fix their compensation;

Offices, expenses, contracts.

(4) To establish offices and incur any and all expenses and to enter into any and all contracts and agreements and to create such liabilities as may be reasonable for the proper administration and enforcement of this act;

Investigation; prosecution.

(5) To investigate and prosecute violations of this act;

Scientific research.

(6) To conduct or sponsor scientific research to develop and discover the health, food, therapeutic and dietetic value of apples and products thereof;

Advertising manager, agents, agencies.

(7) To employ and at its pleasure discharge an advertising manager, agents, advertising agencies, and such other help as it deems necessary for the promotion of the apple industry, and to outline their powers and duties and fix their compensation;

Advertising contracts.

(8) To make in the name of the commission such advertising contracts and other agreements as may be necessary;

Books, records, accounts, inspection.

(9) To keep accurate books, records and accounts of all its dealings, which books, records and accounts shall be open to inspection by any grower or other person and shall be audited by the state auditor general or by a certified public accountant;

Dissemination of information as to market and crop conditions.

(10) To inform participating growers and growers' agents as to market and crop conditions and to disseminate information helpful to the marketing of apples; but the commission shall not duplicate services available to growers through other agencies.

HISTORY: CL 1948, 290.58;—Am. 1955, p. 662, Act 274, Imd. Eff. Jun. 30.

290.59 Assessment upon apples; exemptions; use of proceeds.

Sec. 9. (a) There is hereby levied and imposed upon all apples grown in the years 1939 through 1954, an assessment of 1 cent per bushel or 2 cents per 100 pounds of all apples grown and produced in Michigan, payable by the grower or grower's agent when shipped, whether in bulk or loose in boxes or any other container, or packed in any style package: Provided, That the provisions of this act shall not apply to apples sold by growers or growers' agents in any of said years direct to cider, juice or vinegar plants for use in making cider, juice or vinegar: Provided, That each grower or growers' agents shall be exempt from said assessment on a maximum of 300 bushels of apples for each of said calendar years.

(b) There is hereby levied and imposed upon all apples grown by participating growers in the year 1955, and annually thereafter, such assessment as may be provided by this act; and until such assessment is validly changed as in this act provided, the assessment shall be at the rate of 2 cents per bushel or 4 cents per 100 pounds. Such assessment shall be payable by the participating grower or grower's agent when apples are shipped, as in this act defined, whether shipment is in bulk or loose in boxes or other container, or packed in any style package: Provided, That if pursuant to commission regulation a processor withholds the amount of the assessment from payments made to participating growers, apples may be delivered to such processor without prior payment of the assessment: Provided further, That the provisions of this act shall

not apply to apples sold by growers or growers' agents direct to cider, juice or vinegar plants for use in making cider, juice or vinegar.

(c) All moneys levied and collected under this act shall be expended exclusively to advertise apples and to promote the apple industry.

HISTORY: CL 1948, 290.59;—Am. 1955, p. 663, Act 274, Imd. Eff. Jun. 30.

290.60 Growers, dealers, processors; records, form, preservation, inspection.

Sec. 10. Every grower or grower's agent shall keep a complete and accurate record of the number of bushels or weight of apples handled, shipped or processed by him during each calendar year. Every dealer and processor shall keep a complete record of the number of bushels or weight of apples received by him from any grower or grower's agent during each calendar year. Such record shall be in such form and contain such information as the commission shall by regulation or rule prescribe. Such records shall be preserved by such grower, grower's agent, dealer and processor for a period of 2 years, and shall be offered and submitted for inspection at any time upon written or oral request or demand by the commission or its duly authorized agent or employee.

HISTORY: CL 1948, 290.60;—Am. 1955, p. 663, Act 274, Imd. Eff. Jun. 30.

290.61 Assessment; method of collection; stamps, refunds to non-participating growers.

Sec. 11. (a) The commission shall by regulation prescribe the method of collection of assessments under this act, and for that purpose shall require stamps to be known as "apple advertising stamps" to be purchased from the commission and fixed or attached to the containers or to invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets when such apples are shipped by any participating grower or grower's agent. In order to facilitate the enforcement of this act, growers who are not participating growers as in this act defined, or their agents, shall purchase apple advertising stamps and attach them in the same manner required of participating growers, making claim to the commission for refund thereof as prescribed by subsection (b) of this section.

Non-participating growers; exemption certificate.

(b) Such growers as desire can become non-participating growers and claim exemption from the provisions of this act. To claim such exemption, the non-participating grower must notify the commission in writing on or before the first day of July of each year of his intention to claim exemption from the apple advertising assessment for the coming crop year. For this purpose, the crop year shall be considered to run from July first of one year to June thirtieth of the following year. When so notifying the commission, the non-participating grower shall give the commission his estimate of the size of the apple crop upon which he is claiming exemption. The commission shall then issue the non-participating grower an exemption certificate bearing an exemption certificate number.

Same; refund on sales as fresh fruit.

On apples sold as fresh fruit, the non-participating grower or his authorized agent shall attach properly cancelled apple advertising stamps in the same manner as a participating grower. The non-participating grower shall then file for the refund of the apple advertising assessment paid by him upon a form furnished him by the commission at his request. In filing for a refund, the form must be accompanied by the grower's copy of the commission's official receipt used for stamp sales. These official receipts shall bear the same name as that appearing on a non-participating grower's exemption certificate.

Same; payment of refunds.

On the last day of each month, the commission shall pay all requests for refund of the apple advertising assessments received by it from non-participating growers during the month. A non-participating grower need not file monthly for the refund of his apple advertising assessment. He may elect to file as many times as he desires during the crop year provided he does not file more than 1 request during each month. No refunds shall be paid to non-participating growers filing for a refund later than June thirtieth of the crop year for which he has claimed exemption.

Same; notice to processor of exemption.

On apples sold to processors, the non-participating grower need not attach apple advertising stamps if the processor to which he is selling has been authorized by the commission to withhold the amount of the apple advertising assessment from payments made to participating growers. In this event, the non-participating grower shall notify the processor in writing of the fact that he is a non-participating grower. This written notice shall contain the number of the non-participating grower's exemption certificate.

Transportation, storage, processing without stamps prohibited.

No Michigan apples shall be transported by any carrier, stored by any storage, processed by any processor, or sold to any dealer until such advertising stamps have been fixed or attached by the grower of said apples, or grower's agent. Any such stamps shall be cancelled immediately upon being so attached or fixed, and the date of cancellation shall be placed on such stamps. Each grower or grower's agent shall be entitled to receive from the commission free apple advertising stamps up to a maximum of 300 bushels in 1954 and prior years.

HISTORY: CL 1948, 290.61;—Am. 1955, p. 663, Act 274, Imd. Eff. Jun. 30.

290.61 a Assessment; payment, refund.

Sec. 11a. With respect to the year 1955 and subsequent years, any grower may file with the commission on or before July 1 of each year a written and signed statement by such grower that he elects not to pay the assessment during such year. Upon receipt of such statement, the commission shall make proper record thereof and inform such grower of his duty to purchase and attach apple advertising stamps during such year, advising him of the method and time of refund as prescribed by section 11, and of the proof required by the commission for such refund.

HISTORY: Add. 1955, p. 664, Act 274, Imd. Eff. Jun. 30.

290.61 b Referendum on change of rate of assessment.

Sec. 11b. Whenever 15% of the participating growers, of which not more than $\frac{1}{3}$ are in the same district, shall petition the commission therefor, the commission shall conduct a referendum among the participating growers of the state to determine the rate of assessment. Such referendum shall be conducted in a manner to protect the purity of the ballot. And if a majority of the participating growers voting upon the question shall vote in favor of the proposed change, the assessment shall thereafter be as proposed, but any change in assessment shall be ineffective in the year in which it is voted unless the change be published before June 20 of that year. The rate of assessment shall not be changed by more than 1 cent per bushel or 2 cents per 100 pounds in any year.

HISTORY: Add. 1955, p. 664, Act 274, Imd. Eff. Jun. 30.

290.62 Violation of act; misdemeanor.

Sec. 12. Any person who shall violate or aid in the violation of any provision of this act shall be guilty of a misdemeanor.

HISTORY: CL 1948, 290.62.

290.63 Prosecutions, venue; restraint of violations.

Sec. 13. (a) Any prosecution brought under this act may be instituted or brought in any county in this state in which the defendant or any of the defendants reside, or in which the violation was committed, or in which the defendant, or any of the defendants, has his principal place of business;

(b) The several courts of the state of Michigan are hereby invested with jurisdiction to enforce this act and to prevent and restrain violations thereof.

HISTORY: CL 1948, 290.63.

290.64 Law enforcement officials; department of agriculture, duty.

Sec. 14. It shall be the duty of all state and county law enforcement officers and all employees and agents of the department of agriculture to enforce this act.

HISTORY: CL 1948, 290.64.

290.65 Construction of act; saving clause.

Sec. 15. This act shall be liberally construed. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provision or section.

HISTORY: CL 1948, 290.65.

290.66 Rules and regulations; filing, publication, effective date.

Sec. 16. Every rule, regulation or order promulgated by the commission shall be filed with the commissioner of agriculture of the state of Michigan, and shall be published in an established newspaper in the following counties: Wayne, Kent, Kalamazoo, Berrien and Grand Traverse within 5 days after its promulgation. And such rules, orders or regulations shall become effective 15 days after such filing and publication.

HISTORY: CL 1948, 290.66.

Act 63, 1877, p. 51; Eff. Aug. 21.

AN ACT to establish the weight of a bushel of apples.

The People of the State of Michigan enact:

290.71 Apples; weight of bushel.

Sec. 1. That whenever apples are bought or sold by weight 48 pounds shall constitute a bushel.

HISTORY: How. 1571;—CL 1897, 4902;—CL 1915, 6250;—CL 1929, 5592;—CL 1948, 290.71.

DRIED APPLES: Weight per bushel, see Compilers' § 290.31.

Act 132, 1937, p. 204; Imd. Eff. Jul. 1.

AN ACT to regulate the grading, packing, branding and sale of apples; to fix standard grades for apples; to provide for inspection; to provide for penalties for violation thereof; and to repeal Act No. 82 of the Public Acts of 1925, being sections 5593 to 5900, inclusive, of the Compiled Laws of 1929.

The People of the State of Michigan enact:

290.81 Standard grades for apples; authority of commissioner of agriculture.

Sec. 1. The standard grades for apples shall be limited to U.S. Grades and shall conform in all respects and be identical with the latest standards established by the

United States secretary of agriculture for the grades herein mentioned, and thus conforming shall be accepted as the legal standards for the state of Michigan. Apples shall not be sold that do not meet the requirements of the foregoing grades, except as provided in section 2 of this act: Provided, however, That the commissioner of agriculture may establish grades or combination grades, and he may also establish a superior grade to be sold under bond.

HISTORY: CL 1948, 290.81.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

FORMER ACTS: Act 266, 1923; Act 82, 1925, being CL 1929, 5593-5600.

290.82 Sales of unclassified apples, restrictions; sales to canning factories, cider mills or other by-product plants; shipment of by-product apples, containers.

Sec. 2. Apples which do not conform to the foregoing grades may be sold or transported as unclassified. Any lot of apples sold as unclassified must not contain more than 20 per cent of apples which would conform to any combination of the superior grades. No facing or top dressing shall be permitted and the contents of such packages or bulk lot container shall not be inferior to the shown surface and shall not contain wormy or decayed fruit: Provided, That any grade of apples not detrimental to health may be sold directly to canning factories, cider mills or other by-product plants, or may be transported directly to a packing house where they are to be graded and it shall be a violation of this act for apples so sold for by-product purposes to again be offered for sale as fresh fruit. Shipments of by-product apples may be made outside of Michigan only on declaration at point of destination and with the knowledge and approval of the commissioner of agriculture. Windfalls or drop apples may be packed and sold: Provided, The face or shown surface of the container is not more than 10 per cent of a better quality than the contents of the package, and none of said fruit shall be seriously damaged. All containers must be stenciled with letters of not less than a quarter of an inch in height marked "Michigan drops".

HISTORY: CL 1948, 290.82.

290.83 Person; definition.

Sec. 3. The word "person" as used herein, shall be construed to include any grower, dealer, shipper, corporation, society, association or their agent or representative. The act, omission or failure to act of any official or employe of any person, when such official or employe is acting within the scope of his employment or office, shall in every case be deemed also the act, omission or failure to act of the person as well as the official or employe.

HISTORY: CL 1948, 290.83.

290.84 Unlawful acts.

Sec. 4. It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant of any person, firm, association, organization or corporation, to pack for sale, expose for sale, or sell, transport, deliver or consign, or have in possession for sale, transport, delivery or consignment in interstate or intrastate commerce, apples which are not graded to meet the requirements of the grade declared.

HISTORY: CL 1948, 290.84.

290.85 Unlawful acts; labels, tags, cards.

Sec. 5. It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant to any person, firm, association, organization or corporation, to expose for sale, or sell, transport, deliver or consign, or have in possession apples for sale unless such container has been legibly and conspicuously tagged, branded, labeled or stenciled with letters not less than a quarter of an inch i

height before being removed from the premises where prepared for sale with the name and address of the person or persons responsible for the grading and packing, the name of the grade, the name of the variety if known, if not known, then mark it unknown, the minimum size or numerical count, and the true net contents. Bulk shipments shall be accompanied by 2 cards not less than 4 by 6 inches in size, placed on the inside of car near each door. Likewise cards in size as herein described shall be prominently displayed on all bulk shipments made by truck or other conveyance. Upon each card shall appear the name and address of the consignor, the name of the grade, the name of the loading station, the date of loading, and the name and address of the consignee, if known. It shall be conclusive evidence, and the apples deemed to be for sale, when containers are packed for delivery or transit, or when same are exposed for sale or when the same are in the process of delivery or transit or are located at a depot, station, boat dock, or any place where apples or other products are held in storage, or for immediate or future sale or transit.

HISTORY: CL 1948, 290.85.

290.86 Enforcement of act; duty of commissioner of agriculture.

Sec. 6. The commissioner of agriculture is hereby charged with the enforcement of this act and is given power unto himself and his inspectors to enter into and upon any premises where apples are graded or packed or stored to inspect the same as to grade, pack and condition.

HISTORY: CL 1948, 290.86.

290.87 Inspection; samples.

Sec. 7. When it is deemed necessary by the person making inspection to procure a sample or samples of apples, the person in charge of the place where inspection is made must permit the same to be obtained upon being tendered the commercial value of the stock being procured. In the event the person in charge cannot be located in a reasonable length of time, a sample or samples may be taken and the cash value of same tendered at the time of the next inspection.

HISTORY: CL 1948, 290.87.

290.88 Rules and regulations.

Sec. 8. The commissioner of agriculture may promulgate rules and regulations deemed necessary to the proper enforcement of the provisions of this act.

HISTORY: CL 1948, 290.88.

290.89 Intent and purpose; application.

Sec. 9. The intent and purpose of this act is to regulate the sale of apples intended for intrastate and interstate commerce when such sale is made by the dealer or distributor, or any other person either by wholesale or retail or in any other manner. The provisions of this act shall not apply to the grower in the sale of apples grown by himself when made direct to the consumer or to the grower or grower's agent when bulk shipments of apples in crates, barrels or boxes are being transported to a packing plant for grading and packing provided each shipment is accompanied by an authentic bill of lading stating the number of crates, barrels or boxes, the destination and the grade, variety, size and the name and address of grower or packer.

HISTORY: CL 1948, 290.89;—Am. 1980, p. 19, Act 21, Eff. Aug. 17.

290.90 Violation of act; misdemeanor.

Sec. 10. Whosoever violates any of the provisions of this act or the rules and regulations promulgated hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 290.90.

Sec. 11. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 12. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 82, 1925, CL 1929, 5593-5600.

Act 88, 1917, p. 160; Eff. Sep. 1.

AN ACT to fix the standard barrel for fruits, vegetables, and other dry commodities.

The People of the State of Michigan enact:

290.101 Standard barrel for fruits, vegetables and dry commodities other than cranberries.

Sec. 1. The standard barrel for fruits, vegetables, and other dry commodities other than cranberries shall be of the following dimensions when measured without distention of its parts: length of staves, 28 ½ inches; diameter of heads, 17 ½ inches; distance between heads, 26 inches; circumference of bulge, 64 inches, outside measurement; and the thickness of staves not greater than 4/10 of an inch: Provided, That any barrel of a different form having a capacity of 7,056 cubic inches shall be a standard barrel. The standard barrel for cranberries shall be of the following dimensions when measured without distention of its parts: length of staves, 28 ½ inches; diameter of heads, 16 ¼ inches; distance between heads, 25 ¼ inches; circumference of bulge, 58 ½ inches, outside measurement; and the thickness of staves not greater than 4/10 of an inch.

HISTORY: CL 1929, 5554;—CL 1948, 290.101.

290.102 Violation; definition; penalty.

Sec. 2. It shall be unlawful to sell, offer, or expose for sale in this state, or to ship from this state, to any other state, territory, or the District of Columbia or to a foreign country, a barrel containing fruits or vegetables or any other dry commodity of less capacity than the standard barrels defined in the first section of this act, or subdivisions thereof known as the third, half, and three quarter barrel, and any person guilty of a wilful violation of any of the provisions of this act shall be deemed guilty of a misdemeanor and be liable to a fine not to exceed 100 dollars, in any court of this state having jurisdiction: Provided, however, That no barrel shall be deemed below standard within the meaning of this act when shipped to any foreign country and constructed according to the specifications or directions of the foreign purchaser if not constructed in conflict with the laws of the foreign country to which the same is intended to be shipped.

HISTORY: CL 1929, 5555;—CL 1948, 290.102.

290.103 Variations; prosecutions; commodities sold by weight or count.

Sec. 3. Reasonable variations shall be permitted and tolerance established by rules and regulations made by the director of the bureau of standards and approved by the secretary of commerce. Prosecutions for offenses under this act may be begun upon complaint of local sealers of weights and measures or other officer of the state appointed to enforce the laws of the said state, relating to weights and measures: Provided, however, That nothing in this act shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count.

HISTORY: CL 1929, 5556;—CL 1948, 290.103.

290.104 Effective date.

Sec. 4. This act shall be in force and effect from and after the first day of September, 1917.

HISTORY: CL 1929, 5557;—CL 1948, 290.104.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1929, 5558;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 31, 1899, CL 1915, 6254.

Act 10, 1945, p. 10; Imd. Eff. Feb. 27.

AN ACT to fix the standard net weights for packaged wheat, corn, rye, buckwheat and soya flours, corn meals, hominy, and hominy grits; to regulate the sale of such commodities; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

290.111 Flours, meals, hominy and hominy grits; packing for sale, standard weights, exceptions.

Sec. 1. It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in the state of Michigan any of the following commodities except in containers with capacities in net avoirdupois weights of 5, 10, 25, 50, and 100 pounds, and multiples of 100 pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, rye flour, buckwheat flour, soya flour, corn meals, hominy and hominy grits: Provided, however, That the provisions of this act shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than 100 pounds, or for export or (c) flours, meals, hominy, and hominy grits packed in containers the net contents of which are less than 5 pounds, or (d) the exchange of wheat for flour by mills grinding for toll.

HISTORY: Am. 1947, p. 79, Act 70, Imd. Eff. May 5;—CL 1948, 290.111.

290.112 Violation; misdemeanor.

Sec. 2. Any violation of this act shall constitute a misdemeanor.

HISTORY: CL 1948, 290.112.

290.113 Enforcement and prosecution.

Sec. 3. It shall be the duty of the commissioner of agriculture to investigate all complaints of violations of this act, and to take all steps necessary to its enforcement. It shall be the duty of all prosecuting officers of this state to prosecute to completion all suits brought under the provisions of this act upon complaint of said commissioner or any person.

HISTORY: CL 1948, 290.113.

Sec. 4. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 208, 1908, CL 1929, 5547-5553.

290.121 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section provided fixed size for peach baskets.

Act 74, 1917, p. 138; Eff. Nov. 1.

AN ACT to fix standards for climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and to punish violations of the same.

The People of the State of Michigan enact:

290.131 Standard climax baskets for fruits and vegetables.

Sec. 1. That standards for climax baskets for grapes and other fruits and vegetables shall be the 2-quart basket, 4-quart basket, and 12-quart basket, respectively.

(a) The standard 2-quart climax basket shall be of the following dimensions: length of bottom piece, 9 ½ inches; width of bottom piece, 3 ½ inches; thickness of bottom piece, 3/8 of an inch; height of basket, 3 ¾ inches, outside measurement; top of basket, length 11 inches and width 5 inches, outside measurement. Basket to have a cover 5 by 11 inches, when a cover is used;

(b) The standard 4-quart climax basket shall be of the following dimensions: length of bottom piece, 12 inches; width of bottom piece, 4 ½ inches; thickness of bottom piece, 3/8 of an inch; height of basket, 4 and 11/16 inches, outside measurement; top of basket, length 14 inches, width 6 ¼ inches, outside measurement. Basket to have cover 6 ¼ inches by 14 inches, when cover is used;

(c) The standard 12-quart climax basket shall be of the following dimensions: length of bottom piece, 16 inches; width of bottom piece, 6 ½ inches; thickness of bottom piece, 7/16 of an inch; height of basket, 7 and 1/16 inches, outside measurement; top of basket, length 19 inches, width 9 inches, outside measurement. Basket to have cover 9 inches by 19 inches, when cover is used.

HISTORY: CL 1929, 5571;—CL 1948, 290.131.

290.132 Standard containers for small fruits, berries and vegetables.

Sec. 2. That the standard basket or other container for small fruits, berries, and vegetables shall be of the following capacities: namely, dry 1/2 pint, dry pint, dry quart, or multiples of the dry quart.

(a) The dry 1/2 pint shall contain 16 and 8/10 cubic inches;

(b) The dry pint shall contain 33 and 6/10 cubic inches;

(c) The dry quart shall contain 67 and 2/10 cubic inches.

HISTORY: CL 1929, 5572;—CL 1948, 290.132.

290.133 Violations of act; penalty; foreign shipments.

Sec. 3. That it shall be unlawful to manufacture for shipment, or to sell within the state any climax baskets or other containers for small fruits, berries, or vegetables, whether filled or unfilled, which do not conform to the provisions of this act; and any person guilty of a wilful violation of any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding 25 dollars: Provided, That nothing herein contained shall apply to the manufacture, sale, or shipment of climax baskets, baskets, or other containers for small fruits, berries, and vegetables when intended for export to foreign countries when such climax baskets, baskets, or other containers for small fruits, berries, and vegetables accord with the specifications of the foreign purchasers or comply with the law of the country to which shipment is made or to be made.

HISTORY: CL 1929, 5573;—CL 1948, 290.133.

290.134 Examination and test; variation regulations.

Sec. 4. That the examination and test of climax baskets, baskets, or other containers for small fruits, berries, and vegetables, for the purpose of determining whether such baskets or other containers comply with the provisions of this act, shall be made by the dairy and food department, and the dairy and food commissioner shall establish and promulgate rules and regulations allowing such reasonable tolerances and variations as may be found necessary.

HISTORY: CL 1929, 5574;—CL 1948, 290.134.

DAIRY AND FOOD COMMISSIONER: Office abolished; powers and duties transferred to food and drug commissioner, which in turn has been repealed and superseded by the department of agriculture, see Compilers' §§ 280.2 and 285.2 respectively.

290.135 Duty of prosecuting attorney.

Sec. 5. That it shall be the duty of each prosecuting attorney, to whom satisfactory evidence of any violation of the act is presented, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the state for the enforcement of the penalties as in such case herein provided.

HISTORY: CL 1929, 5575;—CL 1948, 290.135.

290.136 Guaranty relieving dealer from prosecution; liability of guarantor.

Sec. 6. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the manufacturer, wholesaler, jobber, or other party residing within the United States from whom such climax baskets, baskets, or other containers, as defined in this act, were purchased, to the effect that said climax baskets, baskets, or other containers are correct within the meaning of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of climax baskets, baskets, or other containers to such dealer, and in such case said party or parties shall be amenable to the prosecution, fines, and other penalties which would attach in due course to the dealer under the provisions of this act.

HISTORY: CL 1929, 5576;—CL 1948, 290.136.

290.137 Effective date.

Sec. 7. That this act shall be in force and effect from and after the first day of November, 1917.

HISTORY: CL 1929, 5577;—CL 1948, 290.137.

Act 145, 1925, p. 186; Eff. Aug. 27.

AN ACT to provide for standard grades for grapes; to provide penalty for violation; to provide for inspection, and to repeal Act No. 54, Public Acts of 1923.

The People of the State of Michigan enact:

290.141 Fancy table grapes; definition, packing.

Sec. 1. "Fancy Table Grapes" shall be packed in 2 or 4 quart climax baskets or carriers of 2 or more small units, or any container of less than 12 quart, (16 pound) capacity, and shall consist of grapes of 1 variety which are sound, well colored, mature, firmly attached to capstems, and free from split, crushed, wet, soft, dried, shattered berries, mildew, berry moth, russeting and damage caused by other diseases, insects, mechanical or other means. Bunches shall be well formed for the variety excepting compact portions of bunches consisting of 3 or more berries to fill open spaces between full bunches. Bunches shall be packed with stems concealed as nearly as may be. Not more than 10 per cent, by count, of the berries may be below the grade requirements, and not more than 2 per cent of berries, by count, injured by mechanical means, nor more than 1 per cent may be affected by dry rot. In addition, not more than 5 per cent by count, of any lot may consist of bunches not well formed.

HISTORY: Am. 1927, p. 371, Act 181, Eff. Sept. 5;—CL 1929, 5578;—CL 1948, 290.141.

COMPILERS' NOTE: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

FORMER ACTS: Act 107 of 1913, being CL 1915, 6495-6497;—Act 54 of 1923.

290.142 No. 1 grapes; definition, packing.

Sec. 2. "No. 1 Grapes" shall be packed in 12 quart, (16 pound) capacity climax baskets, or larger containers, and shall consist of grapes which meet the requirements of the fancy table grade, except that not more than 15 per cent, by count, of bunches shall be below the grade requirements for bunches together with a tolerance of 2 per

cent by count, for dry rot, and 3 per cent by count, injured by mechanical means. Facing bunches shall be packed with stems concealed as nearly as may be.

HISTORY: Am. 1927, p. 371, Act 181, Eff. Sept. 5;—CL 1929, 5579;—CL 1948, 290.142.

290.143 No. 2 grapes; definition, packing.

Sec. 3. "No. 2 Grapes" shall be packed in 12 quart (16 pound) capacity climax baskets, or larger capacity, and shall consist of sound, marketable grapes which means grapes that have a marketable value, but does not include green, unripe bunches, which do not meet the requirements of either of the foregoing grades.

HISTORY: CL 1929, 5580;—CL 1948, 290.143.

290.144 Frosted grapes.

Sec. 4. "Frosted grapes." Grapes that have been subjected to frost injury prior to harvest may be packed only in 12 quart (16 pound) capacity climax baskets, or containers of larger capacity, and graded according to the standards as provided in section 2 or section 3 of this act, and shall be designated as "No. 1 Frosted" or "No. 2 Frosted," as the case may be. Marking of "Frosted" shall be in letters not less than 1/2 inch in height.

HISTORY: CL 1929, 5581;—CL 1948, 290.144.

290.145 Marking requirements.

Sec. 5. Marking requirements. All containers shall be clean and in good condition, and shall be conspicuously and legibly marked declaring: (1) The name and address of the person, firm or association under whose authority the grapes were packed, sold or offered for sale. (2) The name of the grade. (3) The net contents. (4) The name of the variety of the grapes. If the variety of the grapes is unknown, it shall be so stated. Excepting as otherwise provided in this act, the labeling or marking of the containers shall be done with letters not less than 1/4 inch in height before leaving the premises of the person or persons responsible for the grading and packing.

HISTORY: CL 1929, 5582;—CL 1948, 290.145.

290.146 Definition of terms.

Sec. 6. Definition of terms. "Well colored" means that 90 per cent of the grapes have solid color for the variety. "Mature" means that grapes have flavor characteristic of the variety. "Dry rot" means dried up, raisin-like grapes. "Well formed" means fairly compact but not closely united, solid or tight. "Small units" means not to exceed 4-quart capacity containers.

HISTORY: Am. 1927, p. 371, Act 181, Eff. Sept. 5;—CL 1929, 5583;—CL 1948, 290.146.

290.147 Right of entry.

Sec. 7. The commissioner of agriculture, his inspectors or agents, for the purpose of inspection and enforcement of this act, or any section or part of section thereof, are given authority and power to enter into or upon any premises or property, without warrant, where grapes are packed, exposed, offered or consigned for sale, or held in possession for storage or delivery, and inspect the same, also procure, upon market value being tendered or accepted, sufficient samples to present as evidence in obtaining complaint for prosecution.

HISTORY: CL 1929, 5584;—CL 1948, 290.147.

290.148 Violation of act; misdemeanor, penalties.

Sec. 8. Any person convicted of violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof for the first offense, be subject to a fine of not more than 50 dollars and costs, or imprisonment in the county jail for not to exceed 30 days, or both such fine, costs and imprisonment in the discretion of the court. Any person convicted for the second and subsequent violations shall be subject to a fine of not more than 200 dollars and costs, or 30 days in jail, or both

such fine, costs and imprisonment in the discretion of the court or magistrate before whom such conviction may be had.

HISTORY: Am. 1927, p. 372, Act 181, Eff. Sept. 5;—CL 1929, 5585;—CL 1948, 290.148.

Sec. 9. (This was a repeal section.)

HISTORY: CL 1929, 5586;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 54, 1923.

Act 220, 1929, p. 553; Eff. Aug. 28.

AN ACT to regulate the grading and sale of table stock potatoes commonly known as Irish potatoes; to fix standard grades for potatoes; to provide for inspection and penalties for violation thereof, and to repeal inconsistent acts. Am. 1937, p. 807, Act 342, Eff. Oct. 29;—Am. 1956, p. 136, Act 50, Eff. Aug. 11.

The People of the State of Michigan enact:

290.151 Table stock potatoes; standard grades.

Sec. 1. The standard grades for Michigan table stock potatoes shall be limited to U.S. fancy grade, U.S. number 1a and b grades, U.S. commercial grade, and U.S. number 2a and b grades and unclassified, and shall conform in all respects and be identical with the latest standards established by the United States secretary of agriculture for the grades herein mentioned, and thus conforming shall be accepted as the legal standards for the state of Michigan. Standard grades shall also include a superior grade to be defined by rules and regulations promulgated by the commissioner of agriculture under this act and which would be entitled to a seal of quality under Act No. 70 of the Public Acts of 1961, being sections 289.631 to 289.646 of the Compiled Laws of 1948. Potatoes for table use shall not be sold that do not meet the requirements of the foregoing grades unless designated as unclassified.

HISTORY: CL 1929, 5603;—Am. 1937, p. 807, Act 342, Eff. Oct. 29;—CL 1948, 290.151;—Am. 1956, p. 136, Act 50, Eff. Aug. 11;—Am. 1964, p. 62, Act 55, Imd. Eff. May 12.

290.152 Potatoes; definitions.

Sec. 2. The following terms, wherever used in this act, or in rules and regulations later promulgated by the commissioner of agriculture, shall have the meaning as indicated:

1. "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling: Provided, That this provision shall not apply to new potatoes known and sold as such, and in other respects conforming to the provisions of this act;

2. "Bright" means free from dirt or other foreign matter or discoloration from any cause so that the outer skin (epidermis) has the attractive color normal for the variety;

3. "Smooth" means free from second growth, growth cracks and other abnormal, rough surfaces;

4. "Well-shaped" means that normal, typical shape for the variety in the district where grown and free from pointed, dumbbell shaped, successively elongated, and other ill-formed potatoes;

5. "Free from damage" means that the appearance shall not be injured to an extent readily apparent upon casual examination of the lot, and that any damage from the causes mentioned can be removed in the ordinary process of preparation for use without appreciable waste in addition to that which would occur if the potato were perfect. Loss of outer skin (epidermis) shall not be considered as an injury to the appearance;

6. "Diameter" means the greatest dimension at right angles to the longitudinal axis;

7. "Soft rot" means a soft, mushy condition of the tissues from whatever cause;

8. "Badly misshapen" means of such shape as to cause appreciable waste in the ordinary process of preparation for use in addition to that which would occur if the potato were perfect;

9. "Free from serious damage" means that any damage from the causes mentioned can be removed by the ordinary process of paring without increase in waste of more than 10 per cent, by weight, over that which would occur if the potato were perfect;

10. "Container" or "package" means cloth or fiber sack (such as is customarily used for the shipment of potatoes), barrel, box, crate, hamper or basket.

HISTORY: CL 1929, 5904;—CL 1948, 290.152.

290.153 Unlawful sale or commerce in ungraded potatoes.

Sec. 3. It shall be unlawful for any person, firm, association, organization, or corporation or agent, representative or assistant of any person, firm, association, organization or corporation, to pack for sale, expose for sale, or sell, transport, deliver or consign, or have in possession for sale, transport, delivery or consignment in interstate or intrastate commerce, potatoes prepared for market which are not graded or designated to meet the requirements of the grade or designation, which shall be 1 of the grades or designation listed in section 1.

HISTORY: CL 1929, 5905;—Am. 1937, p. 807, Act 342, Eff. Oct. 29;—CL 1948, 290.153;—Am. 1964, p. 62, Act 55, Imd. Eff. May 12.

290.154 Sale and transportation without required branding on container unlawful; cards; conclusive evidence.

Sec. 4. It shall be unlawful for any person, firm, association, organization or corporation or agent, representative or assistant to any person, firm, association, organization or corporation, to expose for sale, or sell, transport, deliver or consign, or have in possession potatoes prepared for market unless such container has been legibly and conspicuously branded or stenciled before being removed from the premises where prepared for market with the name and address of the person or persons responsible for the grading and packing, and the name of the grade, together with true net contents. Bulk shipments shall be accompanied by 2 cards not less than 4 by 6 inches in size, placed on the inside of car near each door. Likewise cards in size as herein described shall be prominently displayed on all bulk shipments made by truck or other conveyance. Upon each card shall appear the names and address of the consignor, the name of the grade, the name of the loading station, the date of loading, and the name and address of the consignee, if known. It shall be conclusive evidence and the potatoes deemed to be for sale, when containers are packed for delivery or transit, or when same are exposed for sale or when the same are in the process of delivery or transit or are located at a depot, station, boat dock, or any place where potatoes or other products are held in storage, or for immediate or future sale or transit.

HISTORY: CL 1929, 5906;—Am. 1937, p. 807, Act 342, Eff. Oct. 29;—CL 1948, 290.154.

290.155 Inspection of potatoes in storage or in transit.

Sec. 5. Potatoes held in storage or in transit which at the time of inspection show deterioration or decay but are otherwise up to the grade declared shall be inspected as to condition and not as to grade.

HISTORY: CL 1929, 5907;—CL 1948, 290.155.

290.156 Inspection of potatoes in storage or in transit; taking samples payment.

Sec. 6. When it is deemed necessary by the person making inspection to procure a sample or samples of potatoes, the person in charge of the place where inspection is made must permit the same to be obtained upon being tendered the commercial value

of the stock being procured. In the event the person in charge can not be located in a reasonable length of time a sample or samples may be taken and the cash value of same tendered at the time of the next inspection.

HISTORY: CL 1929, 5608;—CL 1948, 290.156.

290.157 Enforcement; right of entry for inspection.

Sec. 7. The commissioner of agriculture is hereby charged with the enforcement of this act and is given power unto himself and his inspectors to enter into and upon any premises where potatoes are graded or packed or stored to inspect the same as to grade, pack and condition. The commissioner of agriculture shall enforce the provisions of this act through state inspectors.

HISTORY: CL 1929, 5609;—Am. 1937, p. 807, Act 342, Eff. Oct. 29;—CL 1948, 290.157;—Am. 1956, p. 136, Act 50, Eff. Aug. 11.

290.158 Enforcement; rules and regulations.

Sec. 8. The commissioner of agriculture may promulgate rules and regulations deemed necessary to the proper enforcement of the provisions of this act.

HISTORY: CL 1929, 5610;—Am. 1937, p. 807, Act 342, Eff. Oct. 29;—CL 1948, 290.158;—Am. 1956, p. 136, Act 50, Eff. Aug. 11.

290.159 Intent of act.

Sec. 9. The intent and purpose of this act is to regulate the sale of potatoes for table use intended for intra-state and inter-state commerce when such sale is made by the grower, dealer or distributor, or any other person either by wholesale or retail or in any other manner: Provided, however, That the provisions of this act shall not apply to the grower or his employee in the sale of potatoes grown by such grower when made direct to the consumer.

HISTORY: CL 1929, 5611;—CL 1948, 290.159;—Am. 1954, p. 322, Act 133, Imd. Eff. Apr. 23.

Sec. 10. (This was a severing clause section.)

HISTORY: CL 1929, 5612;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

290.161 Person, definition; liability for violation by employee.

Sec. 11. The word "person" as used herein, shall be construed to include any grower, dealer, shipper, corporation, society, association or their agent or representative. The act, omission or failure to act of any official or employee of any person, when such official or employee is acting within the scope of his employment of office, shall in every case be deemed also the act, omission, or failure to act of the person as well as the official or employee.

HISTORY: CL 1929, 5613;—CL 1948, 290.161.

290.162 Violation of act; misdemeanor, penalty.

Sec. 12. Whosoever violates this act by not grading potatoes as herein required, or by not stenciling or branding containers as herein required or by removing any department notices placed upon said containers or by removing or altering any stencils or brands placed upon or attached to any container as in this act required, unless ordered to do so by the commissioner of agriculture or his duly appointed inspector or inspectors shall be guilty of a misdemeanor and subject to a fine of not more than 50 dollars and costs for the first offense and not more than 100 dollars and costs for each subsequent offense, or by imprisonment in the county jail for not more than 30 days in default of paying the fine and costs, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5614;—Am. 1937, p. 808, Act 342, Eff. Oct. 29;—CL 1948, 290.162.

Sec. 13. (This was a repeal section.)

HISTORY: CL 1929, 5615;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 76, 1925.

290.171-290.174 Repealed. 1964, p. 191, Act 158, Eff. Aug. 28.

Sections provided for licensing of transporters or handlers of potatoes in other than retail quantities.

290.181-290.192 Repealed. 1970, p. 80, Act 29, Imd. Eff. Jun. 10.

Sections related to potatoes and created a potato industry council with certain powers and duties.

Act 317, 1941, p. 548; Eff. Jan. 10, 1942.

AN ACT to establish standards for bread sold through retail outlets and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

290.201 Standard pan sizes for bread.

Sec. 1. All bread sold or offered for sale by retail food outlets to the consumers shall be standardized in 12 ounce, 16 ounce, 20 ounce, 24 ounce and 32 ounce loaves with 1 ounce tolerance, and shall conform to the following pan sizes:

(a) The following provisions shall apply to loaves of bread baked in uncovered pans:

1. The 12 ounce loaf shall be baked in a pan which shall not exceed 8 inches in length at the top and 4 inches in width at the top, inside measurements.

2. The 16 ounce loaf shall be baked in a pan which shall not exceed 10 inches in length at the top and 4 ½ inches in width at the top, inside measurements.

3. The 20 ounce loaf shall be baked in a pan which shall not exceed 12 ¼ inches in length at the top and 4 ½ inches in width at the top, inside measurements.

4. The 24 ounce loaf shall be baked in a pan which shall not exceed 15 inches in length at the top and 4 ¾ inches in width at the top, inside measurements.

5. The 32 ounce loaf shall be baked in a pan which shall not exceed 16 inches in length at the top and 4 ¾ inches in width at the top, inside measurements.

Provided, however, That loaves of bread may be baked in pans of differing widths from those set forth above if the pan contents shall not exceed 6.25 cubic inches per ounce of dough used.

(b) The following provisions shall apply to loaves of bread baked in covered pans:

1. The 16 ounce loaf shall be baked in a pan which shall not exceed 10 inches in length at the top and 4 inches in width at the top, inside measurements.

2. The 20 ounce loaf shall be baked in a pan which shall not exceed 12 inches in length at the top and 4 ½ inches in width at the top, inside measurements.

3. The 24 ounce loaf shall be baked in a pan which shall not exceed 15 inches in length at the top and 4 inches in width at the top, inside measurements.

4. The 32 ounce loaf shall be baked in a pan which shall not exceed 16 inches in length at the top and 4 inches in width at the top, inside measurements.

HISTORY: CL 1948, 290.201;—Am. 1954, p. 97, Act 76, Eff. Aug. 13.

290.202 Act applicable only to white bread sold at retail; restaurants exempted.

Sec. 2. This act shall apply only to white bread baked in pans. This act shall not apply to bread sold to restaurants, hotels, or other types of eating establishments or other places where bread is not offered for retail sale.

HISTORY: CL 1948, 290.202.

290.203 Violation of act; misdemeanor.

Sec. 3. Any person, firm or corporation who shall sell any bread in violation of the provisions of this act shall be guilty of a misdemeanor.

HISTORY: CL 1948, 290.203.

Act 110, 1909, p. 226; Eff. Sep. 1.

AN ACT to prevent the adulteration of linseed oil or flaxseed oil and to prevent fraud in the sale thereof and in the sale of compounds thereof, and to repeal all acts in conflict herewith.

The People of the State of Michigan enact:

290.251 Linseed or flaxseed oil; raw or boiled, requirements; adulterated.

Sec. 1. No person, firm or corporation, by himself, his servant or his agent, or as the servant or agent of any other person, firm or corporation, shall manufacture or mix for sale, sell, offer or expose for sale, or have in his possession with intent to sell in this state, under the name of raw linseed oil or raw flaxseed oil, any substance which is not wholly the product obtained from well cleaned flaxseed or linseed, and unless the aforesaid oil also fulfills the requirements of the 1900 edition of the Pharmacopoeia of the United States, which follow:

1. Specific gravity 0.925 to 0.935 at 25 deg. C. (77 deg. F.). It does not congeal at temperatures above 20 deg. C. (4 deg. F.). It is soluble in about 10 parts of absolute alcohol and in all proportions in ether, chloroform, petroleum, benzine, carbon disulphide and oil of turpentine. It should not more than slightly redden blue litmus paper, previously moistened with alcohol (limit of free acid). The oil should be completely saponifiable with alcoholic potassium hydroxide T.S. and the resulting soap should be completely soluble in water without leaving an oily residue, (absence of mineral oils and rosin oils). If 2 CC. of the oil be warmed and shaken in a test tube with an equal volume of glacial acetic acid, and if to this mixture, after cooling, 1 drop of sulphuric acid be added, a greenish color should be produced. (A violet color under these circumstances indicates the presence of rosin oils). Linseed oil saponified by alcoholic potassium hydroxide T.S. should show a saponification value of from 187 to 195. If 0.15 CC. of linseed oil be dissolved in 10 CC. of chloroform in a 250 CC. flask and 25 CC. of a mixture of equal volume of alcoholic iodine T.S. and alcoholic mercuric chloride T.S. added, and if, after standing for 16 hours, protected from the light, 20 CC. potassium iodide T.S. be introduced and the mixture diluted with 50 CC. of water, on titrating the excess of iodine with tenth normal sodium thiosulphate V.S. an iodine value of not less than 170 should be obtained. No person, firm or corporation, by himself, his servant or his agent, or as the servant or agent of any other person, firm or corporation, shall manufacture or mix for sale, sell, offer or expose for sale or have in his possession with intent to sell in this state, any substance as boiled linseed oil or as boiled flaxseed oil, unless the same shall have been prepared by heating raw linseed oil, as defined above: Provided, That if drier is used in said boiled linseed oil or boiled flaxseed oil the same shall have been prepared by incorporating said drier with raw linseed oil, as defined above, at a temperature of not less than 225 deg. Fahrenheit, and furthermore contains not less than 96 per cent of linseed oil; and for the purpose of this act it shall also be deemed a violation thereof if said boiled linseed oil prepared either with or without drier does not conform to the following requirements: 1. Its specific gravity at 60 deg. Fahrenheit must be not less than 0.935 and not greater than 0.945; 2. Its saponification value (Koettstorfer figure) must not be less than 186; 3. Its iodine number (Huebl's method) must be not less than 160; 4. Its acid value must not exceed 10; 5. The volatile matter expelled at 212 deg. Fahrenheit must not exceed 1/2 of 1 per cent; 6. No mineral oil shall be present and the amount of unsaponifiable matter as determined by standard methods shall not exceed 2.5 per cent; 7. The film left after flowing the oil over glass and allowing it to drain in a vertical or nearly vertical position must be free from tackiness in not to exceed 20 hours, at a temperature of about 70 deg.

Fahrenheit. Linseed oil or flaxseed oil which does not conform to the foregoing requirements shall be deemed to be adulterated within the meaning of this act.

HISTORY: CL 1915, 6321;—CL 1929, 5619;—CL 1948, 290.251. This act supersedes Act 206 of 1899.

290.252 Linseed or flaxseed oil; name on barrel or container; evidence of violation.

Sec. 2. No person, firm or corporation, either by himself or another, shall sell, offer or expose for sale, or have in his possession with intent to sell in this state any linseed oil or flaxseed oil, except under its true name, and unless each barrel, keg or can of such oil has plainly and durably painted, stamped, stenciled, labeled or marked thereon the true name of such oil in ordinary bold-faced capital letters, not less than 5 lines pica in size, together with the name and address of the manufacturer, jobber or dealer: Provided, That if the contents of the package be less than 25 gallons, the type shall not be less than 2 lines pica in size. Proof that any person, firm or corporation has or had possession of any oil or compound which is adulterated or misbranded within the meaning of this act shall be prima facie evidence that the possession thereof is in violation of this act.

HISTORY: CL 1915, 6322;—CL 1929, 5620;—CL 1948, 290.252.

290.253 Linseed or flaxseed oil; compounds, branding; misbranded, definition.

Sec. 3. Linseed oil compounds or flaxseed oil compounds designed to take the place of raw or boiled linseed oil or raw or boiled flaxseed oil as defined in section 1 of this act, whether sold, offered or exposed for sale under invented proprietary names or titles or not, shall bear conspicuously upon the containing vessel, in capital letters not less than 5 lines pica in size, the word "Compound," followed immediately with the true distinctive names of the actual ingredients in the order of their greater preponderance, in the English language, in plain legible type of the same size, not less than 2 lines pica in size, in continuous list with no intervening matter of any kind, and shall also bear the name and address of the manufacturer, jobber or dealer. Any oil or compounds required to be branded by the provisions of this act and not complying with sections 2 and 3 shall be deemed to be misbranded within the meaning of this act.

HISTORY: CL 1915, 6323;—CL 1929, 5621;—CL 1948, 290.253.

290.254 Enforcement.

Sec. 4. It is hereby made a duty of the state dairy and food commissioner to enforce the provisions of this act.

HISTORY: CL 1915, 6324;—CL 1929, 5622;—CL 1948, 290.254.

DAIRY AND FOOD COMMISSIONER: Office abolished; powers and duties transferred to food and drug commissioner, which in turn has been abolished and superseded by the department of agriculture, see Compilers' §§ 289.2 and 285.2 respectively.

290.255 Right of access; samples; duty to prosecute; hindering prohibited.

Sec. 5. The state dairy and food commissioner, his agents, assistants, inspectors, chemists or others appointed by him, shall have full rights of ingress and egress to the premises occupied by parties who manufacture, sell or deal in linseed oil or flaxseed oil, or linseed oil compounds or flaxseed oil compounds, and also shall have power and authority to open any tank, barrel, can or other vessel believed to contain such oil and inspect the contents thereof, and to take therefrom samples for analysis. In case any samples so taken shall prove on analysis to be adulterated or misbranded in violation of the provisions of this act, it shall be the duty of the state dairy and food commissioner to proceed against the offender as herein provided. No person shall obstruct the state dairy and food commissioner or any of his assistants, by refusing entrance to an

place which he desires to enter in the discharge of his official duty as provided in this act, nor shall any person refuse to deliver to him a sample of oil when same is requested and when the value thereof is tendered.

HISTORY: CL 1915, 6325;—CL 1929, 5623;—CL 1948, 290.255.

See note under precoding section.

290.256 Penalty; suit to recover fine.

Sec. 6. Any person, firm or corporation convicted of violating any of the provisions of the foregoing act shall, for the first offense be punished by a fine in any sum not less than 25 dollars and not more than 100 dollars or by imprisonment in the county jail not exceeding 30 days, or by both such fine and imprisonment in the discretion of the court; and for the second and each subsequent offense by a fine of not less than 50 dollars and not more than 200 dollars or by imprisonment in the county jail not exceeding 1 year, or both in the discretion of the court; or the fine above may be sued for and recovered before any justice of the peace or any court of competent jurisdiction, in the county where the offense shall have been committed, at the instance of the state dairy and food commissioner or any other person in the name of the people of the state of Michigan as plaintiff and shall be recovered in an action of debt.

HISTORY: CL 1915, 6326;—CL 1929, 5624;—CL 1948, 290.256.

See note under Sec. 4 of this act.

Sec. 7. (This was a repeal section.)

HISTORY: CL 1915, 6327;—CL 1929, 5625;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 57, 1925, p. 73; Eff. Aug. 27.

AN ACT to establish standard grades of naval stores to conform to the official naval stores standards of the United States, and to repeal Act No. 175 of the Public Acts of 1911, being sections 6328, 6329 and 6330 of the Compiled Laws of 1915.

The People of the State of Michigan enact:

290.301 Naval stores standards; definitions.

Sec. 1. That when used in this chapter;

- (a) "Naval stores" means spirits of turpentine and rosin.
- (b) "Spirits of turpentine" includes gum spirits of turpentine and wood turpentine.
- (c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.
- (d) "Wood turpentine" includes steam distilled wood turpentine and destructively distilled wood turpentine.
- (e) "Steam distilled wood turpentine" means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.
- (f) "Destructively distilled wood turpentine" means wood turpentine obtained in the destructive distillation of the wood.
- (g) "Rosin" includes gum rosin and wood rosin.
- (h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.
- (i) "Wood rosin" means rosin remaining after the distillation of steam distilled wood turpentine.

HISTORY: CL 1929, 5626;—CL 1948, 290.301.

290.302 Standards of quality and purity.

Sec. 2. That when used in this chapter, the standards of quality and purity of gum spirits of turpentine, steam distilled wood turpentine, destructively distilled wood tur-

pentine, gum rosin and wood rosin shall be those of the official naval stores standards of the United States, as set forth in the federal naval stores act or amendments thereto.

HISTORY: CL 1929, 5627;—CL 1948, 290.302.

290.303 Prohibited acts.

Sec. 3. That the following acts are hereby prohibited and made unlawful:

(a) The sale in this state of any naval stores, or of anything offered for sale as such, except under or by reference to the official naval stores standards of the United States;

(b) The sale of any naval stores in this state under or by reference to the official naval stores standards of the United States, which is other than what it is represented to be;

(c) The use in this state of the word "turpentine" or the word "rosin", singly or with any other word or words or of any compound, derivative or imitation of either such word, or of any misleading word, or of any word, combination of words, letter or combination of letters, provided in the federal act to define the official naval stores standards of the United States, to be used or to designate naval stores of any kind or grade, in selling, offering for sale, advertising, or shipping, anything other than naval stores of the official naval stores standards of the United States;

(d) The use in this state of any false, misleading, or deceitful means or practice in the sale of naval stores, or of anything offered for sale as such.

HISTORY: CL 1929, 5628;—CL 1948, 290.303.

290.304 Enforcement; rights and duties of commissioner and agents.

Sec. 4. The state commissioner of agriculture shall enforce the provisions of this chapter and the penal statutes relating thereto and the said commissioner, his assistants, experts, chemists, and agents shall have access and ingress to the places of business, stores, buildings and yards used for the sale of naval stores, and may open any package, tank car, tank, drum, barrel, can, jar, tub, or other receptacle containing any article that may be sold, offered for sale, or exposed for sale in violation of such provision or statute. The inspectors, assistants, or chemists, appointed by the state commissioner shall perform like duties and have like authority under this chapter and the penal statutes relating thereto as is provided by law in other cases.

HISTORY: CL 1929, 5629;—CL 1948, 290.304.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

290.305 Violation of act; penalty.

Sec. 5. Whoever violates any provisions of law relating to the selling, offering or exposing for sale, or advertising of naval stores by manufacturers or distributors thereof, shall be fined not more than 50 dollars, and for each subsequent offense shall be fined not less than 50 dollars, nor more than 100 dollars, or imprisoned not less than 30 days, nor more than 90 days, or both.

HISTORY: CL 1929, 5630;—CL 1948, 290.305.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1929, 5631;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 175, 1911, CL 1915, 6328 and 6329.

Act 227, 1915, p. 380; Eff. Jan. 1, 1916.

AN ACT to provide a standard test and guage of galvanized wire fence within this state, to provide for the grading of such fence according to such test and gauge, to regulate the use of tags or labels in connection with the sale of such fence within this state, and to provide a penalty for the violation of this act.

The People of the State of Michigan enact:

290.351 Galvanized wire fence; standard test gauge.

Sec. 1. The Washburn and Moen gauge is hereby declared to be the standard gauge for testing galvanized wire fence within this state.

HISTORY: CL 1915, 2231;—CL 1929, 1089;—CL 1948, 290.351.

290.352 Galvanized wire fence; galvanizing test.

Sec. 2. The following test as to quality of galvanizing is hereby declared to be the standard test of the galvanizing of such fence within this state. The wire shall be thoroughly cleansed with a solution of soap, using a soft cloth or cotton waste. It shall then be immersed in a solution of copper sulphate neutralized with copper oxide and filtered, of a density of 1.186 at 65 degrees Fahrenheit. It shall be kept in this solution at a temperature of from 60 to 70 degrees Fahrenheit for 1 minute, then immersed in clear water and afterward wiped dry. After such immersion and drying, if the wire does not show a deposit of copper indicating that some portion of the zinc coating is entirely removed, it shall be considered as "1 minute wire" as hereinafter mentioned. This test shall be immediately repeated and the wire shall be graded according to the number of immersions it may be able to stand without showing a deposit of copper, and such grades shall be designated as "1 minute," "2 minute," "3 minute," "4 minute," etc. wire, in accordance with the number of minutes during which such wire respectively stood such test without showing a deposit of copper: Provided, however, That all tests shall be made on straight sections of stay or line wire and not on locks, wraps or winds of such fence.

HISTORY: CL 1915, 2232;—CL 1929, 1090;—CL 1948, 290.352.

290.353 Galvanized wire fence; standard grades.

Sec. 3. The different grades of galvanized wire fence, as determined by the test provided by section 2 of this act, are hereby declared to be the standard grades of such fence within this state.

HISTORY: CL 1915, 2233;—CL 1929, 1091;—CL 1948, 290.353.

290.354 Galvanized wire fence; label.

Sec. 4. Any manufacturer or dealer manufacturing or selling galvanized wire fence, whether such fence is manufactured within or without this state, shall, after complying with the provisions of this act, be permitted to attach to each and every bundle of such fence the tag or label prescribed by section 6 of this act, showing such fence so tagged or labeled to be of the standard grade and gauge as defined in this act.

HISTORY: CL 1915, 2234;—CL 1929, 1092;—CL 1948, 290.354.

290.355 Galvanized wire fence; label, annexing conditions; fee.

Sec. 5. Before any person shall attach any tag or label specified in section 6 of this act to any galvanized wire fence to be sold or offered for sale within this state, he shall file with the secretary of the state board of agriculture a certified copy of each variety of tag or label proposed to be attached to such fence, and shall also deposit annually with the secretary not less than 10 feet of wire of each grade and gauge to be used in the manufacturing of any fence which is to be offered for sale in this state, and at the same time shall pay to the secretary of the state board of agriculture a fee of 10 dollars for each gauge of wire so deposited.

HISTORY: CL 1915, 2235;—CL 1929, 1093;—CL 1948, 290.355.

290.356 Galvanized wire fence; test, board of agriculture; permit; label contents.

Sec. 6. It shall be the duty of the state board of agriculture to test all samples of galvanized wire fence submitted to them for that purpose and to determine whether such fence is of the standard gauge and grades provided in this act. If they shall find such

fence to be of such standard gauge and grades, they shall issue to the manufacturer or dealer applying therefor a certificate good for 1 year from the date thereof, permitting such manufacturer or dealer manufacturing or selling such galvanized wire fence, to attach to each and every bundle of such fence of the same gauge and grades so tested, a tag or label bearing the following statements:

1. Name and address of manufacturer or dealer;
2. Date of expiration of certificate;
3. Date of manufacture of such fence;
4. Galvanizing test,—Whether “1 minute,” “2 minute,” “3 minute”;
5. Gauge of top wire;
6. Gauge of bottom wire;
7. Gauge of line wire;
8. Gauge of stay wire.

HISTORY: CL 1915, 2236;—CL 1929, 1094;—CL 1948, 290.356.

290.357 Galvanized wire fence; unlawful sales, penalty; civil liability.

Sec. 7. Any person who shall sell or offer for sale any galvanized wire fence tagged or labeled with the tag or label prescribed in section 6 of this act without having the same tested as prescribed in this act and without paying the required fee and procuring the certificate provided for by this act, or which is found to be of an inferior grade or gauge to that specified on such tag or label, when submitted to the test provided for in section 8 of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 100 dollars for each offense, or by imprisonment in the county jail or house of correction for a period not exceeding 6 months or by both such fine and imprisonment in the discretion of the court, and in addition to such fine and imprisonment, such convicted person shall be liable for all damages sustained by the purchaser on account of such misrepresentation. The state board of agriculture shall have authority to institute prosecutions through the proper officers for all violations of this act: Provided, That an average maximum variation of .003 of an inch will be permitted in the gauge of such wire of which the fence is composed.

HISTORY: CL 1915, 2237;—CL 1929, 1095;—CL 1948, 290.357.

290.358 Galvanized wire fence; taking samples; tests.

Sec. 8. The state board of agriculture, by any duly authorized agent, may take from any bundle of galvanized wire fence so tagged and labeled and which is being offered for sale in this state, a sample of such fence not exceeding 12 inches in length, the same to be measured along the length of the fencing and comprise the whole width thereof, such sample to be kept by said state board of agriculture and tested for the purpose of ascertaining whether the manufacturer or dealer has complied with the terms of this act: Provided, That in making all tests or measurements for the purpose of ascertaining whether or not such fence is inferior grade or gauge to that specified on the tags or labels thereof, the state board of agriculture, by its duly authorized agent or agents, shall select 5 separate samples of such fence from 5 separate bundles thereof, and if, after applying the standard gauge and test prescribed by this act, 3 or more of such samples shall not equal the gauge and grade indicated on such tags or labels, then such fence from which the 5 samples were taken shall be deemed to be of inferior gauge or grade as the case may be.

HISTORY: CL 1915, 2238;—CL 1929, 1096;—CL 1948, 290.358.

290.359 Tests, accounts, publication; expenses; unexpended balance.

Sec. 9. The secretary of the state board of agriculture shall publish in his annual report a correct statement of all tests made under this act, together with a statement of all moneys received from fees and the amount of the same expended in making such

tests. All expenses incurred by said board under the provisions of this act shall be paid from the funds arising from the fees provided in section 5 of this act, and any surplus from the total of such fees remaining on hand at the close of the fiscal year shall be placed to the credit of the experimental funds of the board.

HISTORY: CL 1915, 2230;—CL 1929, 1097;—CL 1948, 290.359.

290.360 Effective date.

Sec. 10. The provisions of this act shall not take effect until January 1, 1916.

HISTORY: CL 1915, 2240;—CL 1929, 1098;—CL 1948, 290.360.

Act 208, 1941, p. 315; Eff. Jan. 10, 1942.

AN ACT to establish a standard log rule; and to declare the effect of this act.

The People of the State of Michigan enact:

290.401 Standard log rule; establishment.

Sec. 1. Standard log rule. The international log rule, based upon 1/4 inch saw kerf, as expressed in the formula $(D^2 \times 0.22) - 0.71 D \times 0.904762$ for 4 foot sections (D represents top diameter of log in inches; taper allowance, 1/2 inch per 4 feet lineal), is hereby adopted as the standard log rule for determining the board foot content of saw logs and, unless some other log rule or other method of measurement is agreed upon, all contracts hereafter entered into for the purchase and sale of saw logs shall be deemed to be made on the basis of such standard rule.

HISTORY: CL 1948, 290.401.

Act 29, 1970, p. 76; Imd. Eff. Jun. 10.

AN ACT relating to potatoes; to create a potato commission; to prescribe its powers and duties and authority; to impose an assessment on the privilege of introducing potatoes into the channels of trade and commerce; to provide for the collection of the assessment; to provide for penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

290.421 Potato industry commission; definitions.

Sec. 1. As used in this act:

- (a) "Commission" means the state potato industry commission.
- (b) "Grower" means a person who is actively engaged in the production of potatoes and who is not engaged in the shipping or processing of potatoes.
- (c) "Shipper" means any person engaged in the shipping of potatoes or transporting his own potatoes, whether as owner, agent or otherwise, into the channels of trade and commerce; or engaged in the processing of potatoes into food for human consumption in any form or any other use.
- (d) "Shipment of potatoes" shall be deemed to take place when potatoes are loaded within this state in a car, bulk, truck or other conveyance in which the potatoes are to be transported for sale or otherwise put into the channel of trade and commerce.
- (e) "Hundredweight" means 100 pound unit or combination of packages making a 100 pound unit of any shipment of potatoes based on invoice or bill of lading records.
- (f) "Retailer" means any person who sells directly to the consumer in small quantities or broken lots.

(g) "Processor" means a person who is actively engaged in the processing of potatoes for human consumption or for any other use.

(h) "Person" means an individual, partnership, corporation, association, grower, cooperative or any other business unit.

HISTORY: New 1970, p. 76, Act 28, Imd. Eff. Jan. 10.

290.422 Potato industry commission; creation, composition, qualifications.

Sec. 2. (1) The state potato industry commission is created within the department of agriculture. The commission shall be composed of the director of agriculture, ex officio, without vote; a staff member of Michigan state university appointed by the dean of agriculture of that university to serve at his pleasure, ex officio, without vote; 10 growers, 2 processors, 2 shippers and 1 retailer appointed by the governor with the advice and consent of the senate. Initial appointments to the commission shall be made within 30 days after the effective date of this act. The members appointed by the governor shall be citizens and residents of this state and of the district from which appointed, over the age of 25 years. A commission member in the grower category shall be actually engaged and have been engaged in growing and producing potatoes within this state for a period of at least 2 years immediately prior to his appointment, and have derived a substantial portion of his income therefrom. The members of the council appointed under the provisions of section 2 of Act No. 208 of the Public Acts of 1961, as amended, being section 290.182 of the Compiled Laws of 1948, shall become members of the commission for the duration of the terms for which they were originally appointed and may be reappointed.

Geographic districts.

(2) Eight growers shall be appointed to serve on the commission, representing 7 districts throughout the state as follows:

District 1—Upper Peninsula counties shall be represented by 2 members; district 2—Antrim, Manistee, Wexford, Missaukee, Roscommon, Mason, Lake, Osceola, Clare, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau and Otsego; district 3—Alcona, Alpena, Montmorency, Oscoda, Presque Isle, Iosco and Ogemaw; district 4—Kent, Montcalm, Newaygo, Isabella, Mecosta and Oceana; district 5—Bay, Arenac, Midland, Tuscola, Huron, Sanilac, Gratiot, Gladwin and Saginaw counties; district 6—Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, Berrien, Cass, Clinton, Ionia, Ottawa, Muskegon, St. Joseph and Branch; district 7—Ingham, Livingston, Oakland, Macomb, Jackson, Washtenaw, Wayne, Hillsdale, Lenawee, Shiawassee, Genesee, Lapeer, St. Clair and Monroe counties. The ninth and tenth growers shall serve at large. The other members of the commission except the ex officio members shall have been associated with the potato industry for at least 2 years immediately prior to the appointment.

Terms, limit, length; vacancies.

(3) No appointed member shall be eligible to serve more than 2 3-year terms in succession. If at any time during his term a member ceases to possess any of the qualifications provided in this act, his office shall be vacated. The term of office of the appointed members shall be 3 years from the date of appointment and until their successors are appointed and qualified.

Annual meeting of growers; vacancies.

(4) To assist the governor in making qualified appointments to the commission, there shall be an annual meeting each year of growers in each district where a vacancy will occur. Two nominees for each vacancy on the commission shall be selected at this meeting and recommended to the governor, and the governor may choose from such list. The growers at large shall be nominated by the 8 growers representing the districts. The 10 grower members shall nominate the processor, shipper and retail candi-

dates for appointment to membership. Vacancies on the commission, except from the expiration of term, shall be filled until the next annual meeting by the governor from nominees selected by the commission.

Chairman; quorum; meetings.

(5) Annually, the voting members shall elect a chairman from among its membership. A majority of the voting members of the commission constitutes a quorum for the transaction of all business and the carrying out of the duties of the commission. All meetings of the commission shall be called by the chairman except special meetings shall be called by the chairman on petition of 8 members within 7 days of receiving the petition.

Compensation.

(6) Each member of the commission, except ex officio members, shall receive \$20.00 per day for each day spent in actual attendance at meetings of the commission, together with traveling expenses while on commission business in accordance with standard travel regulations of the department of administration.

Funds.

(7) The funds of the commission shall be handled by the commission and all funds received by it shall be used to carry out the provisions of this act. All moneys received by the commission, or by any other state official from assessments levied and paid to the commission shall be deposited in such banks as the commission may designate, are hereby appropriated and shall be disbursed by order of the commission.

Retailers; processors, voluntary fee.

(8) Retailers, processors and others may support the programs of the commission by paying an annual fee of \$100.00. The fee shall be paid by appointees who serve on the commission.

Gifts and grants.

(9) The commission may accept gifts and grants.

Books and records; inspection; audit.

(10) The commission shall maintain accurate books, records and accounts of all its transactions, which books, records and accounts shall be open to inspection by any grower or the public and shall be subject to audit by the auditor general or a certified public accountant.

Financial report.

(11) A financial report shall be mailed to each grower along with the notice of the annual meeting.

HISTORY: New 1970, p. 76, Act 29, Imd. Eff. Jun. 10.

290.423 Potato industry commission; duties.

Sec. 3. (1) The commission shall foster, develop and promote the potato industry aiding research into finding new uses for potatoes and encouraging the sale and consumption of potatoes through advertising and expansion of markets and may carry out any activities deemed necessary to accomplish any and all of the purposes of this act.

Sales promotion.

(2) The commission shall plan and conduct a campaign for commodity advertising, publicity and sales promotion to increase the consumption of potatoes and may contract for any advertising, publicity and sales promotion service. To accomplish such purpose the commission shall disseminate information:

(a) Relating to potatoes and the importance thereof in preserving the public health, the economy thereof in the diet of the people and the importance thereof in the nutrition of children.

(b) Relating to the manner, method and means used and employed in the production, transportation, marketing and grading of potatoes and to laws of the state regulating and safeguarding such production, transportation, marketing and grading.

(c) Relating to the added cost to the producer and dealer in producing and handling potatoes to meet the high standards imposed by the state that insure a pure and wholesome product.

(d) Relating to the effect upon the public health which would result from a breakdown of the Michigan potato industry.

(e) Relating to the reasons why producers and dealers should receive a reasonable return on their labor and investment and the importance of maintaining full employment in the potato processing industry.

(f) Relating to the problem of furnishing the consumer at all times with an abundant supply of fine quality of potatoes at reasonable prices.

(g) Relating to factors of instability peculiar to the vegetable industry in general and the potato industry in particular, such as unbalanced production, effect of the weather, influence of consumer purchasing power and price relative to the cost of other items of food in the normal diet of people, all to the end that an intelligent and increasing consumer demand may be created.

(h) Relating to the possibilities of increased consumption of Michigan potatoes.

(i) Relating to such other information as shall tend to promote increased consumption of potatoes, as may foster a better understanding and more efficient cooperation between producers, dealers and consuming public.

(j) Relating to branding, labeling, stenciling, sealing or packaging to promote and use in all ways to advertise potatoes to protect their identity as far as possible to final consumer.

Rules.

(3) The commission may promulgate necessary rules for the exercise of its powers and the performance of its duties, which rules shall be promulgated in accordance with and subject to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

Assessment, increase.

(4) The commission may, by a majority vote raise the assessment $\frac{1}{4}$ cent per hundredweight. At the next annual meeting the growers must approve or disapprove the commission's action by a majority vote of those present.

Committees.

(5) The commission may select committees to carry out the various projects covered under the purposes of this act.

Personnel; expenses.

(6) The commission may employ personnel and incur such other expenses as are necessary to carry out the purposes of this act. All such expenses shall be paid from the potato industry commission fund. No member of the commission or any employee or agent thereof shall be liable on the contracts of the commission. All salaries, expenses, costs, obligations and liabilities incurred by the commission shall be payable only from the funds collected under this act.

HISTORY: New 1970, p. 78, Act 29, Imd. Eff. Jun. 10.

290.424 Assessment on growers and shippers.

Sec. 4. (1) Starting July 1, 1970, an assessment at the rate of 1 cent per hundredweight on all potatoes grown in the state shall be levied and imposed upon all growers and shippers within this state. The assessment shall not be imposed upon potatoes retained by a grower to be used for seed purposes or for home consumption.

(2) The assessment imposed by this act shall be due upon any particular lot or quantity of potatoes.

(3) Every shipper of potatoes shall file an application with the commission on forms prescribed and furnished by the commission which shall contain the name under which the shipper is transacting business within the state, the place or places of business and location of loading and shipping places and agents of the shipper, the names and addresses of the several persons constituting a firm or partnership and, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state. The commission shall issue a certificate to the shipper and a shipper shall not sell or ship any potatoes until the certificate is furnished as required by this section.

(4) Each shipper purchasing potatoes and paying, or becoming liable to pay, the assessment imposed by this act, shall charge and collect from the seller the assessment at the rate of 1 cent per hundredweight or the rate established by the commission on all potatoes grown in the state, to be deducted from the purchase price of all potatoes subject to the assessment purchased by the shipper.

(5) Every shipper shall keep as a part of his permanent records a record of all purchases, sales and shipments of potatoes, which records shall be open for inspection at all times. Every shipper shall render a report to the commission stating the quantity of potatoes received, sold or shipped by him during the preceding calendar quarter, on forms to be furnished by the commission. The report shall be due not later than 15 days after the end of the calendar quarter. The report shall contain such further information as the commission shall prescribe. With the filing of the report, each shipper shall pay to the commission an assessment at the rate of 1 cent per hundredweight or the rate established by the commission upon all potatoes reported as purchased, sold or shipped, as determined by the commission.

HISTORY: New 1970, p. 79, Act 29, Imd. Eff. Jun. 10.

290.425 Assessment; failure to pay, penalty.

Sec. 5. Any shipper or grower who fails to make collection or file return or to pay any assessment within the time required by or pursuant to this act shall forfeit to the state the amount due plus a penalty of 6% of the amount due, as provided in this act, plus 1% of such amount for each month of delay. If satisfied that the delay was excusable, the commission may remit all or any part of the penalty. The penalty shall be paid to the commission and disposed of as provided with respect to moneys derived under this act.

HISTORY: New 1970, p. 80, Act 29, Imd. Eff. Jun. 10.

290.426 False information; penalty.

Sec. 6. Any person who falsifies any affidavit, record, receipt, voucher or any information required to be maintained by this act is guilty of a misdemeanor.

HISTORY: New 1970, p. 80, Act 29, Imd. Eff. Jun. 10.

290.427 Enforcement of act; reimbursement for costs.

Sec. 7. Employees and agents of the department of agriculture shall enforce the provisions of this act. The commission shall reimburse the department for costs incurred by the department in the enforcement of the act. Such funds received by the department are appropriated for the department's use.

HISTORY: New 1970, p. 80, Act 29, Imd. Eff. Jun. 10.

290.428 Assessment; referendum; vote required.

Sec. 8. There shall be no exemptions of assessments for growers subject to the provisions of this act for the first full growing year of operation, which begins on July 1 of each year and ends on June 30 of the subsequent year. After the first full growing year

of operation whenever 15% of the growers, of which not more than $\frac{1}{2}$ are in the same district, petition the commission therefor the commission shall conduct a referendum to determine whether the levying of grower assessments without exemptions shall remain in effect. The growers shall be deemed to have assented to the levying of the assessment without exemptions if either of the following conditions are met:

(a) If 66 $\frac{2}{3}$ % or more by number of those voting representing 51% or more of the volume of potatoes sold by those voting assent to the proposal.

(b) If 51% or more by number of those voting representing 66 $\frac{2}{3}$ % or more of the volume of potatoes sold by those voting assent to the proposal.

For the purpose of the referendums under this act, a grower is entitled to 1 vote representing a single firm, individual proprietorship, corporation, company, association, partnership, husband-wife ownership.

HISTORY: New 1970, p. 80, Act 29, Imd. Eff. Jun. 10.

290.429 Referendum on commission's continuance.

Sec. 9. Effective July 1, 1975, if the commission shall receive a petition bearing the signatures of at least 25% of all the growers but with not more than $\frac{1}{2}$ of them from any one district, it shall then conduct a referendum at which growers shall vote whether or not the commission shall be continued. If a majority of the growers so voting vote against having the commission continue to function, the commission shall request repeal of this act and phase out operations within the ensuing 6 months. Any funds remaining in the commission fund shall be made available to the director of agriculture for potato research.

HISTORY: New 1970, p. 80, Act 29, Imd. Eff. Jun. 10.

290.430 Repeal.

Sec. 10. Act No. 208 of the Public Acts of 1961, as amended, being sections 290.181 to 290.192 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1970, p. 80, Act 29, Imd. Eff. Jun. 10.

Act 158, 1964, p. 188; Eff. Aug. 28.

AN ACT to provide for the licensing and bonding of wholesale potato dealers; to prescribe procedure for the enforcement of bonds; to prescribe penalties for violations of the act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

290.451 Wholesale potato dealers; definitions.

Sec. 1. As used in this act:

(a) "Potatoes" means any variety of Irish potatoes in fresh form included in the species *solanum tuberosum*.

(b) "Grower" means a person engaged in the business of growing and producing potatoes.

(c) "Wholesale potato dealer" means a person who buys, sells, handles in wholesale lots for the purpose of resale to other wholesale dealers, retailers, restaurants, hotels, institutions, hospitals or processing plants, or handles on account of or as an agent for another, any potatoes.

(d) "Person" means a corporation, company, association, cooperative organization, partnership or individual.

(e) "Due date" in case of a sale means not more than 12 days from the date of delivery of potatoes by a seller to a wholesale dealer; in case of a consignment it means not more than 12 days from the date the sale is made by the wholesale potato dealer, un-

less an agreement for extension of credit has been made between the seller and the purchaser at the time of sale or consignment in writing, or unless prompt cash payment on delivery is specified.

(f) "Director" means the director of agriculture.

(g) "Cash buyer" means a person who pays for potatoes purchased from a grower in United States currency or a certified check at the time he removes them from the grower's premises.

¹So in original. Probably should read "solanum".

HISTORY: New 1964, p. 189, Act 158, Eff. Aug. 28;—Am. 1965, p. 123, Act 88, Imd. Eff. Jan. 28;—Am. 1967, p. 222, Act 160, Eff. Nov. 2;—Am. 1968, p. 100, Act 63, Eff. May 31.

290.452 Wholesale potato dealers; licenses, exemptions.

Sec. 2. A person shall not engage in or purport to be engaged in the business of a wholesale potato dealer or advertise as such, unless he shall be licensed by the director to carry on such business.

HISTORY: New 1964, p. 189, Act 158, Eff. Aug. 28;—Am. 1968, p. 101, Act 63, Eff. May 31.

290.453 Wholesale potato dealers; application, contents, fees.

Sec. 3. (1) An application for license shall be made to the director in writing under oath on or before June 1 of each year and shall set forth:

(a) The full name of the persons constituting the firm including the full names and addresses of buyers or agents for the firm.

(b) The place or places where the applicant intends to carry on the business.

(c) The amount of business done the preceding year.

(2) The fee for each license shall be \$15.00 and for each certified copy thereof shall be \$2.00.

HISTORY: New 1964, p. 189, Act 158, Eff. Aug. 28;—Am. 1968, p. 101, Act 63, Eff. May 31.

290.454 Wholesale potato dealers; display of license, inspection.

Sec. 4. A person licensed under this act and conducting business under the license shall keep a copy thereof, to be furnished by the director, posted in a conspicuous place in or at his place of business and exposed for inspection by any person who may properly make such inspection.

HISTORY: New 1964, p. 189, Act 158, Eff. Aug. 28.

290.455 Wholesale potato dealers; identification cards, fee; disposition of fees.

Sec. 5. A licensee shall secure from the director an identification card for each of his buyers or agents and for an individual licensee operating as his agent to place the public on notice that the persons soliciting potatoes from place to place are working as agents of a licensed dealer. The fee for each identification card shall be \$1.00.

All moneys collected by the director as fees under this act shall be paid into the state treasury and credited to the general fund.

HISTORY: New 1964, p. 189, Act 158, Eff. Aug. 28.

290.456 License; refusal, cancellation, suspension and expiration.

Sec. 6. (1) The refusal to issue, cancellation or suspension of, a license under the federal perishable agricultural commodities act of 1930 or a license to operate as a wholesale potato dealer in any state may constitute grounds for the same action in this state at the discretion of the director. If a licensee or applicant for a license has in his employ in a position as buyer or agent a person who has held a license under the federal perishable agricultural commodities act of 1930 or a license to operate as a wholesale potato dealer in any state, and such license has been refused, canceled or suspended, such action may constitute a ground, at the discretion of the director, for the refusal, suspension or revocation of a license in this state.

(2) The director may suspend any such license temporarily for failure to comply with the provisions of this act or the provisions of the act governing the grading or labeling of potatoes or any rules made by him under this act and may revoke such license for cause.

(3) Any license issued under this act shall expire annually on May 31.

HISTORY: New 1964, p. 189, Act 158, Eff. Aug. 28;—Am. 1967, p. 223, Act 160, Eff. Nov. 2;—Am. 1968, p. 101, Act 63, Eff. May 31.

290.457 Records; examination.

Sec. 7. A licensee shall keep accurate accounts and records of all transactions as a wholesale potato dealer and shall retain them, subject to the examination of the director, for a period of 3 years after their respective events.

HISTORY: New 1964, p. 190, Act 158, Eff. Aug. 28.

290.458 Surety bond; conditions, exemptions.

Sec. 8. (1) An applicant for a wholesale potato dealers' license who buys from a grower shall file with his application and for the period for which such license shall be issued a surety bond in favor of the director, executed by a surety company registered in this state, conditioned for:

(a) Observance of all laws relating to the carrying on of the business of a wholesale potato dealer.

(b) Payment when due of the purchase price of potatoes purchased by him.

(c) Prompt settlement and payment of all claims and charges due to this state for services rendered.

(d) Prompt reporting of sales to all persons consigning potatoes to the licensee for sale on commission.

(e) Prompt payment to persons entitled thereto of the proceeds of all sales, less lawful charges, disbursements and commissions.

(f) Applicants for a wholesale potato dealers' license who do not buy from a grower shall not be required to furnish a bond. Cash buyers shall not be required to furnish bond.

(2) Any applicant for a wholesale potato dealers' license who falsifies any application, statement or record shall be in violation of this act.

HISTORY: New 1964, p. 190, Act 158, Eff. Aug. 28;—Am. 1968, p. 101, Act 63, Eff. May 31.

290.459 Coverage and amount of bond; failure to file additional bond, license suspension or revocation.

Sec. 9. The bond shall cover all wholesale potato dealers business transacted with growers within the state, and the liability for acts thereunder shall be only for the period the license is in force.

The amount of the bond shall be 1/2 of the amount paid for Michigan grown potatoes purchased from or handled for growers during the month in which the maximum volume of Michigan grown potatoes was bought or handled during the past calendar year. No bond shall be less than \$2,000.00, nor more than \$25,000.00.

If a person is initially entering business as a wholesale potato dealer, the director shall determine the amount of the bond from the estimated amount of business to be done annually by the applicant. If during any licensing year the bond filed by a licensee becomes less than required by this act because of an increase in the dollar volume of potato purchases, the director may require the licensee to file an additional bond to cover the increase in gross dollar volume. Failure to comply with an order of the director shall be grounds for suspension or revocation of a license.

HISTORY: New 1964, p. 190, Act 158, Eff. Aug. 28;—Am. 1965, p. 123, Act 88, Imd. Eff. Jun. 28;—Am. 1967, p. 223, Act 160, Eff. Nov. 2;—Am. 1968, p. 102, Act 63, Eff. May 31.

290.460 Default of licensee; claim by grower.

Sec. 10. Upon default of a licensee in the payment of money due to a grower, the grower may file with the director a verified statement of his claim. If the grower has reduced his claim to a judgment, he shall file a transcript of the judgment with the director. Such statement may be filed at any time during the period of the license and within 90 days from the termination of such period, for debts contracted during such license period. Claims shall be filed within 90 days of the time of default.

HISTORY: New 1964, p. 190, Act 158, Eff. Aug. 28.

290.461 Repealed. 1968, p. 102, Act 63, Eff. May 31.

Section related to claims of potato growers and processes of hearing and settlement of claims against wholesaler.

290.461a Examination of records; inquiries; seizures; hearing report of findings; appeal; surety bond; settlement of claims.

Sec. 11a. The director may examine the records of the wholesale potato dealer against whom the complaint has been made and may inquire of other growers who have sold potatoes to the wholesale potato dealer within the past 6 months as to the payment for their potatoes. Such inquiries may be made by the director by regular United States mail. Based on the results of the examination of records, or those obtained from inquiries, the director may seize and protect in the name of the state, in behalf of the claimants, the assets of the licensee by any legal procedure necessary. The director may order a hearing before him, giving the party complained of, notice of the filing of the complaint and the time and place of the hearing. At the conclusion of the hearing, the director shall report his findings and render his conclusions and order upon the matter complained of to the complainant and the respondent in each case, who shall have 15 calendar days following in which to comply with the director's order. A licensee who feels aggrieved at the decision of the director may appeal from the decision within 10 calendar days by writ of certiorari to the circuit court of the county where the licensee resides. If the order is not complied with within the 15 days, the director shall demand from the surety, payment of an amount necessary to satisfy the claims determined to be due. If the amount of the surety bond is insufficient to satisfy the claims, the director shall bring action against the seized assets of the licensee to further satisfy the amount of the claims. If less than the total amount of the claims shall be so obtained, distribution shall be made ratably to the claimants. If the surety does not pay the amount so demanded, upon the expiration of 90 days from the date the claim was validated, the balance of the term of the bond from the date of the first valid claim against any wholesale potato dealer shall be allowed for the filing of any additional claims. Upon full settlement of all valid claims by the surety or from the assets of the licensee, the director shall return any remaining assets to the licensee. The director may bring an action in any court of competent jurisdiction against the licensee, the assets of the licensee or surety on the bond for recovery of any money due and owing to a grower or growers as hereinbefore provided.

HISTORY: Add. 1968, p. 102, Act 63, Eff. May 31.

290.462 Default of licensee; late claims.

Sec. 12. Claims not filed during the license period within 90 days from the date of default or within 90 days from the termination of the license period shall not be received, acted upon or paid and shall not participate in the proceeds of any bond.

HISTORY: New 1964, p. 191, Act 158, Eff. Aug. 28.

290.463 Rules and regulations.

Sec. 13. The director may promulgate rules and regulations necessary to administer and enforce this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to

Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 191, Act 158, Eff. Aug. 28.

290.464 Waiver.

Sec. 14. It shall be unlawful for a person to request a grower to sign any statement, affidavit, assignment or waiver of any kind which has for its purpose or intent the relief to any extent of a wholesale potato dealer, indemnitor or surety company of its full responsibility under this act.

HISTORY: New 1964, p. 191, Act 158, Eff. Aug. 28.

290.465 Violation of act; misdemeanor, penalty.

Sec. 15. Any person who violates any provision of this act is guilty of a misdemeanor, punishable by a fine of not less than \$25.00 nor more than \$100.00, and in default in payment thereof, by imprisonment for not less than 10 days in the county jail, and for each subsequent violation by a fine of not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail for not more than 6 months, or both.

HISTORY: New 1964, p. 191, Act 158, Eff. Aug. 28.

290.466 Repeal.

Sec. 16. Act No. 227 of the Public Acts of 1929, being sections 290.171 to 290.174 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1964, p. 191, Act 158, Eff. Aug. 28.

Act 228, 1947, p. 332; Eff. Oct. 11.

AN ACT relating to cherries; declaring the public policy of this state to promote the consumption and sale of cherries grown in Michigan; levying an assessment on cherry production and providing for its collection; creating a cherry commission and vesting in it the administration of this act; providing for the powers, duties and authority of said commission; and providing penalties for the violation of this act.

The People of the State of Michigan enact:

290.501 Cherries; purpose of act.

Sec. 1. This act is passed:

(a) In the exercise of the police power of the state to protect the public health, to promote the welfare of the state, and to stabilize and protect the cherry industry of the state.

(b) Because it is necessary and expedient to enhance the reputation of Michigan cherries in domestic markets, because Michigan cherries may be forced out of domestic markets by competition from other highly advertised fruits.

(c) Because the cherry crop grown in Michigan comprises one of the major agricultural crops in Michigan, and, therefore, the business of selling and distributing such crop and the expanding and protection of its market is of public interest.

(d) Because it is necessary to discover the health-giving qualities and the food and dietetic value of Michigan cherries, and to spread such knowledge throughout the market area for Michigan cherries.

(e) Because the successful continuance of the Michigan cherry industry, the enlarging of its markets, an increasing of the consumption of Michigan cherries are necessary to assure the payment of taxes to the state and its subdivisions, to prevent unemployment within the state, and maintain wages for agricultural labor.

(f) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell only cher-

ries of the finest quality, the methods and care used in preparing for market, and the methods of sale and distribution, and by such information to reduce the cost of distribution so that the spread between the cost to the consumer and the amount received by the producer will be reduced to a minimum.

(g) To protect the general public by informing it with reference to the varieties, grades and brands of Michigan cherries and cherry products, and the uses to which each may be put.

HISTORY: CL 1948, 290.501.

CITED IN OTHER SECTIONS: Sections 290.501 to 290.514 are cited in § 16.283.

290.502 Cherries; definitions.

Sec. 2. As used in this act:

(a) The term "commission" shall mean the Michigan cherry commission.

(b) The term "person" shall mean and include individuals, corporations, partnerships, trusts, associations, cooperatives and any and all other business units, devices and arrangements.

(c) "Sold or shipped for processing" shall be deemed to take place when the cherries are loaded by the grower, whether in bulk or loose in boxes or other container, or packed in any style package, in the car, boat, truck, wagon, or other conveyance to be transported to a processor.

(d) The term "grower" shall mean and include any person who grows cherries, whether as owner, agent or otherwise.

(e) The term "processor" or "processing plant" shall mean and include every person and every place to whom or to which cherries are delivered for the purpose of drying, dehydrating, freezing, brining, pitting, canning, pressing, powdering, extracting, cooking, or for use in producing or manufacturing a product or manufactured article.

(f) "District No. 1" shall be and include the counties of Benzie, Leelanau, Grand Traverse, Antrim, Charlevoix, Emmet and Wexford.

(g) "District No. 2" shall be and include the counties of Kent, Ottawa, Muskegon, Newaygo, Oceana, Mason, Mecosta and Manistee.

(h) "District No. 3" shall be and include the counties of Allegan, Van Buren, Berrien and Cass.

(i) "District No. 4" shall be and include all other Michigan counties not included in the aforesaid districts.

HISTORY: CL 1948, 290.502.

290.503 Michigan cherry commission; members, term, appointment, quorum, compensation, expenses.

Sec. 3. There is hereby created a state commission to be known as the Michigan cherry commission. The commission shall be composed of 7 cherry producers, 2 processors, and the director of agriculture and director of the experimental station as ex officio members without vote. The appointed members shall be citizens and residents of the state, over the age of 25 years (each of whom is and actually has been engaged in growing, producing or processing cherries within the state of Michigan for a period of at least 5 years, and has derived during said period a substantial portion of his income therefrom). The qualifications of members of the commission as herein set forth must continue during their terms of office. The regular term of office of the members of the commission shall be 3 years from the date of appointment and until their successors are appointed and qualified: Provided, That of the members first appointed, 3 producer members shall be appointed for terms of 3 years each, 2 for terms of 2 years each and 2 for terms of 1 year each, and of the processor members, 1 shall be appointed for a term of 2 years and 1 for a term of 1 year. Vacancies shall be filled for the unexpired terms.

The governor, with the advice and consent of the senate, shall appoint the producer and processor members as hereinbefore provided, 2 producer members to be appointed from District No. 1, 2 producer members from District No. 2, 2 producer members from District No. 3 and 1 producer member from District No. 4, and the 2 processor members to be appointed from the state at large. Appointments of producer members shall be made from lists submitted to the governor by the Michigan association of cherry producers, which list shall consist of not less than twice the number of producers to be appointed. Appointments of processor members shall be made from lists submitted to the governor by the Michigan canner's association, which lists shall consist of not less than twice the number of processors to be appointed.

The majority of the members shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission. Each member shall receive the sum of \$5.00 per day for each day spent in actual attendance at meetings of the commission, and members of the commission shall be entitled to traveling and other expenses incurred in connection with the business of the commission at the rate allowed by law to state officers, but shall not receive any other compensation or salary.

HISTORY: CL 1948, 290.503.

290.504 Cherry commission; corporate powers; seal; certified records as evidence.

Sec. 4. The commission shall be a body corporate. It shall have the power to sue and be sued; to contract and be contracted with; it shall have and possess all the powers of a corporation. The commission shall adopt a corporate seal. Copies of the proceedings, records and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in evidence in all courts of this state, and shall be prima facie evidence of the truth of all statements therein contained.

HISTORY: CL 1948, 290.504.

290.505 Cherry commission; secretary-manager, compensation.

Sec. 5. The commission shall elect a secretary-manager, whose compensation shall be fixed by the commission.

HISTORY: CL 1948, 290.505.

290.506 Cherry commission; treasurer; moneys, deposit, disbursement; fidelity bond.

Sec. 6. The commission shall appoint a treasurer. All moneys received by the commission, or any other state official, from the assessments hereinafter levied, shall be deposited in such banks as the commission may designate, and shall be disbursed by order of the commission. The treasurer shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state, in favor of the commission and the state of Michigan, jointly and severally, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission, in the penal sum of \$20,000.00.

HISTORY: CL 1948, 290.506.

290.507 Non-liability of state, members or employees for acts of cherry commission; disbursement of funds.

Sec. 7. The state of Michigan shall not be liable for the acts of said commission or its contracts. All disbursements shall be limited to the funds collected by the commission, and no member of the commission or any employee or agent thereof shall be liable on

the contracts of the commission. All salaries, expenses, costs, obligations and liabilities incurred by said commission shall be payable only from the funds collected by the commission under this act.

HISTORY: CL 1948, 290.507.

290.508 Powers and duties of cherry commission.

Sec. 8. The powers and duties of the commission shall include the following:

- (1) To elect a chairman and from time to time such other officers as it may deem advisable, and to adopt and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations and orders for the exercise of its powers and performance of its duties;
- (2) To administer and enforce this act, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purposes of this act;
- (3) To employ and at its pleasure discharge such employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;
- (4) To establish offices and incur any and all expenses and to enter into any and all contracts and agreements and to create such liabilities as may be reasonable for the proper administration and enforcement of this act;
- (5) To investigate and prosecute violations of this act;
- (6) To conduct scientific research to develop and discover the health, food, therapeutic and dietetic value of cherries and products thereof;
- (7) To employ and at its pleasure discharge an advertising manager, agents, advertising agencies, and such other help as it deems necessary, and to outline their powers and duties and fix their compensation;
- (8) To make in the name of the commission such advertising contracts and other agreements as may be necessary, and to cooperate with national and state associations of cherry growers or processors in effectuating the purposes of this act;
- (9) To keep accurate books, records, and accounts of all its dealings, which books, records and accounts shall be open to inspection by any grower, processor or other person and shall be audited by the state auditor general or by a certified public accountant.

HISTORY: CL 1948, 290.508.

290.509 Taxation of cherries; deducting or remitting assessment; grower's election; expenditures.

Sec. 9. (a) There is hereby levied and imposed upon all cherries grown and produced in Michigan in the year 1948, and annually thereafter, an assessment of 1/10 of 1 cent per pound, when sold or shipped for processing, payable by the grower or grower's agent: Provided, That Michigan processors who purchase or receive shipments of cherries grown and produced in Michigan shall deduct the assessment levied thereon by this act from the price paid and shall forthwith remit, under rules and regulations of the commission, such assessments to the commission: Provided further, That with respect to the year 1948, and each year thereafter, in case the grower or grower's agent, on or before May first of each such year shall file with the secretary of the commission a written and signed statement to the effect that such grower or grower's agent elects not to pay the assessment during such year, then and in that event the said processor shall not deduct the assessment levied under this act for that year, and the grower or grower's agent shall not be liable therefor.

(b) All monies levied and collected under this act shall be expended in advertising cherries and for other purposes authorized by this act, and unexpended balances at the end of any fiscal year shall not revert to or be merged with the general fund.

HISTORY: CL 1948, 290.508.

290.510 Keeping of records; form, inspection by commission; reports based on records.

Sec. 10. Every processor, grower, or grower's agent shall keep complete and accurate records of the number of pounds of cherries received or sold or shipped for processing by him during each calendar year. Such records shall be in such form and contain such information as the commission shall by regulation or rule prescribe. Such records shall be preserved by such processor, grower or grower's agent for a period of 2 years, and shall be offered and submitted for inspection at any time upon written or oral request or demand by the commission or its duly authorized agent or employee. The commission may require reports based on such records.

HISTORY: CL 1948, 290.510.

290.511 Violation of act; misdemeanor.

Sec. 11. Any person who shall violate or aid in the violation of any provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor.

HISTORY: CL 1948, 290.511.

290.512 Prosecutions under act; jurisdiction of courts.

Sec. 12. (a) Any prosecution brought under this act may be instituted or brought in any county in this state in which the defendant or any of the defendants reside, or in which the violation was committed, or in which the defendant, or any of the defendants, has his principal place of business;

(b) The several courts of the state of Michigan are hereby invested with jurisdiction to enforce this act and to prevent and restrain violations thereof.

HISTORY: CL 1948, 290.512.

290.513 Enforcement of act.

Sec. 13. It shall be the duty of all state and county law enforcement officers and all employees and agents of the department of agriculture to enforce this act.

HISTORY: CL 1948, 290.513.

290.514 Rules, regulations, orders; filing, publication, effective date.

Sec. 14. Every rule, regulation or order promulgated by the commission shall be filed with the director of agriculture of the state of Michigan, and, after compliance with the provisions of Act No. 88 of the Public Acts of 1943, shall be published in an established newspaper in the following counties: Kent, Kalamazoo, Berrien, Van Buren, Oceana, Muskegon, and Grand Traverse within 5 days thereafter. Such rules, orders or regulations shall become effective 15 days after such filing and publication.

HISTORY: CL 1948, 290.514.

NOTE: Act 88, 1943, above referred to, is Compilers' § 24.71 et seq.

290.515 Repealed. 1952, p. 61, Act 55, Eff. Sep. 18.

Section provided expiration date of act relating to cherries.

Act 162, 1955, p. 248; Imd. Eff. Jun. 7.

AN ACT to provide for the licensing and inspection of agricultural liming material and to regulate the sale thereof; and to prescribe penalties for the violations of the provisions of this act.

The People of the State of Michigan enact:

290.531 Liming material; definition; container label, contents; exception.

Sec. 1. The term "liming material" means all or any form of limestone, lime rock, marl, slag, by-product lime, industrial or factory refuse lime, water softener lime, and any other material manufactured, prepared, sold or distributed primarily for correct-

ing soil acidity. Every lot, package or parcel of liming material sold, offered or exposed for sale or distributed within this state shall have on each bag, package or container, in a conspicuous place on the outside, or in the case of bulk lime the vendor shall present to the purchaser a legible and plainly written statement in the English language clearly and truly certifying:

(a) The net weight of the contents of the package, lot, bag, sack, carton or container; or bulk lot;

Each vehicle transporting agricultural liming material not sold on a scale weight basis must have plainly marked thereon the ton weight capacity when level full, assuming a ton of agricultural liming material occupies 20 cubic feet. Such sale on other than a scale weight basis must have prior approval of the department of agriculture.

(b) The exact, complete name of the product;

(c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;

(d) The minimum neutralizing value in terms of calcium carbonate;

(e) The degree of fineness expressed as:

(1) minimum percentage passing through 8-mesh screen;

(2) minimum percentage passing through 60-mesh screen;

(3) minimum percentage passing through 100-mesh screen; except that in the case of marl, beet sugar factory refuse lime, paper mill refuse lime, carbide plant refuse lime, water softener refuse lime, wood ashes and other forms of waste or refuse lime the neutralizing value shall be expressed as pounds of "calcium carbonate equivalent" per cubic yard of material as delivered, and further that no guarantee need be made relative to fineness or to the net weight.

This act shall not apply to any stocks that may be in the hands of dealers in the state at the time this act goes into effect.

HISTORY: New 1955, p. 248, Act 162, Imd. Eff. Jun. 7;—Am. 1965, p. 127, Act 94, Eff. Mar. 31, 1966.

290.532 Liming material; vendor's certificates of analysis and contents, samples.

Sec. 2. Before any liming material is sold or offered for sale, the manufacturer, importer or party who causes it to be sold or offered for sale within this state shall file with the director of agriculture a certified copy of the analysis and certificate referred to in section 1. The certified copy of analysis shall be accompanied, when the director of agriculture so requests, by a sealed package containing not less than 2 pounds of such liming material, with an affidavit that it is a representative sample of the liming material thus to be sold or offered for sale.

HISTORY: New 1955, p. 248, Act 162, Imd. Eff. Jun. 7;—Am. 1965, p. 127, Act 94, Eff. Mar. 31, 1966.

290.533 Liming material; license fee; records.

Sec. 3. The manufacturer, importer or agent of any liming material shall pay annually to the director of agriculture on or before December 31 a license fee of \$20.00 for each liming material he offers for sale in this state. Whenever the manufacturer or importer shall have paid this license fee his agents shall not be required to do so. All vendors of liming materials shall keep on file subject to inspection by any authorized agent of the director of agriculture for a period of 1 year all invoices, freight bills, truckers' receipts, way bills and similar shipping data pertaining to liming materials that would establish date and origin of the shipment.

HISTORY: New 1955, p. 248, Act 162, Imd. Eff. Jun. 7;—Am. 1965, p. 128, Act 94, Eff. Mar. 31, 1966.

290.534 Liming material; annual analysis.

Sec. 4. All such analyses of liming materials required by this act shall be made under the director of agriculture and paid for out of the funds arising from the license fees

provided for in section 3. At least 1 analysis of each liming material shall be made annually.

HISTORY: New 1955, p. 249, Act 162, Imd. Eff. Jun. 7.

290.535 Annual report of director of agriculture; surplus from license fees.

Sec. 5. The director of agriculture shall publish in his annual report a correct statement of all analyses made and certificates filed in his office; together with a statement of all moneys received for license fees, and expended for analysis. Any surplus from license fees remaining on hand at the close of the fiscal year shall be placed to the credit of the general fund.

HISTORY: New 1955, p. 249, Act 162, Imd. Eff. Jun. 7.

290.536 Violation; penalty, damages for misrepresentation.

Sec. 6. Any person or persons who shall sell or offer for sale any liming material in this state without first complying with the provisions of sections 1, 2 and 3 of this act, or who shall attach or cause to be attached to any such package of liming material an analysis stating that it contains a larger percentage of any 1 or more of the constituents or ingredients named in section 1 of this act than it really does contain shall, upon conviction thereof, be fined not less than \$100.00 for the first offense, and not less than \$300.00 for every subsequent offense and the offender shall also be liable for all damages sustained by the purchaser of such liming material on account of such misrepresentation.

HISTORY: New 1955, p. 249, Act 162, Imd. Eff. Jun. 7.

290.537 Selection of material for analysis; inspection; seizure.

Sec. 7. The director of agriculture by any duly authorized agent is hereby authorized to select from any package of liming material exposed for sale in this state a quantity not exceeding 2 pounds, for a sample, such sample to be used for the purpose of an official analysis and for comparison with the certificate filed with the director of agriculture and with the certificate affixed to the package on sale. The director of agriculture, his deputy or any authorized agent of the director, shall have free access during reasonable business hours to all premises where liming materials are manufactured, sold or stored, and is authorized at all times to seize or stop-sale any and all liming materials, that are unlicensed, misbranded, fail to meet guarantee or otherwise fail to comply with the provisions of this act.

HISTORY: New 1955, p. 249, Act 162, Imd. Eff. Jun. 7;—Am. 1965, p. 128, Act 94, Eff. Mar. 31, 1966.

290.538 Enforcement; rules and regulations.

Sec. 8. The director of agriculture is hereby empowered to enforce the provisions of this act and to prescribe and enforce such rules and regulations, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948, relating to the sale of liming materials as may be deemed necessary to carry into effect the full intent and meaning of this act.

HISTORY: New 1955, p. 249, Act 162, Imd. Eff. Jun. 7.

Act 114, 1965, p. 147; Eff. Jan. 1, 1966.

AN ACT relating to dry, edible beans; to create a bean commission and prescribe its functions; to levy and collect assessments on bean production; and to provide penalties for violation of this act.

*The People of the State of Michigan enact:***290.551 Beans; definitions.**

Sec. 1. As used in this act:

- (a) "Beans" means Michigan dry, edible beans, except soybeans.
- (b) "Grower" means a person who grows beans for market, whether as owner, agent or otherwise, or shares in the production of beans.
- (c) "Participating grower" means a grower who has elected to pay the assessments and participate in benefits or functions under this act.
- (d) "Nonparticipating grower" means a grower who has elected not to pay the assessments and not to participate in benefits or functions under this act.
- (e) "Processor" means a person who cleans and grades, dries, dehydrates, cans, powders, extracts, cooks or uses in producing or manufacturing a product or article, ships or otherwise handles beans, including seed.
- (f) "Sold, or shipped for processing" means that beans are loaded by the grower, in bulk or loose in bags or other containers, or packed in any style package, in a car, boat, truck, wagon or other conveyance to be transported to a processor.
- (g) "Commission" means the Michigan bean commission.

HISTORY: New 1905, p. 147, Act 114, Eff. Jan. 1, 1906.

CITED IN OTHER SECTIONS: Sections 290.551 to 290.566 are cited in § 16.283.

290.552 Beans; districts.

Sec. 2. (1) For the purposes of this act, the state is divided into 6 districts:

- (a) District 1 consists of the counties of Arenac, Bay, Isabella, Mecosta, Midland and Montcalm.
- (b) District 2 consists of the counties of Clinton, Eaton, Gratiot, Ionia, Ingham and Kent.
- (c) District 3 consists of the counties of Saginaw and Shiawassee.
- (d) District 4 consists of the county of Tuscola.
- (e) District 5 consists of the counties of Genesee, Lapeer, Macomb, St. Clair and Sanilac.
- (f) District 6 consists of the county of Huron.

Any area not represented in the districts can vote in the nearest adjacent county.

HISTORY: New 1905, p. 148, Act 114, Eff. Jan. 1, 1906.

290.553 Michigan bean commission; members, terms.

Sec. 3. (1) The Michigan bean commission of 9 voting members is created, consisting of a participating grower from each district and 3 processors. Two processor members shall be shipper handlers and 1 processor member shall be a major canner of beans. The director of agriculture and the dean of the college of agriculture of Michigan state university are ex officio members without vote. An appointed member shall be of legal voting age in this state and, except the processor canner, shall be a citizen and resident of this state who is and has been engaged in the actual growing, producing or processing of beans within the state for a period of at least 5 years immediately preceding his appointment.

(2) The terms of office of members of the commission shall be 3 years from the date of appointment or until their successors are appointed and qualified. The first appointments, however, shall be made as follows: 2 participating grower members and 1 processor member shall be appointed for a term of 1 year; 2 participating grower members

and 1 processor member shall be appointed for a term of 2 years; and, 2 participating grower members and 1 processor member shall be appointed for a term of 3 years. No person shall serve more than 2 full terms in succession.

HISTORY: New 1965, p. 148, Act 114, Eff. Jan. 1, 1966.

290.554 Bean commission; appointment, meetings.

Sec. 4. (1) The governor shall appoint the first members of the commission within 30 days after this act takes effect with the advice and consent of the senate and without use of the nominating procedures hereinafter provided. The governor shall appoint subsequent members only from the lists of nominees submitted to him and subject to the advice and consent of the Senate. However, if any list is not submitted to him at least 30 days before the term of office of a member would normally expire, or within 30 days after a vacancy otherwise occurs, the governor may appoint any person who is otherwise qualified under this act.

(2) A meeting of participating growers shall be held in each district in each year when a vacancy will occur. The commission shall give notice of each meeting by at least 2 insertions in a farm publication of general circulation in the district where the meeting is to be held, the final inserting being at least 10 days before the meeting. The commission shall supervise the conduct of the meeting. Two nominees for participating members of the commission shall be selected at each meeting and submitted to the governor. Appointments of processor shipper handler members shall be made only from any list submitted to the governor by a state bean processor shipper handler organization with 2 names submitted for each position to be filled. Appointment of the processor canner member shall be made from any list of 2 nominees submitted to the governor by an organization of canners of beans.

(3) A participating member of the commission who fails to meet the qualifications of this act shall cease to be a member of the commission. Such vacancy or a vacancy for any other reason shall be filled by the governor for the unexpired term in the same manner as the original appointment.

HISTORY: New 1965, p. 148, Act 114, Eff. Jan. 1, 1966.

290.555 Bean commission; quorum, compensation, expenses.

Sec. 5. A majority of the members of the commission constitutes a quorum for the transaction of business and for performing the duties of the commission. A member shall receive \$20.00 per day for each day spent in actual attendance at meetings of the commission, and traveling and other expenses incurred in connection with the business of the commission at the rate allowed by law to state officers, but shall not receive any other compensation or salary from the commission.

HISTORY: New 1965, p. 149, Act 114, Eff. Jan. 1, 1966.

290.556 Bean commission; chairman, treasurer, other officers.

Sec. 6. The commission shall elect each year a chairman, a treasurer, and such other officers as it deems advisable. The commission, as often as it deems advisable, shall appoint a secretary-manager and fix his compensation.

HISTORY: New 1965, p. 149, Act 114, Eff. Jan. 1, 1966.

290.557 Bean commission; deposit of moneys received; treasurer's bond.

Sec. 7. All moneys received by the commission, or any other state official, from the assessments under this act, shall be deposited in such banks as the commission designates, and shall be disbursed by order of the commission. The treasurer shall file with the commission a fidelity bond executed by a surety company, authorized to do busi-

ness in this state, in favor of the commission and the state, jointly and severally, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission. The amount of the bond shall be determined by the commission.

HISTORY: New 1965, p. 149, Act 114, Eff. Jan. 1, 1966.

290.558 Bean commission; body corporate, seal, records as evidence.

Sec. 8. The commission is a body corporate and may sue and be sued and contract and be contracted with. The commission shall adopt a seal. Copies of the proceedings, records and acts of the commission, when certified by the secretary and authenticated by the seal, shall be admissible in evidence in all courts of this state, and shall be prima facie evidence of the truth of all statements therein contained.

HISTORY: New 1965, p. 149, Act 114, Eff. Jan. 1, 1966.

290.559 Bean commission; state and employees not liable for acts; disbursements.

Sec. 9. The state is not liable for the acts of the commission or its contracts. All disbursements shall be limited to the funds collected by the commission, and no member of the commission or any employee or agent thereof is liable on the contracts of the commission. All salaries, expenses, costs, obligations and liabilities incurred by the commission are payable only from funds collected by the commission under this act, except that any moneys obtained through donations and gifts or provided by a governmental agency may be used within limits stipulated by the donor or governmental agency.

HISTORY: New 1965, p. 149, Act 114, Eff. Jan. 1, 1966.

290.560 Bean commission; powers and duties.

Sec. 10. The commission shall:

(a) Adopt and amend or rescind when advisable proper and necessary rules, regulations and orders for the exercise of its powers and performance of its duties. Such rules, regulations and orders shall be filed with the director of agriculture and shall be adopted in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(b) Administer this act and investigate violations thereof, and perform all acts and exercise all powers reasonably necessary to effectuate the purposes of this act.

(c) Employ and discharge such employees as it deems necessary, and prescribe their powers and duties and fix their compensation.

(d) Establish offices, incur expenses, enter into contracts and agreements and create such liabilities, all as may be reasonable for the proper administration and enforcement of this act.

(e) Enter into in the name of the commission such advertising contracts and other agreements as may be necessary, and cooperate with and support national and state associations of bean growers or processors in effectuating the purposes of this act.

(f) Keep accurate books, records and accounts of all its dealings, which shall be open to inspection by any participating grower and processor and shall be audited by the legislative auditor or by a certified public accountant.

(g) Promote research on bean varieties and agronomic practices.

(h) Promote scientific research to develop and discover the health, food, therapeutic and dietetic value of beans and bean products.

(i) Promote research as to market development.

(j) Compile and publish commodity information.

HISTORY: New 1965, p. 149, Act 114, Eff. Jan. 1, 1966.

290.561 Enforcement; reimbursement for costs.

Sec. 11. The state department of agriculture or its agents shall enforce this act. The commission shall reimburse the department for costs incurred by the department in such enforcement. Such funds received by the department are hereby appropriated for the department's use.

HISTORY: New 1965, p. 150, Act 114, Eff. Jan. 1, 1966.

290.562 Assessment on beans grown.

Sec. 12. An assessment of 2 cents per hundredweight, or as otherwise determined in accordance with the provisions of this section, when sold or shipped, is levied and imposed upon all beans grown and produced in this state in the year 1966, and annually thereafter. The participating grower or certified seed grower shall pay the assessment. The first receiver who purchases or receives beans from participating growers shall deduct the assessment from the price paid and remit it to the commission on or before the fifteenth of the following month. The commission may set a reasonable fee for the collecting of assessments from participating growers. Moneys levied and collected under this act shall be spent for purposes authorized by this act.

HISTORY: New 1965, p. 150, Act 114, Eff. Jan. 1, 1966.

290.563 Nonparticipating grower; election, form, certificate.

Sec. 13. In 1966 and each year thereafter a grower may elect to become a nonparticipating grower for the year by filing on or before June 1 with the secretary of the commission a signed request for an official nonparticipating application form. The secretary shall mail an official application form to the grower within 10 days after the receipt of the request. The grower shall sign and return the official application form to the commission within 10 days after its receipt. The commission, within 45 days of receiving from a grower a signed official application, shall issue to the grower a nonparticipating certificate and number. On presentation of this certificate, the processor shall not deduct the assessment levied under this act for that year, and the nonparticipating grower shall not be liable therefor. A record of nonparticipating growers and their numbers shall be submitted by the processor to the commission on or before the fifteenth day of the following month.

HISTORY: New 1965, p. 150, Act 114, Eff. Jan. 1, 1966.

290.564 Rate of assessment; petition, referendum.

Sec. 14. Whenever 15% of the participating growers, of which not more than 1/3 are in the same district, petition the commission therefor, the commission shall conduct a referendum among the participating growers of the state to determine the rate of assessment. The referendum shall be conducted in a manner to protect the purity of the ballot. If a majority of the participating growers voting upon the question, vote in favor of the proposed change, the assessment shall be ineffective in the year in which it is voted unless the change is published before May 20 of that year. The rate of assessment shall not be changed by more than 1 cent per hundredweight in any year.

HISTORY: New 1965, p. 150, Act 114, Eff. Jan. 1, 1966.

290.565 First receiver; records, grower's records.

Sec. 15. A first receiver shall keep complete and accurate records of the number of pounds of beans received from growers by him during each calendar year. He shall preserve such records for 2 years, and they shall be available to the commission or its duly authorized agent upon request. A grower processing or retailing his own production shall keep such records.

HISTORY: New 1965, p. 151, Act 114, Eff. Jan. 1, 1966.

290.566 Violation of act; misdemeanor, penalty.

Sec. 16. (1) Any person who violates or aids in the violation of any provision of this act is guilty of a misdemeanor.

(2) A prosecution under this act may be instituted in any county in this state in which the violation was committed, or in which any defendant resides or has his principal place of business.

HISTORY: New 1965, p. 151, Act 114, Eff. Jan. 1, 1966.

290.567 Continuation of act; petition, referendum, transfer of assets.

Sec. 17. Five years after the effective date of this act the commission, upon receipt of a petition bearing the signatures of at least 25% of the participating growers but with not more than 1/2 of them from any one district, shall conduct a referendum at which participating growers shall vote whether or not the commission shall continue to levy the assessments and otherwise carry out the provisions of this act. If a majority of the participating growers so voting vote against having the commission continue to function, the commission shall cease its operations and deliver its assets to the director of agriculture who shall transfer such assets to Michigan state university for bean research.

HISTORY: New 1965, p. 151, Act 114, Eff. Jan. 1, 1966.

290.568 Effective date.

Sec. 18. This act shall take effect January 1, 1966.

HISTORY: New 1965, p. 151, Act 114, Eff. Jan. 1, 1966.

Act 283, 1964, p. 530; Eff. Aug. 28.

AN ACT to regulate and provide standards for weights and measures, and the packaging and advertising of certain commodities; to provide for a state director and other officials and to prescribe their powers and duties; to provide penalties for fraud and deception in the use of false weights and measures and other violations; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

290.601 Weights and measures act of 1964; short title.

Sec. 1. This act shall be known and may be cited as the "weights and measures act of 1964".

HISTORY: New 1964, p. 531, Act 283, Eff. Aug. 28.

290.602 Weights and measures; definitions.

Sec. 2. As used in this act:

(a) "Weights and measures" means weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices, except that the term shall not be construed to include meters for the measurement of electricity, gas (natural or manufactured) or water or devices to measure the usage of communications services when the same are operated in a public utility system. Such devices or any appliances or accessories associated therewith, are excluded from this act.

(b) "Sell" or "sale" means barter and exchange.

(c) "Director" and "deputy director" mean, respectively, the state director of weights and measures and the deputy state director of weights and measures.

(d) "Inspector" means a state inspector of weights and measures.

(e) "Sealer", "deputy sealer", "supervising inspector" and "city or county inspector" mean, respectively, a sealer of weights and measures, a deputy sealer of weights

and measures, a supervising weights and measures inspector, and city or county weights and measures inspectors of a city, of a county, or of joint city-county jurisdiction.

(f) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this act. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

(g) "Barrel", when used in connection with fermented liquor, means a unit of 31 gallons.

(h) "Ton" means a unit of 2,000 pounds avoirdupois weight.

(i) "Cord", when used in connection with wood intended for fuel purposes or pulpwood, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

(j) "Weight", in connection with any commodity, means net weight.

(k) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions, and which usually is consumed or expended in the course of such consumption or use.

(l) "Nonconsumer package" or "package of nonconsumer commodity" means any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

HISTORY: New 1964, p. 531, Act 283, Eff. Aug. 28;—Am. 1968, p. 457, Act 264, Eff. Nov. 15.

290.603 Weights and measures; systems and definitions recognized.

Sec. 3. The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and one or the other of these systems shall be used for all commercial purposes in this state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the national bureau of standards, are recognized and shall govern weighing and measuring equipment and transactions in this state.

HISTORY: New 1964, p. 531, Act 283, Eff. Aug. 28.

290.604 State standards; location, removal, certification.

Sec. 4. Weights and measures in conformity with the standards of the United States as have been supplied to the state by the federal government or otherwise obtained by the state for use as state standards, when the same have been certified as being satisfactory for use as such by the national bureau of standards, shall be the state standards of weights and measures. The state standards shall be kept in a safe and suitable place in the office or laboratory of the state department of agriculture. They shall not be removed therefrom except for repairs or certification. They shall be submitted at least once every 10 years to the national bureau of standards for certification. The state standards shall be used only in verifying the office standards and for scientific purposes.

HISTORY: New 1964, p. 531, Act 283, Eff. Aug. 28.

290.605 State standards; office standards, field standards, verification.

Sec. 5. In addition to the state standards provided for in section 4 of this act, there shall be supplied by the state at least 1 complete set of copies of these to be kept in the office or laboratory of the state department of agriculture to be known as office standards, and also such field standards and such equipment as may be found necessary to carry out the provisions of this act. The office standards shall be verified upon their initial receipt and at least once each year thereafter; the field standards shall be verified upon their initial receipt and at least once every 5 years thereafter, the office standards by direct comparison with the state standards and the field standards by direct comparison with the office standards.

HISTORY: New 1964, p. 532, Act 283, Eff. Aug. 28.

290.606 State director of weights and measures; deputy, inspectors.

Sec. 6. The state director of agriculture by virtue of his office shall be state director of weights and measures during his term of office. His deputy shall be deputy director of weights and measures, and all inspectors appointed by the director shall be state inspectors and sealers of weights and measures.

HISTORY: New 1964, p. 532, Act 283, Eff. Aug. 28.

290.607 State director of weights and measures; standards; custody, enforcement, supervision, reports.

Sec. 7. The director shall have the custody of the state standards of weights and measures and of the other standards and equipment provided for by this act, and shall keep accurate records of the same. The director shall enforce the provisions of this act. He shall have general supervision over the weights and measures offered for sale, sold or in use in this state. After the close of each fiscal year, he shall report to the governor on all of the activities of his office.

HISTORY: New 1964, p. 532, Act 283, Eff. Aug. 28.

290.608 State director of weights and measures; rules and regulations.

Sec. 8. The director may issue from time to time reasonable rules and regulations necessary to administer and for the enforcement of this act, which regulations shall have the force and effect of law. Such regulations shall be promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. These regulations may include:

- (a) Standards of net weight, measure or count.
- (b) Rules governing technical and reporting procedures and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties.
- (c) Exemptions from the sealing or marking requirements of section 14 with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impractical or damaging to the apparatus in question.
- (d) With respect to classes of weights and measures found to be of such character that frequent retesting is unnecessary to continued accuracy, exemptions from the requirements of sections 9 and 10 for testing and schedules fixing the frequency of required retests for classes of devices so exempted.
- (e) Rules governing the voluntary registration of servicemen and service agencies involved in scale inspection.

These regulations shall include specifications, tolerances and regulations for weights and measures of the character of those specified in section 10, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practical to the

official standards, those that (1) are not accurate, (2) are of such construction that they are not reasonably permanent in their adjustment or will not repeat their indications correctly, and (3) facilitate the perpetration of fraud. The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the national bureau of standards and published in national bureau of standards handbook 44 and supplements thereto, or in any publication revising or superseding handbook 44, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices of this state, except as specifically modified, amended or rejected by a regulation issued by the director. For the purposes of this act, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; other apparatus shall be deemed to be "incorrect".

HISTORY: New 1964, p. 532, Act 283, Eff. Aug. 28;—Am. 1968, p. 458, Act 264, Eff. Nov. 15.

290.609 State director of weights and measures; testing of standards, inspections; testing of weights and measures for state purchases.

Sec. 9. The director, at least once every 5 years, shall test the standards of weights and measures procured by any city or county for which the appointment of a sealer of weights and measures is provided by this act, and shall approve the same when found to be correct, and he shall inspect such standards at least once every 2 years. He shall from time to time test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and report his findings in writing to the supervisory board and to the executive office of the institution concerned.

HISTORY: New 1964, p. 533, Act 283, Eff. Aug. 28.

290.610 State director of weights and measures; inspecting and testing of weights and measures kept for sale or used commercially; sampling.

Sec. 10. When not otherwise provided by law, the director may inspect, and test to ascertain if they are correct, all weights and measures kept, offered or exposed for sale. He shall inspect, and test to ascertain if they are correct, all weights and measures commercially used in (1) determining the weight, measurement or count of commodities or things sold or offered or exposed for sale on the basis of weight or of measure or count, (2) computing the basic charge or payment for services rendered on the basis of weight or of measure or count. With respect to devices designed to be used commercially only once and to be then discarded, and with respect to devices uniformly mass-produced as by means of a mold or die and not susceptible of individual adjustment, the inspection and testing of each individual device shall not be required and the inspecting and testing requirements of this section shall be satisfied when inspections and tests are made on representative samples of such devices; and the lots, of which such samples are representative, shall be held to be correct or incorrect upon the basis of the results of the inspection and tests on such samples.

HISTORY: New 1964, p. 533, Act 283, Eff. Aug. 28;—Am. 1968, p. 459, Act 264, Eff. Nov. 15.

290.611 State director of weights and measures; investigation of complaints; commercial transactions.

Sec. 11. The director shall investigate complaints made to him concerning violations of the provisions of this act, and shall, upon his own initiative, conduct such investigations as he deems advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this act and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

HISTORY: New 1964, p. 533, Act 283, Eff. Aug. 28.

290.612 State director of weights and measures; weight, measurement, or inspection of packages of commodities, sampling procedures.

Sec. 12. The director, as often as he deems advisable, shall weigh, measure or inspect packages or amounts of commodities offered or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they be offered or exposed for sale, or sold in accordance with law. When such packages or amounts of commodities are found not to contain the amounts represented, or are found to be kept, or offered or exposed for sale in violation of law, the director may order their sale discontinued and may so mark or tag them as to show them to be illegal. The director may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot.

HISTORY: New 1964, p. 533, Act 283, Eff. Aug. 28.

290.613 State director of weights and measures; stop-use orders, stop-removal orders, removal orders.

Sec. 13. The director may issue stop-use orders, stop-removal orders or removal orders with respect to weights and measures being or susceptible of being commercially used. He may issue stop-removal orders or removal orders with respect to packages or amounts of commodities kept, offered or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the provisions of this act he deems it necessary or expedient to issue such orders. No person shall use, remove from the premises specified, or fail to remove from the premises specified any weight, measure, package or amount of commodity contrary to the terms of any order issued pursuant to this section.

HISTORY: New 1964, p. 534, Act 283, Eff. Aug. 28.

290.614 State director of weights and measures; approval, rejection, condemnation, confiscation.

Sec. 14. The director shall approve for use and seal or mark with appropriate devices such weights and measures as he finds upon inspection or test to be "correct" as defined in section 8. He shall reject or condemn and seal or mark as "rejected" or "condemned" such weights and measures as he finds upon inspection or test to be "incorrect" as defined in section 8. Sealing or marking shall not be required with respect to weights and measures which are exempted by a regulation of the director issued under the authority of section 8. The director shall reject or condemn and may seize and destroy weights and measures found to be incorrect. Weights and measures that have been rejected or condemned and ordered corrected or disposed of may be confiscated and may be destroyed by the director if not corrected as required by, or if disposed of contrary to the requirements of, section 22.

HISTORY: New 1964, p. 534, Act 283, Eff. Aug. 28.

290.615 State director of weights and measures; enforcement, seizure without formal warrant.

Sec. 15. The director is vested with special powers with respect to the enforcement of this act and any other acts dealing with weights and measures that he is or may be empowered to enforce. He may seize for use as evidence without formal warrant incorrect or unsealed weights and measures or amounts or packages of commodities found to be used, retained, offered or exposed for sale, or sold in violation of law. In the performance of his official duties, he may enter and go into or upon without formal warrant any structure or premises.

HISTORY: New 1964, p. 534, Act 283, Eff. Aug. 28.

290.616 State director of weights and measures; powers of deputy director and inspectors.

Sec. 16. The powers and duties given to and imposed upon the director by this act are hereby given to and imposed upon the deputy director and inspectors when acting under the instructions and at the direction of the director.

HISTORY: New 1964, p. 534, Act 283, Eff. Aug. 28.

290.617 Sealer of weights and measures, deputy sealers, supervising inspectors, city and county inspectors; appointment.

Sec. 17. A sealer of weights and measures, and such deputy sealers, supervising inspectors, and city or county inspectors of weights and measures as may be required, may be appointed in and for each city and county by the appointing authority of the city or county.

HISTORY: New 1964, p. 534, Act 283, Eff. Aug. 28.

290.618 Sealer of weights and measures, deputy sealers, supervising inspectors, city and county inspectors; jurisdiction; city or county ordinances.

Sec. 18. The sealer of a city or a county, and his deputy sealers, supervising inspectors, and city or county inspectors when acting under his instructions and at his direction, shall have the same powers and shall perform the same duties within the city or the county for which appointed as are granted to and imposed upon the director by this act, except that the jurisdiction of a county sealer shall not extend to any city for which a city sealer has been appointed as provided for by section 17.

No city or county shall adopt any ordinance contrary to or in any way conflicting with this act, or adopt any regulation contrary to or in any way differing from the provisions of any regulations adopted by the director under the provisions of this act.

HISTORY: New 1964, p. 534, Act 283, Eff. Aug. 28.

290.619 City and county official standards; comparison with state standards.

Sec. 19. Standards of weights and measures provided by a city or county, after examination and approval by the director, shall be the official standards for such city or county. The sealer shall make, or arrange to have made, at least as frequently as once in 5 years, comparisons between his standards and appropriate standards of a higher order belonging to the state in order to maintain such standards in accurate condition.

HISTORY: New 1964, p. 535, Act 283, Eff. Aug. 28.

290.620 Joint county and city weights and measures jurisdiction; powers.

Sec. 20. A county and 1 or more cities situated therein, with the consent of the director, may establish a joint weights and measures jurisdiction with 1 sealer and such deputy sealers, supervising inspectors, and city or county inspectors as may be required, under an agreement between the board of county supervisors and the city or cities involved. The sealer of the joint jurisdiction, and his deputy sealers, supervising inspectors, and city or county inspectors when acting under his instructions and at his direction, shall have the same powers and shall perform the same duties within the joint jurisdiction for which appointed as are granted to and imposed upon the director by this act.

HISTORY: New 1964, p. 535, Act 283, Eff. Aug. 28.

290.621 State director of weights and measures; concurrent enforcement powers.

Sec. 21. The director shall have concurrent authority to enforce the provisions of this act in counties and cities for which sealers of weights and measures have been appointed as provided for in this act.

HISTORY: New 1964, p. 535, Act 283, Eff. Aug. 28.

290.622 Rejected or condemned weights and measures; disposition.

Sec. 22. Weights and measures that have been rejected or condemned and ordered corrected or disposed of under the authority of the director or of a sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made pursuant to this section. The owners of such rejected or condemned weights and measures shall cause the same to be made correct within a specified period authorized by the rejecting authority, or may dispose of the same but only in such manner as is specifically authorized by the rejecting authority.

HISTORY: New 1964, p. 535, Act 283, Eff. Aug. 28.

290.623 Commodities, liquid, nonliquid, measurement; exceptions.

Sec. 23. Commodities in liquid form shall be sold only by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, measure, or by count. However, liquid commodities may be sold by weight and nonliquid commodities may be sold by count only if such methods give accurate information as to the quantity of commodity sold. This section shall not apply to (1) commodities sold for immediate consumption on the premises where sold, (2) vegetables sold by the head or bunch, (3) commodities in containers standardized by a law of this state or by federal law, or (4) commodities in package form when there exists a general consumer usage to express the quantity in some other manner. The director may issue regulations necessary to assure that amounts of commodities sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties in interest.

HISTORY: New 1964, p. 535, Act 283, Eff. Aug. 28;—Am. 1968, p. 459, Act 264, Eff. Nov. 15.

290.624 Package labels; contents; allowable variations.

Sec. 24. Except as otherwise provided in this act, any commodity in package form kept for the purpose of sale, or offered or exposed for sale, shall bear on the outside of the package such definite, plain, legible and conspicuous declarations of (1) the identity of the commodity in the package unless the same can easily be identified through the wrapper or container, (2) the net quantity of the contents in terms of weight, measure or count, but the term "when packed" or any words of similar import, or any term qualifying a unit of weight, measure or count, such as "jumbo", "giant", "full" or the like, that tend to exaggerate the amount of commodity in a package, shall not be used, and (3) the name and place of business of the manufacturer, packer or distributor in the case of any package kept, offered or exposed for sale, or sold any place other than on the premises where packed as may be prescribed by regulation promulgated by the director. The director shall, by regulation, establish reasonable variations to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure. Such regulations shall provide for exemptions for small packages and for commodities put up in variable weights or sizes for sale intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer.

HISTORY: New 1964, p. 535, Act 283, Eff. Aug. 28;—Am. 1968, p. 459, Act 264, Eff. Nov. 15.

290.625 Package labels; random weights, measures or counts, additional declarations.

Sec. 25. In addition to the declarations required by section 24, any commodity in package form, which package is one of a lot containing random weights, measures or

counts of the same commodity and bears the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure or count.

HISTORY: New 1964, p. 536, Act 283, Eff. Aug. 28.

290.626 Packages; misleading wrappers.

Sec. 26. Any commodity in package form shall not be so wrapped, nor shall it be in a container so made, formed or filled as to mislead the purchaser as to the quantity of the contents of the package.

HISTORY: New 1964, p. 536, Act 283, Eff. Aug. 28.

290.627 Packages; advertisement, declaration of quantity.

Sec. 27. Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package, except that this section shall not apply to products for agricultural or horticultural use where the custom is to state the number of objects or amount of area which can be treated per package unit and the number or area is so stated. Where the law or regulation requires the declaration of net quantity to appear on the package in terms of more than 1 unit of weight or measure, only the smallest unit of weight or measure need be stated in the advertisement. In connection with the declaration the qualifying term "when packaged" or any other words of similar import, or any term qualifying a unit of weight, measure or count, for example, "jumbo", "giant", "full" and the like that tends to exaggerate the amount of commodity in the package, shall not be used.

HISTORY: New 1964, p. 536, Act 283, Eff. Aug. 28;—Am. 1968, p. 460, Act 264, Eff. Nov. 15.

290.628 Commodities; sale by weight, net weight.

Sec. 28. When any commodity is sold on the basis of weight, the net weight of the commodity shall be employed and all contracts concerning commodities shall be so construed.

HISTORY: New 1964, p. 536, Act 283, Eff. Aug. 28.

290.628a Meat, meat products, poultry and seafood sold by weight; food combination sold by weight, quantity representation by total weight of product or combination.

Sec. 28a. Except for immediate consumption on the premises where sold, or as 1 of several elements comprising a ready-to-eat meal sold as a unit for consumption elsewhere than on the premises where sold, all meat, meat products, poultry, whole or parts, and all seafood except shellfish, offered or exposed for sale or sold, as food shall be offered or exposed for sale and sold by weight. When meat, poultry or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by weight, and the quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

HISTORY: Add. 1968, p. 460, Act 264, Eff. Nov. 15.

290.628b Commodity or service; sale by weight, measure or count; misrepresentation; display of price including fraction of a cent.

Sec. 28b. Whenever any commodity or service is sold, or is offered, exposed or advertised for sale, by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted or la-

beled price per unit of weight, measure or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least 1/2 the height and width of the numerals representing the whole cents.

HISTORY: Add. 1968, p. 460, Act 264, Eff. Nov. 15.

290.629 Obstruction of enforcement officers.

Sec. 29. Any person who shall hinder or obstruct in any way the director, deputy director, any inspector or a sealer or deputy sealer in the performance of his official duties shall be guilty of a misdemeanor.

HISTORY: New 1964, p. 536, Act 263, Eff. Aug. 28.

290.630 Impersonation of officers.

Sec. 30. Any person who shall impersonate in any way the director, deputy director, any inspector or a sealer or deputy sealer, by the use of his seal or a counterfeit, or in any other manner, shall be guilty of a misdemeanor.

HISTORY: New 1964, p. 536, Act 263, Eff. Aug. 28.

290.631 Prohibited acts.

Sec. 31. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any of the acts enumerated in this section shall be guilty of a misdemeanor.

(a) Use or have in possession for the purpose of using for any commercial purpose specified in section 10, sell, offer or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used or calculated to falsify any weight or measure.

(b) Use or have in possession for current use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weight or measure, or in the determination of weight and measure when a charge is made for such determination, any weight or measure that has not been tested and sealed by the appropriate authority, (1) unless written notice has been given to the appropriate authority to the effect that such weight or measure is available for examination, or is due for re-examination, (2) unless permission to use such weight or measure has been received from the appropriate authority; or (3) unless such weight or measure has been exempted from sealing or testing requirements by the provisions of section 10 or by regulation of the director issued under the authority of section 8.

(c) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.

(d) Remove from any weight or measure, contrary to law or regulation, any tag, seal or mark placed thereon by the appropriate authority.

(e) Sell, or offer or expose for sale, less than the quantity he represents of any commodity, thing or service.

(f) Take more than the quantity he represents of any commodity, thing or service when, as buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.

(g) Advertise, or offer or expose for sale, or sell any commodity, thing or service in a condition or manner contrary to law.

(h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be occupied by a customer.

(i) Violate any provision of this act or of the regulations promulgated under the provisions of this act for which a specific penalty has not been prescribed.

HISTORY: New 1964, p. 536, Act 283, Eff. Aug. 28.

290.632 Injunction.

Sec. 32. The director is authorized to apply to any court of competent jurisdiction for, and such court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating any provisions of this act.

HISTORY: New 1964, p. 537, Act 283, Eff. Aug. 28.

290.633 Proof of existence of weight, measure or device; presumption.

Sec. 33. Proof of the existence of a weight, measure or a weighing or measuring device in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on, in the absence of conclusive evidence to the contrary, shall be presumptive proof of the regular use of such weight, measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand or vehicle.

HISTORY: New 1964, p. 537, Act 283, Eff. Aug. 28.

290.634 Repeal.

Sec. 34. Act No. 168 of the Public Acts of 1913, as amended, being sections 290.1 to 290.10 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1964, p. 538, Act 283, Eff. Aug. 28.

Act 232, 1965, p. 396; Eff. Mar. 31, 1966.

AN ACT relating to the marketing of agricultural commodities; to provide for marketing programs, agreements, referendums by producers, assessments on producers, and commodity committees; and to prescribe the functions of the director of the department of agriculture relative thereto including powers of enforcement of this act.

The People of the State of Michigan enact:

290.651 Agricultural commodities marketing act; short title.

Sec. 1. This act shall be known and may be cited as the "agricultural commodities marketing act".

HISTORY: New 1965, p. 396, Act 232, Eff. Mar. 31, 1966.

290.652 Agricultural commodities marketing act; definitions.

Sec. 2. As used in this act:

(a) "Agricultural commodity" means all agricultural, horticultural, floricultural or vineyard products, livestock or livestock products, poultry or poultry products, Christmas trees, bees, maple syrup and honey, produced in this state, either in their natural state or as processed by the producer thereof. The kinds, types, and subtypes of products to be classed together as an agricultural commodity for the purposes of this act shall be determined on the basis of common usage and practice.

(b) "Producer" means any person engaged in the business of producing, or causing to be produced for any market, any agricultural commodity in quantity beyond his own family use, and having a value at first point of sale of more than \$800.00 for any one agricultural commodity in any one growing and marketing season within the last 3 years.

(c) "Handler" means any person engaged in the operation of packing, grading, selling, offering for sale or marketing any marketable agricultural commodity in commercial quantities as defined in a marketing program, who as owner, agent, or otherwise, ships or causes an agricultural commodity to be shipped.

(d) "Processor" means any person engaged in canning, freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, crushing, or in any other way preserving or changing the form of any agricultural commodity for the purpose of marketing it.

(e) "Distributor" means any person engaged in selling, offering for sale, marketing or distributing an agricultural commodity which he has purchased or acquired from a producer or which he is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise, but shall not include a retailer, except a retailer who purchases or acquires from, or handles on behalf of any producer, an agricultural commodity not previously subjected to regulations by the marketing program covering the commodity.

(f) "Department" means the state department of agriculture.

(g) "Director" means the director of the state department of agriculture.

(h) "Marketing agreement" means an agreement entered into, with the director, by producers, distributors, processors or handlers pursuant to this act and binding only on those signing.

(i) "Marketing program" means a program established by order of the director pursuant to this act, prescribing rules and regulations governing the marketing for processing, distributing, selling, or handling in any manner of any agricultural commodity produced in this state during any specified period and which he determines would be in the public interest.

(j) "Committee" means the commodity committee established under any marketing program.

HISTORY: New 1966, p. 366, Act 232, Eff. Mar. 31, 1966.

290.653 Marketing agreements; provisions allowed.

Sec. 3. Any marketing agreement or program issued pursuant to this act may contain one or more of the following:

(a) Provisions for establishing advertising and promotional programs.

(b) Provisions for establishing market development programs.

(c) Provisions for establishing and supporting supplemental research programs designed to improve the market acceptability of the specific commodity and contribute to the effectiveness of the program.

(d) Provisions for development and dissemination of market information.

(e) Provision for contracting with organizations, agencies or individuals for carrying out any of the above activities.

(f) Provisions for:

(1) Establishing standards for quality, condition or size for agricultural commodities sold as fresh products for resale or processing and standards for pack and/or container for commodities sold for use as fresh products.

(2) Inspection and grading of the fresh commodity in accordance with the grading standards so established.

(g) Provision for determining the existence and extent of any surplus in any marketing period, for any commodity or product, or of any grade, size, or quality thereof, and providing for handling and equitably sharing the cost of such surplus handling among the producers of the commodity. Before provisions under this paragraph are included in any marketing program, particular attention shall be given to determining that Michigan producers affected by the provisions produce a sufficient proportion of the product covered by the provisions for the program to be effective in the particular market toward which the provisions would be applicable.

(h) Provision for payment for all usable products purchased from producers according to established grades.

(i) Provision for exemption of nonparticipating producers.

HISTORY: New 1965, p. 397, Act 232, Eff. Mar. 31, 1966.

290.654 Inspection and grading; approved inspectors.

Sec. 4. For the purpose of this act, all inspection and grading shall be performed by or under the supervision of competently trained inspectors approved by the director or by inspectors supplied under cooperative agreement between the department and the United States department of agriculture.

HISTORY: New 1965, p. 397, Act 232, Eff. Mar. 31, 1966.

290.655 Assessments; collection, maximum.

Sec. 5. (a) Assessments shall be collected from each producer of any marketable agricultural commodity produced in this state and directly affected by a marketing program issued for the commodity to defray all program and administrative costs except as provided under subsection (i) of section 3.

(b) Each program shall specify the maximum assessment to be collected to cover program and administrative costs.

(c) For convenience the processors, distributors or handlers of the commodity may be required to collect and remit producer assessments. Processors, distributors or handlers paying the assessments for any producer may deduct the amount from any monies which they owe to the producers.

HISTORY: New 1965, p. 398, Act 232, Eff. Mar. 31, 1966;—Am. 1966, p. 155, Act 130, Imd. Eff. Jun. 23.

290.656 Marketing program; temporary suspension, duration.

Sec. 6. The operation of a marketing program, or any part thereof, may be temporarily suspended by the director upon recommendation by the committee for a period of not longer than 1 growing and marketing season if the program or part is deemed undesirable during such season.

HISTORY: New 1965, p. 398, Act 232, Eff. Mar. 31, 1966.

290.657 Commodity committee; membership, appointment, expenses, duties.

Sec. 7. (a) Any marketing program shall provide for the establishment of a commodity committee, to consist of an odd number of members with no less than 5 nor more than 15.

The members of the committee shall be appointed by the governor with the advice and consent of the senate from nominations received from the producers and handlers or processors of the commodity for which the marketing program is established. Nominating procedures, qualifications, representation, term of office and size of the committee shall be prescribed in the marketing program for which the committee is appointed. Each committee shall be composed of such producers and handlers or processors as are directly affected by the marketing program in such proportion of representation as the program shall prescribe.

(b) A member of a committee shall be entitled to his actual expenses, and per diem not to exceed \$20.00 per day while attending meetings of the committee or engaged in the performance of official responsibilities delegated by the committee.

(c) The duties and responsibilities of each committee shall be prescribed in the order establishing the program and to the extent applicable shall include the following duties and responsibilities:

(1) Developing administrative procedures relating to the marketing program.

(2) Recommending such amendments to the marketing program as seem advisable.

(3) Preparing the estimated budget required for the proper operation of the marketing program.

(4) Developing methods for assessing producers, and methods for collecting the necessary funds.

(5) Collecting and assembling of information and data necessary to the proper administration of the program.

(6) Performing any other duties necessary for the operation of the marketing program as agreed upon with the director.

HISTORY: New 1905, p. 396, Act 232, Eff. Mar. 31, 1906.

290.658 Deposit of moneys collected; expenditures.

Sec. 8. (a) Any moneys collected pursuant to this act shall not be state funds and shall be deposited in a bank or other depository in this state, allocated to the marketing program under which they are collected, and disbursed only for the necessary expenses incurred with respect to each such separate marketing program, in accordance with the rules established under the program.

(b) All expenditures shall be audited by the state auditor general, or by a certified public accountant at least annually, and within 30 days after completion thereof the state auditor general or certified public accountant shall give copies thereof to the members of the committee and the director. An activity and financial report shall be published annually and made available to interested parties.

HISTORY: New 1905, p. 396, Act 232, Eff. Mar. 31, 1906.

290.659 Refunds.

Sec. 9. Any moneys remaining from the assessments collected under a marketing program may be refunded at the close of any marketing season upon a pro rata basis to all persons from whom assessments were collected, or whenever the committee finds that the moneys may be necessary to defray the cost of operating this marketing program in succeeding marketing seasons, all or any portion of the moneys may be carried over into succeeding seasons. Upon termination of any marketing program, all moneys remaining and not required to defray the expenses of operating the marketing program shall be refunded on a pro rata basis to persons from whom assessments were collected. If the committee finds that the amounts so refundable are so small as to make impracticable the computation and refunding of the refunds, the moneys may be used to defray the expenses incurred by the department in the formulation, adoption, administration or enforcement of any subsequent marketing program for the commodity or for agricultural research for that commodity.

HISTORY: New 1905, p. 396, Act 232, Eff. Mar. 31, 1906.

290.660 Petition for program or amendment; notice, hearing, decision by director.

Sec. 10. (a) Whenever the director has received a petition signed by 25%, or 200, of the producers of an agricultural commodity, whichever is less, for the adoption of a marketing program or amendments to an existing marketing program, he shall give notice of a public hearing on the proposed marketing program or the proposed amendments to an existing marketing program. After receiving a petition for the establishment of a marketing program, the director may appoint a temporary producer committee to develop the proposed program to be considered at the public hearing.

(b) The director may require all handlers or processors of the agricultural commodity as individuals or through their trade associations to file with him within 30 days a report, properly certified, showing the correct names and addresses of all producers of the agricultural commodity from whom such handler or processor received such agricultural commodity in the marketing season next preceding the filing of such report.

The information contained in the individual reports of handlers or processors filed with the director pursuant to provisions of this section shall not be made public by the director, nor available to anyone for private use.

(c) The director shall issue a decision within 45 days after the close of the hearing based upon his findings, and deliver, by mail or otherwise, copies of the findings and recommendation, approving or disapproving of the proposed program to all parties of record appearing at the hearing and any other interested parties. The recommendation shall contain the text in full of any proposed program or amendment of an existing program. The recommendation shall be substantially within the purview of the notice of hearings and shall be supported by evidence taken at the hearing or by documents of which the director is authorized to take official notice.

HISTORY: New 1965, p 369, Act 232, Eff. Mar. 31, 1966.

290.661 Referendum; conditions for assent.

Sec. 11. After recommending the adoption or amendment of a marketing program, the director shall determine by a referendum whether the affected producers and processors if provisions under section 3(g) are part of the proposed program assent to the proposed action. The director shall conduct the referendum within 45 days after the issuance of the recommendation. The affected producers shall be deemed to have assented to the proposal if either of the following conditions are met:

(a) If 66 ⅔% or more by number of those voting representing 51% or more of the volume of the affected commodity produced by those voting assent to the proposal.

(b) If 51% or more by number of those voting representing 66 ⅔% or more of the volume of the affected commodity produced by those voting assent to the proposal.

The affected processors, if provisions under section 3(g) are in the program, shall be deemed to have assented to the proposal if either of the following conditions are met:

(a) If 66 ⅔% or more by number of those voting representing 51% or more of the volume of the affected commodity processed by those voting assent to the proposal.

(b) If 51% or more by number of those voting representing 66 ⅔% or more of the volume of the affected commodity processed by those voting assent to the proposal.

No program involving provisions under section 3(g) shall be instituted without assent of both the affected producers and the affected processors.

HISTORY: New 1965, p. 399, Act 232, Eff. Mar. 31, 1966.

290.662 Referendum; director to establish procedures for determination of volume.

Sec. 12. The director shall establish procedures for determination of volume for the conduct of referendums and other necessary procedures. For the purpose of referendums under this act, a producer is entitled to 1 vote representing a single firm, individual proprietorship, corporation, company, association, partnership, husband-wife or family ownership.

HISTORY: New 1965, p. 400, Act 232, Eff. Mar. 31, 1966.

290.663 Termination of program; petition, hearing, recommendation, referendum.

Sec. 13. (a) Upon written petition duly signed by 25%, or 200, of the producers affected by the program, whichever is less, the director shall, within 30 days, give 10 days' notice and hold a hearing on termination of a program.

(b) Within 30 days after the close of the hearings, the director, after consulting with the committee, shall issue a recommendation, give public notice, and notify all producers of record, all parties appearing at the hearing and any other interested parties.

(c) The director, upon recommending termination of a marketing program, shall, within 30 days, conduct a referendum to determine whether the affected producers

assent to the proposed action. The affected producers shall be deemed to have assented to the termination of the program if 51% or more by number of those voting, representing 51% or more of the volume of those voting, vote in favor of its termination.

HISTORY: New 1965, p. 400, Act 232, I.H. Mar. 31, 1966.

290.664 Program approved by referendum; duties of director.

Sec. 14. If a program has been approved in referendum, the director shall:

- (a) Insure that the program is self-supporting.
- (b) Supervise all committee activities to assure program operations are in accord with the rules established under the program as approved by the referendum.
- (c) Coordinate administrative activities between the committee and the department.
- (d) Confer and cooperate with the legally constituted authorities of other states and the United States.

HISTORY: New 1965, p. 400, Act 232, I.H. Mar. 31, 1966.

290.665 Proposed programs; necessary provisions.

Sec. 15. Any proposed marketing program adopted pursuant to this act shall include definition of terms, purpose of the program, the maximum rate of assessment, method of collection, nominating procedure, qualifications, representation and size of the committee, and other necessary provisions.

HISTORY: New 1965, p. 400, Act 232, I.H. Mar. 31, 1966.

290.666 Deposit by applicants of funds for expenses; reimbursement.

Sec. 16. Prior to the adoption of a marketing program, the director may require the applicants therefor to deposit with him such funds as he deems necessary to defray the expenses of preparing and establishing the marketing program. The funds shall be received, deposited and disbursed by the director in the same manner as other fees received by him under this act. The applicants shall be reimbursed in the amount of the deposit from fees received under such program, if established.

HISTORY: New 1965, p. 400, Act 232, I.H. Mar. 31, 1966.

290.667 Marketing agreements with producers, handlers and others; effective date.

Sec. 17. The director may enter into marketing agreements with producers, handlers or other parties where such agreements will tend to supplement or aid in the accomplishment of the objectives of a marketing program.

The execution of a marketing agreement shall not affect the adoption, administration or enforcement of any marketing program under this act. The director may hold a concurrent hearing upon a proposed marketing agreement and a proposed marketing program in the manner provided in this act, giving due notice and opportunity for hearing for a marketing agreement. When a marketing agreement is proposed for any commodity, the director shall call a public hearing, and the decision to enter into or not enter into a marketing agreement shall be subject to the same requirements for justification on the basis of factual evidence introduced at the hearing. A marketing agreement, if recommended by the director, shall become effective when signed by the director and the other parties to the agreement.

HISTORY: New 1965, p. 401, Act 232, I.H. Mar. 31, 1966.

290.668 Rules and regulations; duty of director.

Sec. 18. The director may make and promulgate such rules and regulations as may be necessary to effectuate the provisions and intent of this act, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71

to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 401, Act 232, Eff. Mar. 31, 1966.

290.669 Actions at law or in equity; director may institute.

Sec. 19. The director may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this act, or any rule or regulation, marketing agreement or program, adopted under provisions of this act and committed to his administration, and in addition to any other remedy provided by law, may apply for relief by injunction, if necessary, to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. The application may be made to the circuit court in any county.

HISTORY: New 1965, p. 401, Act 232, Eff. Mar. 31, 1966.

290.670 Suspension of statute where marketing program approved; exception.

Sec. 20. (a) If a marketing program is approved for a commodity for which there is a state commission or council operating pursuant to a statute, such statute is suspended during the period of operation of the marketing program under this act, except that the appointed members of an existing commission or council shall be members of the commodity committee for the duration of the terms for which they were appointed, and no fees or assessments shall be collected under such act while it is suspended.

(b) If the producers of an agricultural commodity for which there is a state commission or council pursuant to a statute, vote for discontinuance of a marketing program, then the provisions of such commission or council shall be reinstated, and the appointed members on the commodity committee shall be members of the commission or council for the duration of the terms for which they were appointed on the committee.

(c) Voluntary commodity organizations may be assigned duties which are necessary for the effective operation of a marketing program and allowed expenses to cover such duties. Organizations to be assigned such responsibilities shall be named and their duties defined in the program.

HISTORY: New 1965, p. 401, Act 232, Eff. Mar. 31, 1966.

290.671 Referendum; required each fifth year.

Sec. 21. All marketing programs under this act shall be resubmitted to a referendum of the producers during each fifth year of operation.

HISTORY: New 1965, p. 401, Act 232, Eff. Mar. 31, 1966.

CHAPTER 291. STATE FAIRS

STATE FAIR COMMISSION		STATE FAIR AUTHORITY	
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		STATE RECREATION AND EXHIBITS BUILDING AUTHORITY	
		Act 9 of 1963	
		291.101-291.115	Repealed.

Act 100, 1956, p. 189; Eff. Jul. 1.

AN ACT to provide for the control and conduct of certain state agricultural and industrial fairs; to create a Michigan state fair commission, and to prescribe its powers and duties; to provide for a chief administrative officer of the commission and to prescribe his duties and powers; to designate the method of financing the state fair; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

291.1 Michigan state fair commission; members, term, vacancies, removal, compensation, expenses, officers.

Sec. 1. There is hereby created the Michigan state fair commission which shall possess the powers and perform the duties hereby granted and imposed. The commission shall be composed of 20 members to be appointed by the governor, by and with the consent of the senate, for terms of 4 years each, of which 10 shall be direct representatives of agriculture: Provided, That the present members of the board of managers of state fairs as provided under the provisions of section 4 of Act No. 13 of the Public Acts of 1921, as amended, being section 285.4 of the Compiled Laws of 1948, shall be members of the Michigan state fair commission under this act until the expiration of their respective terms of office, or in a case of vacancy the appointment shall be made by the governor, by and with the consent of the senate, for the unexpired term. Members of the commission may be removed by the governor for malfeasance, misfeasance

or nonfeasance in office. The members of the commission shall be entitled to \$15.00 per day for each day actually expended in attending meetings of the commission or for work performed in connection with said fair and shall be entitled to their actual and necessary expenses: Provided, That such compensation and expenses shall not exceed the amount annually appropriated by the legislature for such purposes. The said commission shall select a chairman and other officers from its own membership.

HISTORY: New 1956, p. 189, Act 100, Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 291.1 to 291.11 are cited in § 291.22.

291.2 State fair commission; state fair and other exhibitions; rules and regulations.

Sec. 2. The Michigan state fair commission is hereby authorized to conduct an annual state fair and other exhibitions or events for the purpose of promoting all phases of the economy of Michigan. Such state fair and such other exhibitions or events shall have for their main purpose the encouragement and utilization of improved methods in agricultural, industrial and commercial pursuits. The members of said commission shall have the power to adopt rules and regulations governing its organization and procedures, and shall establish the policies for the operation of the state fair and other exhibitions or events. Such rules and regulations shall be adopted and promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 190, Act 100, Eff. Jul. 1.

291.3 State fair commission; general manager, authority, salary, term.

Sec. 3. The Michigan state fair commission shall appoint a general manager to direct the activities of the state fair. Said general manager shall have final authority over the administration and business operation of the state fair, subject to the policies established by the commission. The general manager shall receive such salary as shall be established by law: Provided, however, That the general manager shall be appointed for a period of not to exceed 2 years.

HISTORY: New 1956, p. 190, Act 100, Eff. Jul. 1.

291.4 State fair commission; contracts for services.

Sec. 4. The Michigan state fair commission is hereby authorized, in staging the state fair and other exhibits or events, to enter into contracts for the various services which it deems necessary. The contracts for such services may be entered into for such period as deemed necessary and practical by said commission, but in any event, not to exceed 5 years.

HISTORY: New 1956, p. 190, Act 100, Eff. Jul. 1.

291.5 State fair commission; control of lands for agricultural and industrial fairs.

Sec. 5. The control of all lands and other property that now is or hereafter may be vested in the state of Michigan, or in the people of said state, for the purpose of holding and conducting agricultural and industrial fairs, is hereby transferred from the state department of agriculture and vested in the Michigan state fair commission, herein created. Said commission is authorized to accept, on behalf of the state, grants and conveyances of property for such purposes or for any other purposes within the scope of this act, and to consent to conditions affecting the use thereof as may be agreed upon. All grants and conveyances shall be taken in the name of the people of the state of Michigan.

HISTORY: New 1956, p. 190, Act 100, Eff. Jul. 1.

291.6 State fair commission; lease, concession and sale of state fair grounds.

Sec. 6. The said commission is hereby authorized to lease or concede the state fair grounds or any portion or portions thereof, and any building or buildings on said grounds for such purposes deemed by the commission as consistent with the staging of the state fair and other exhibitions or events. The Michigan state fair commission may lease said properties to private and public organizations for a period not to exceed 5 years for such considerations as may be established by the said commission. The Michigan state fair commission may also grant leases for any portion or portions of the state fair grounds to private and public organizations conditional upon construction and improvements to be financed by the lessees for terms in excess of 5 years but not to exceed 20 years, subject to the approval of the state administrative board: Provided, That any such lease shall terminate upon sale of the state fair grounds by the state of Michigan: Provided further, That in case of such sale, said lessee will be reimbursed for that part of the original cost of such construction or improvement in the same ratio as the remaining years in the lease bears to the terms of the lease and that depreciation is first subtracted from original costs, and the remainder therefrom is prorated: Provided, however, That such use of the state fair grounds or any portion thereof or of any or all of the buildings on said grounds as granted by the Michigan state fair commission shall not interfere with the preparation for or holding of the Michigan state fair and other exhibitions or events.

HISTORY: New 1956, p. 190, Act 100, Eff. Jul. 1.

291.7 State fair commission; state fair and other exhibits; buildings, expenses, revenues.

Sec. 7. The conduct of the annual state fair and other exhibits or events, and the custody and maintenance of the buildings and grounds, shall be financed from appropriations made by the legislature for those purposes. The expenses of the Michigan state fair commission in staging the fair and in the custody and maintenance of the buildings and grounds shall be paid from such appropriations in accordance with the accounting procedures and laws of the state. All revenues derived from the state fair and other exhibits or events, and from the leasing of the buildings and grounds, or any portion or portions thereof, shall be credited to the general fund of the state.

HISTORY: New 1956, p. 191, Act 100, Eff. Jul. 1.

291.8 State fair commission; report, audit.

Sec. 8. The Michigan state fair commission, through its general manager shall submit prior to February 1, a complete financial and operation report for the prior calendar year of operation to the governor, and to the president of the senate and the speaker of the house, both of whom shall refer such report to the proper standing committees. An annual audit of the records and operations of the Michigan state fair commission shall be made by the auditor general of the state.

HISTORY: New 1956, p. 191, Act 100, Eff. Jul. 1;—Am. 1958, p. 148, Act 135, Eff. Sep. 13.

291.9 Repeal; reference to board of managers of state fairs.

Sec. 9. All acts or parts of acts inconsistent with the provisions of this act, are hereby repealed. Whenever reference is made in any law of the state to the board of managers of state fairs, reference shall be deemed to be intended to be made to the Michigan state fair commission, which commission shall succeed to all the rights, powers, and duties of the board of managers of state fairs.

HISTORY: New 1956, p. 191, Act 100, Eff. Jul. 1.

291.10 Act inapplicable to Upper Peninsula state fair.

Sec. 10. The provisions of this act shall not apply to the state fair conducted in the upper peninsula under the provisions of Act No. 89 of the Public Acts of 1927, as amended, being sections 285.141 and 285.142 of the Compiled Laws of 1948.

HISTORY: New 1956, p. 191, Act 100, Eff. Jul. 1.

291.11 Effective date of act; transfer of records.

Sec. 11. This act shall become effective on July 1, 1956. All the records of the Michigan department of agriculture pertaining to the maintenance, care, rental and custody of the state fairgrounds, shall be transferred to the state fair commission, herein created, on the effective date of this act.

HISTORY: New 1956, p. 191, Act 100, Eff. Jul. 1.

Act 224, 1962, p. 481; Imd. Eff. Jul. 10.

AN ACT to create a Michigan state fair authority; to prescribe its membership, powers and duties; to provide for control of the state fairgrounds and the conduct of certain state agricultural and industrial fairs; to provide a chief administrative officer and other personnel of the authority and to prescribe their powers and duties; to provide for the issuance of revenue bonds by the authority; to provide for the imposition of rental charges and other fees; to provide for an initial appropriation; and to provide for reporting by and auditing of the authority.

The People of the State of Michigan enact:

291.21 State fair authority; creation as body corporate; powers.

Sec. 1. The Michigan state fair authority, hereinafter referred to as "the authority" is created as a body corporate which may sue and be sued, contract and be contracted with, have a corporate seal and enjoy and carry out all powers herein granted in the furtherance of the duty of this state to improve and maintain the state fairgrounds and provide an annual state fair for the use and convenience of its inhabitants. The authority shall have all powers necessary or convenient to carry out the matters herein authorized and to effect the purposes of this act.

HISTORY: New 1962, p. 481, Act 224, Imd. Eff. Jul. 10.

CITED IN OTHER SECTIONS: Sections 291.21 to 291.37 are cited in § 16.285.

291.22 State fair authority; members, appointment, vacancies, removal, compensation, expenses, officers.

Sec. 2. The authority shall consist of 20 members appointed by the governor, by and with the consent of the senate, for terms of 4 years each. The present members of the Michigan state fair commission as provided under Act No. 100 of the Public Acts of 1956, as amended, being sections 291.1 to 291.11 of the Compiled Laws of 1948, shall be members of the authority until the expiration of their respective terms of office. In case of a vacancy appointment shall be made by the governor, by and with the consent of the senate, for the unexpired term. The governor may remove a member of the authority for misfeasance, malfeasance or nonfeasance in office, but only for cause and pursuant to public hearing held after 10 days' notice published in a newspaper having general circulation in the state. A member of the authority shall receive \$25.00 for each day of attendance at meetings and his actual and necessary expenses. The authority shall select a chairman and other officers from its own membership.

HISTORY: New 1962, p. 482, Act 224, Imd. Eff. Jul. 10.

291.23 State fair authority; successor to state fair commission.

Sec. 3. Whenever reference is made in any law of this state to the Michigan state fair commission, reference shall be deemed to be intended to be made to the authority, which shall succeed to all the rights, powers and duties of the Michigan state fair commission.

HISTORY: New 1962, p. 482, Act 224, Imd. Eff. Jul. 10.

291.24 Nonapplication of act to Upper Peninsula state fair.

Sec. 4. This act shall not apply to the state fair conducted in the Upper Peninsula under the provisions of Act No. 89 of the Public Acts of 1927, as amended, being sections 285.141 and 285.142 of the Compiled Laws of 1948.

HISTORY: New 1962, p. 482, Act 224, Imd. Eff. Jul. 10.

291.25 Powers as to property.

Sec. 5. The control of all land and other property, now or hereafter vested in this state or its people for the purpose of holding and conducting agricultural and industrial fairs, is transferred from the Michigan state fair commission and vested in the authority. The authority may accept, on behalf of the state, grants and conveyances which shall be taken in the name of the people of the state of Michigan. The authority may acquire adjacent land by purchase, on such terms and conditions and in such manner as it may deem proper. It may use the same so long as its corporate existence shall continue, and lease or make contracts with respect to the use of or disposal of the same in any manner which it deems to the best advantage of the authority.

HISTORY: New 1962, p. 482, Act 224, Imd. Eff. Jul. 10.

291.26 Annual state fair; exhibits promoting state economy.

Sec. 6. The authority shall conduct an annual state fair and may conduct other exhibits or events for the purpose of promoting all phases of the economy of this state. The state fair and other exhibits or events shall for their main purpose encourage and utilize improved methods in agricultural, industrial, commercial and recreational pursuits.

HISTORY: New 1962, p. 482, Act 224, Imd. Eff. Jul. 10.

291.27 Rules; organization, procedures, policies.

Sec. 7. The authority shall adopt rules and regulations governing its organization and procedures, and shall establish the policies for the operation of the state fair and other exhibitions or events. The rules and regulations shall be adopted and promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. Until the authority shall adopt its rules and regulations, those rules and regulations promulgated by the Michigan state fair commission, by virtue of its authority under Act No. 100 of the Public Acts of 1956, shall remain in full force and effect.

HISTORY: New 1962, p. 482, Act 224, Imd. Eff. Jul. 10.

291.28 General manager; appointment, duties, compensation.

Sec. 8. The authority shall appoint a general manager to direct its activities. The current general manager of the Michigan state fair shall continue to hold office until the expiration of his term of appointment. The general manager shall be the chief administrative officer of the authority and shall conduct the affairs of the authority as directed by the authority. The general manager shall receive a salary which shall be fixed by the authority.

HISTORY: New 1962, p. 483, Act 224, Imd. Eff. Jul. 10.

291.29 Personnel; transfer of classified employees of state fair commission.

Sec. 9. The authority, through its administrative officer, shall hire all necessary personnel in conformance with the rules and regulations of the civil service commission. All classified employees of the Michigan state fair commission are hereby transferred to the authority and shall be deemed to have continuous employment under the civil service commission and shall retain all benefits and rights which have accrued to them.

HISTORY: New 1962, p. 483, Act 224, Imd. Eff. Jul. 10.

291.30 Conduct of fairs and exhibits; revenues, credit to revolving fund.

Sec. 10. Conduct of the annual state fair and other exhibits or events, and custody and maintenance of the buildings and grounds shall be financed from the revenues derived from the state fair and other exhibits or events, and lease, rental or other charges for the use of the buildings and grounds. All revenues derived from the state fair and other exhibits or events, and from the lease, rental or other charges for the use of the buildings and grounds, or any portion or portions thereof, shall be credited to the authority revolving fund created in section 14.

HISTORY: New 1962, p. 483, Act 224, Imd. Eff. Jul. 10.

291.31 Leases; concessions, rental charges, fees.

Sec. 11. The authority may lease or concede the state fair grounds or any portion or portions thereof, and any building or buildings on the grounds for purposes deemed by the authority as consistent with the staging of the state fair and other exhibits or events. The authority may determine and impose rental charges and other fees for the use or lease of the buildings and grounds or any portion thereof. The authority may lease such properties to private and public organizations for a period not to exceed 30 years for such considerations as may be established by the authority. The authority may also grant leases for any portion or portions of the state fairgrounds to private and public organizations, conditional upon construction and improvements for which plans shall be approved by the authority to be financed by the lessees, for terms not to exceed 30 years.

HISTORY: New 1962, p. 483, Act 224, Imd. Eff. Jul. 10.

291.32 Leases; termination, proration of construction costs of lessee; saving clause.

Sec. 12. Any such lease shall terminate upon sale of the state fair grounds by this state. In case of such sale, the lessee shall be reimbursed for that part of the original cost of such construction or improvement in the same ratio as the remaining years in the lease bear to the term of the lease and depreciation shall be first subtracted from original costs, and the remainder therefrom prorated. Such use of the state fairgrounds or any portion thereof or of any or all of the buildings on said grounds as granted by the authority shall not interfere with the preparation for or holding of the state fair and other exhibits or events. All leases and long-term contracts entered into by the Michigan state fair commission by authority of Act No. 100 of the Public Acts of 1956 shall remain valid until the expiration of their respective terms.

HISTORY: New 1962, p. 483, Act 224, Imd. Eff. Jul. 10.

291.33 Contracts for services and activities.

Sec. 13. The authority may, in staging the state fair and other exhibits or events, enter into contracts for the various services and activities which it deems necessary. Such contracts may be entered into for such period as deemed necessary and practical by the authority but in any event for not to exceed 5 years.

HISTORY: New 1962, p. 483, Act 224, Imd. Eff. Jul. 10.

291.34 Revolving fund.

Sec. 14. There is hereby appropriated from the general fund the sum of \$500,000.00 to the authority revolving fund to initiate the operation of the state fair and the maintenance of the buildings and grounds on a self-sustaining basis, which appropriation automatically cancels the \$931,416.00 appropriated to the Michigan state fair commission by House Bill No. 765 of the 1962 session. The provisions of Act No. 259 of the Public Acts of 1941, as amended, being sections 21.121 to 21.130 of the Compiled Laws of 1948, shall not apply to the authority revolving fund.

HISTORY: New 1962, p. 484, Act 224, Imd. Eff. Jul. 10.

291.35 Revenue bonds.

Sec. 15. The authority may issue revenue bonds not to exceed a total of \$35,000,000.00 for paying the cost of improvements to buildings and grounds, acquisition of land, or new construction or for refunding bonds, including refunding bonds, or for any combination of such purposes in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.138 of the Compiled Laws of 1948.

HISTORY: New 1962, p. 484, Act 224, Imd. Eff. Jul. 10.

291.36 Annual report; annual audit.

Sec. 16. The authority through its general manager shall file, prior to February 1 in each year, a complete financial report for the prior calendar year of operation. The reports shall be filed with the governor, president of the senate, and speaker of the house, the latter 2 of whom shall refer such report to the proper standing committees. An annual audit of the books and records of the authority, or any fiscal agent or trustees, shall be made by the auditor general, who may select a certified public accountant to make the audit, and in case of such selection the cost shall be paid by the authority.

HISTORY: New 1962, p. 484, Act 224, Imd. Eff. Jul. 10.

291.37 Effective date of act.

Sec. 17. This act shall become effective on July 1, 1962.

HISTORY: New 1962, p. 484, Act 224, Imd. Eff. Jul. 10.

291.101-291.115 Repealed. 1964, p. 68, Act 62, Imd. Eff. May 12.

Sections created state recreation and exhibits building authority and prescribed its powers and duties.

CHAPTER 295. STATE WEATHER SERVICE

STATE WEATHER SERVICE Act 246 of 1895		295.4	Summaries for publication; monthly, annual; weekly crop bulletins, printing, binding.
295.1	State weather bureau; establishment; director, observers.	Act 2 of 1887	
295.2	Appropriation; expenditure.	295.21	State weather service; appropriations; control of property.
295.3	Property of state; instruments, books, records.	295.22	Summary of observations; publication, distribution.

Act 246, 1895, p. 541; Imd. Eff. Jun. 1.

AN ACT to establish a permanent state weather service in this state, cooperating with the weather bureau, United States department of agriculture, for the purpose of the collection and compilation of climatic and meteorologic data, the accurate and rapid dissemination of daily weather forecasts, also frost and cold wave warnings, and weather crop conditions; the same to be used for the benefit of the agricultural, commercial and scientific interests of the state, and making an appropriation therefor.

The People of the State of Michigan enact:

295.1 State weather bureau; establishment; director, observers.

Sec. 1. That there be and hereby is established a bureau which shall be known as the Michigan weather service, and the same shall be and hereby is made a permanent institution of and charge upon the state, in like manner to the agricultural college and other permanent institutions of the state, and said bureau shall consist of 1 director, who shall be detailed by the chief of the weather bureau, United States department of agriculture, and 1 voluntary observer in each county of the state where practicable.

HISTORY. CL 1897, 1758;—CL 1915, 1108;—CL 1929, 5647;—CL 1948, 295.1.

CITED IN OTHER SECTIONS: Sections 295.1 to 295.4 are cited in § 16.281.

295.2 Appropriation; expenditure.

Sec. 2. For the purpose of carrying out the provisions of this act there shall be and hereby is appropriated the sum of 1,000 dollars annually, or so much thereof as may be necessary. And all moneys appropriated under this act, or so much thereof as may be necessary, shall be expended by the director of the service under the direction of the state board of agriculture, and the same shall be drawn from the treasury upon the presentation of proper certificates of said board to the auditor general, and on his warrant to the state treasurer.

HISTORY. CL 1897, 1759;—CL 1915, 1109;—CL 1929, 5648;—CL 1948, 295.2.

295.3 Property of state; instruments, books, records.

Sec. 3. All property acquired, or which may hereafter be acquired under this act, shall be and remain the property of the state of Michigan, and all instruments, books, records, etc., purchased or acquired, shall be issued by the director in accordance with the rules prescribed by said board.

HISTORY. CL 1897, 1760;—CL 1915, 1110;—CL 1929, 5649;—CL 1948, 295.3.

295.4 Summaries for publication; monthly, annual; weekly crop bulletins, printing, binding.

Sec. 4. The director shall furnish to the state board of agriculture monthly and annual summaries for publication, which monthly and annual summaries shall be of like form and style as those published by other state weather services. The director shall also, during the agricultural planting, growing and harvesting seasons, issue a weekly

weather crop bulletin, which bulletin shall give the weather and crop conditions during those seasons: Provided, That in addition to the appropriation specified in section 2 and section 5 of said Act No. 246 of the Public Acts of 1895, all printing and binding hereby allowed shall be furnished under the contract which the state now has or shall have, and the expense thereof shall be audited and paid for in the same manner as other state printing and binding.

HISTORY: CL 1897, 1761;—Am. 1899, p. 148, Act 103, Imd. Eff. June 7;—CL 1915, 1111;—CL 1929, 5650;—CL 1948, 295.4.

Sec. 5. (This was an appropriation and tax clause section.)

HISTORY: CL 1897, 1762;—CL 1915, 1112;—CL 1929, 5651;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 2, 1887, p. 1; Imd. Eff. Feb. 3.

AN ACT making an appropriation for the equipment, support and expenses of a state weather service.

The People of the State of Michigan enact:

295.21 State weather service; appropriations; control of property.

Sec. 1. That there shall be and hereby is appropriated out of the state treasury for the purchase of 50 complete sets of instruments, \$2,087.50; for weather signals, 200 dollars; for distribution of weather indications and cold-wave warnings, for the display of weather signals, by telephone and telegraph, 4,000 dollars; for stationery, records, books and incidental expenses, 700 dollars; for salary of 1 assistant to the director of the state weather service, who shall be appointed by the state board of agriculture, 1,600 dollars; aggregating the sum of \$8,587.50; of which the first 2 items shall be paid during the year 1887, and the remaining shall be paid, the 1/2 during the year 1887 and the other 1/2 during the year 1888, which said moneys appropriated by this act, or so much thereof as shall be necessary, shall be expended, under the direction of the state board of agriculture, for the purpose aforesaid, by the director of the Michigan state weather service, detailed for the purpose from the signal corps of the United States army, and shall be drawn from the treasury on presentation of the proper certificates of said board of [to] the auditor general, and on his warrants to the state treasurer. All property purchased or acquired under the provisions of this act, or received for the purpose of carrying the same into effect shall be and remain the property of the state of Michigan, and shall be under the direction and control of the state board of agriculture; and the instruments, signals and record books so purchased, or required, or received shall be issued only in accordance with such rules and regulations as said state board of agriculture may prescribe.

HISTORY: How. 2287e1;—CL 1897, 1756;—CL 1915, 1106;—CL 1929, 5652;—CL 1948, 295.21.

This act established the weather service. Act 48 of 1889, being How. 2287e4-6, continued the service and made appropriations for 1889-90. The property provisions at the end of Sec. 1 were identical in both acts. Sec. 2 was the same in both, and Sec. 3 of each act was merely a temporary appropriation section.

295.22 Summary of observations; publication, distribution.

Sec. 2. A summary of observations of the director of the Michigan state weather service, herein named, shall be furnished monthly to the secretary of state for publication and distribution.

HISTORY: How. 2287e2;—CL 1897, 1757;—CL 1915, 1107;—CL 1929, 5653;—CL 1948, 295.22.

Sec. 3.

HISTORY: How. 2287e3.

CHAPTER 299. CONSERVATION—STATE DEPARTMENT

DEPARTMENT OF CONSERVATION

Act 17 of 1921

- 299.1 Department of conservation; creation, powers and duties; commission of conservation, appointment, terms, meetings, compensation; oath; director, salary, vacancy.
- 299.2 Department of conservation; transfer of powers and duties from abolished commissions and boards; records; rules and regulations; mineral products, contracts for taking and storage; game and fish protection fund moneys.
- 299.3 Department of conservation; duties; natural resources, outdoor recreation; destruction of timber; reforestation; pollution; protection of game and fish; gifts; acquisition and lease of property.
- 299.3a Conservation commission; rules and regulations for protection of lands and property; misdemeanor.
- 299.3b Federal fish stock and programs; application; listing of programs supplied to legislature.
- 299.4 Director of conservation; biennial report, printing.
- 299.6 Declaration of necessity.

ABORIGINAL RECORDS AND ANTIQUITIES

Act 173 of 1929

- 299.51 Aboriginal records and antiquities; exclusive right of state, exceptions.
- 299.52 Aboriginal records and antiquities; property rights of state, exceptions.
- 299.53 Aboriginal records and antiquities; permit for exploration on state land.
- 299.54 Aboriginal records and antiquities; consent of landowner to removal.
- 299.55 Violation of act; misdemeanor, penalty.

RECREATIONAL FACILITIES, APPROPRIATION

Act 27 of 1944 (1st Ex. Ses.)

299.101-299.109 Repealed.

OUTDOOR RECREATION

Act 316 of 1965

- 299.111 Outdoor recreation; comprehensive plan.
- 299.112 Federal aid programs.
- 299.113 Federal aid programs; federal land and water conservation fund; apportionment of funds to subdivisions of state.
- 299.114 Federal land programs; appropriations; contracts on behalf of state subdivisions.
- 299.115 Effective date.
- 299.116 State assistance to subdivisions; guidelines and limits on state payments.

RECREATION AND CULTURAL ARTS SECTION

Act 326 of 1965

- 299.121 Recreation and cultural arts section; establishment.
- 299.122 Head of section; qualifications.
- 299.123 Technical advice and guidance; collection and dissemination of information; duty of section.
- 299.124 Repealed.
- 299.125 Advisory committee; appointment, compensation, duties.
- 299.126 Existing employees; reassignment.
- 299.127 Rules and regulations; promulgation by commission.

WILDLIFE RESTORATION

Act 281 of 1939

- 299.201 Wildlife restoration; conservation commission, authority to co-operate with federal government; use of hunters' license fees.

Act 17, 1921, p. 25; Imd. Eff. Mar. 30.

AN ACT to provide for the protection and conservation of the natural resources of the state; to provide and develop facilities for outdoor recreation; to create a conservation department; to define the powers and duties thereof; to provide rules and regulations concerning the use and occupancy of lands and property under its control and penalties for the violation thereof; to provide for the transfer to said department of the powers and duties now vested by law in certain boards, commissions and officers of the state; and for the abolishing of the boards, commissions and offices the powers and duties of which are hereby transferred. Am. 1927, p. 812, Act 337, Eff. Sep. 5.

The People of the State of Michigan enact:

299.1 Department of conservation; creation, powers and duties; commission of conservation, appointment, terms, meetings, compensation; oath; director, salary, vacancy.

Sec. 1. There is hereby created a department of conservation for the state of Michigan which shall possess the powers and perform the duties hereby granted and im-

posed. The general administration of said powers and duties shall be vested in a commission of conservation which shall be composed of 7 members appointed by the governor, subject to confirmation by the senate. The members of said commission shall be selected with special reference to their training and experience along the line of 1 or more of the principal lines of activities vested in the department of conservation and their ability and fitness to deal therewith: Provided, That 2 of these members shall reside in the upper peninsula. The term of office of each member of the commission shall be six years: Provided, That of those first appointed, 3 shall be appointed for 2 years, 2 for 4 years and 2 for 6 years. The governor shall fill any vacancy occurring in the membership of the commission and may remove any member of the commission for cause after a hearing. Each member of this commission shall hold his office until the appointment and qualification of his successor. The commission, after having qualified, shall within 30 days and annually thereafter meet at its office in Lansing and organize by electing a chairman and appointing a secretary, who need not be a member of the commission. Four members of said commission shall constitute a quorum for the transaction of business. Meetings may be called by the chairman and shall be called on request of a majority of the members of the commission and may be held as often as necessary and at other places than the commissioners' offices at Lansing: Provided, That 1 meeting shall be held each month. The commission shall appoint and employ a director of conservation who shall continue in office at the pleasure of the commission and who shall receive a salary of not to exceed \$12,000.00 per annum. The director shall appoint with the approval of the commission a deputy director and such assistants and employees as may be necessary to carry out the provisions of this act, or of any other law of the state affecting the powers and duties of said department. The deputy director is hereby authorized to perform any duty or exercise any power conferred by law upon the director whenever and to the extent such duty and power shall be delegated to him by the director. Should there be a vacancy in the office of director, or should he be unable to perform his duties or be absent from the state, all of the powers and duties of the director as prescribed by law shall devolve upon the deputy director until such time as the vacancy is filled, or the director's inability or absence from the state ceases. The compensation of said deputy director and all such assistants and employees and the number thereof shall be subject to the approval of the state administrative board. The members of the commission shall receive no compensation hereunder, but each such member, and the other officers and employees of the department, shall be entitled to reasonable expenses while traveling in the performance of any of the duties hereby imposed. All salaries and expenses authorized hereunder shall be paid out of the state treasury in the same manner as the salaries of other state officers and employees are paid. It shall be the duty of the board of state auditors to furnish suitable offices and office equipment, at the city of Lansing, for the use of the conservation department. Each member of the commission and the director of conservation shall qualify by taking and subscribing the constitutional oath of office, and filing same in the office of the secretary of state.

HISTORY: Am. 1929, p. 47, Act 23, Imd. Eff. Apr. 2;—CL 1929, 5654;—Am. 1945, p. 547, Act 316, Imd. Eff. May 28;—CL 1948, 299.1;—Am. 1949, p. 332, Act 250, Imd. Eff. Jun. 6;—Am. 1951, p. 232, Act 182, Imd. Eff. Jun. 8.

CITED IN OTHER SECTIONS: The above section is cited in § 16.352.

299.2 Department of conservation; transfer of powers and duties from abolished commissions and boards; records; rules and regulations; mineral products, contracts for taking and storage; game and fish protection fund moneys.

Sec. 2. The powers and duties now vested by law in the public domain commission; the state game, fish and forest fire commissioner, the state board of fish commissioners; the geological survey; and the Michigan state park commission are hereby trans-

ferred to and vested in the conservation department. Whenever, in any law of the state, reference is made to any board, commission or officer whose powers and duties are thus transferred, reference shall be deemed to be made to the conservation department. On the taking effect of this act the public domain commission, the state board of fish commissioners, the geological survey, the Michigan state park commission, and the office of state game, fish, and forest fire warden shall be abolished; and all records, files and papers of every nature pertaining to the functions thereof shall be turned over to the conservation department, to be preserved as a part of the records and files of the department hereby created. Any hearing or other proceeding pending before any commission or board hereby abolished shall not be abated but shall be carried on and determined by the commission of conservation in accordance with the provisions of the law governing such hearing and proceeding. The commission hereby created may adopt such rules and regulations, not inconsistent with law, governing its organization and procedure, and the administration of the provisions of this act, as may be deemed expedient. Said commission may also make and enforce reasonable rules and regulations concerning the use and occupancy of lands and property under its control; may provide and develop facilities for outdoor recreation; may conduct such investigations as it may deem necessary for the proper administration of this act; and may remove and dispose of forest products, incidental as required for the protection, reforestation and proper development and conservation of the lands and property under its control. The said commission is hereby empowered to make contracts with persons, firms, associations and corporations for the taking of coal, oil, gas and other mineral products from any state owned lands, upon a royalty basis or upon such other basis and upon such terms as to said commission shall be deemed just and equitable: Provided, That said powers shall include and shall be deemed to have included the making of contracts as aforesaid for the storage of gas or other mineral products in or upon any state-owned lands: Provided, however, That the consent of the state agency having jurisdiction and control of the state owned land be first obtained: Provided further, That no such contract, for the taking of coal, oil, gas or other mineral products, or for the storage of gas or other mineral products, shall be valid unless same shall have been approved by the state administrative board. All moneys received from this source, except moneys received from lands acquired with game and fish protection funds, shall be turned into the general fund of the state to be used for the purpose of defraying the expenses incurred in the administration of this act and such other purposes as are or may be provided by law. From lands acquired with game and fish protection funds such moneys shall be turned into the game and fish protection fund and used only for the purposes provided by law.

HISTORY: Am. 1921, p. 343, Act 164, Eff. Aug. 18;—Am. 1927, p. 812, Act 337, Eff. Sep. 5;—Am. 1929, p. 482, Act 174, Imd. Eff. May 20;—CL 1929, 5655;—CL 1948, 299.2;—Am. 1949, p. 17, Act 19, Eff. Sep. 23;—Am. 1952, p. 88, Act 78, Eff. Sep. 18;—Am. 1963, p. 291, Act 204, Eff. Sep. 6

299.3 Department of conservation; duties; natural resources, outdoor recreation; destruction of timber; reforestation; pollution; protection of game and fish; gifts; acquisition and lease of property.

Sec. 3. The department of conservation shall protect and conserve the natural resources of the state of Michigan; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforestation of forest lands belonging to the state; prevent and guard against the pollution of lakes and streams within the state, and enforce all laws provided for that purpose with all authority granted by law, and foster and encourage the protecting and propagation of game and fish. On behalf of the people of the state the commission of conservation may accept gifts and grants of land and other property and shall have authority to buy, sell, exchange or condemn land and other property, for any of

the purposes contemplated by this act. The department of conservation may accept funds, moneys or grants for development of salmon and steelhead trout fishing in this state from the government of the United States, or any of its departments or agencies, pursuant to federal Public Law 89-304 and may use the same in accordance with the terms and provisions thereof: Provided, That the acceptance and use of federal funds commits no state funds and places no obligation upon the legislature to continue the purposes for which the funds are made available.

The department of conservation may lease lands owned or controlled by it which have been designated for use for recreational purposes, but only to responsible legal units, within this state, of national or state recognized groups devoted principally to development of character and citizenship training and physical fitness of youth, the financial support of which is by voluntary public subscriptions or contributions, and the property of which is exempt from taxation under the laws of this state. The department of conservation shall also have the authority to lease land in the Porcupine mountain state park to third parties for such purposes as it shall consider desirable. Any lease so made shall contain provisions limiting the purposes for which the land so leased is to be used and a provision authorizing the department of conservation to terminate the lease upon a finding that the land is being used for purposes other than as so limited or contrary to the intent hereof.

HISTORY: Am. 1925, p. 287, Act 801, Eff. Aug. 27;—Am. 1927, p. 813, Act 337, Eff. Sep. 5;—CL 1929, 5656;—CL 1948, 299.3;—Am. 1952, p. 351, Act 215, Eff. Sep. 18;—Am. 1967, p. 230, Act 165, Imd. Eff. Jun. 30.

Act 201 of 1925 was expressly repealed by Sec. 5 as Am. by Act 337 of 1927;—CL 1929, 5656.

299.3a Conservation commission; rules and regulations for protection of lands and property; misdemeanor.

Sec. 3a. The commission of conservation shall make such rules for protection of the lands and property under its control against wrongful use or occupancy as will insure the carrying out of the intent of this act to protect the same from depredations and to preserve such lands and property from molestation, spoilation, destruction or any other improper use or occupancy. Nothing herein contained shall be deemed as allowing the commission of conservation to make any rule which applies to commercial fishing except as provided by law. Rules affecting the use and occupancy of such lands and property shall be promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. A violation of any such rule is a misdemeanor.

HISTORY: Add. 1927, p. 813, Act 337, Eff. Sep. 5;—CL 1929, 5657;—CL 1948, 299.3a;—Am. 1955, p. 227, Act 157, Eff. Oct. 14;—Am. 1968, p. 295, Act 199, Eff. Nov. 15.

299.3b Federal fish stock and programs; application; listing of programs supplied to legislature.

Sec. 3b. The conservation commission or department of conservation, in pursuing the state's policy of propagating fish for the purpose of stocking the streams and lakes of the state, shall not refuse to accept federal fish stock for such programs, and shall apply for all federal fish stock programs which do not commit the state to future expenditures. The department shall provide a listing to the legislature of all federal fish stock programs by April 15 of each year.

HISTORY: Add. 1968, p. 123, Act 101, Eff. Mar. 10, 1967.

299.4 Director of conservation; biennial report, printing.

Sec. 4. On or before the fifteenth day of January of each year in which a regular session of the legislature is held, the director of conservation shall make to the governor and legislature, a report covering the operation of his department for the preceding biennial period. Such report shall, if so ordered by the board of state auditors, be printed

and shall be distributed in such manner and to such persons, organizations, institutions and officials as said board may direct.

HISTORY: CL 1929, 5658;—CL 1948, 299.4.

Sec. 5. (This was a repeal section.)

HISTORY: Am. 1927, p. 814, Act 337, Eff. Sept. 5;—CL 1929, 5659;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 301, 1925.

299.6 Declaration of necessity.

Sec. 6. This act is hereby declared to be immediately necessary for the preservation of the public peace, health and safety.

HISTORY: CL 1929, 5660;—CL 1948, 299.6.

Act 173, 1929, p. 480; Imd. Eff. May 20.

AN ACT to protect and preserve, and to regulate the taking of aboriginal records and antiquities within the state of Michigan, and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

299.51 Aboriginal records and antiquities; exclusive right of state, exceptions.

Sec. 1. The state of Michigan reserves to itself the exclusive right and privilege, except as hereinafter provided, of regulating, exploring, excavating or surveying, through its authorized officers, agents, or employes, all aboriginal records and other antiquities, including mounds, earthworks, forts, burial and village sites, mines or other relics found upon or within any of the lands owned by or under the control of the state: Provided, That the restrictions of this act shall not apply to the exploring, excavating or surveying being done by any university, college or other organization solely for scientific purposes where the work of such exploring, excavating or surveying has been started and the intention of such university, college or other organization is to follow up the work. To continue with such exploring the authorities in charge of the work must have permission from the property owner or owners and with such permission may continue such scientific exploration without a permit from the director of conservation.

HISTORY: CL 1929, 5662;—CL 1948, 299.51.

HISTORICAL MATERIAL: Collection and preservation by historical commission, see Compilers' §§ 399.4 and 399.5.

299.52 Aboriginal records and antiquities; property rights of state, exceptions.

Sec. 2. Any deed hereafter given by the state (except state tax deeds for the conveyance of any land owned by the state) shall contain a clause reserving to itself a property right in all aboriginal antiquities including mounds, earthworks, forts, burial and village sites, mines or other relics and also reserving the right to explore and excavate for the same by and through its duly authorized agents and employees: Provided, however, That this section shall apply only to the sale of tax reverted land: And provided further, That the conservation commission in its discretion may waive said reservation when conveying platted property and when making conveyances under Act No. 193 of the Public Acts of 1911.

HISTORY: CL 1929, 5663;—CL 1948, 299.52;—Am. 1949, p. 216, Act 202, Eff. Sep. 23.

299.53 Aboriginal records and antiquities; permit for exploration on state land.

Sec. 3. It is hereby made unlawful for any person, either by himself personally, or through any agent or employee, to explore or excavate any of the aboriginal remains

covered by this act upon lands owned by the state, except under permit issued by the director of conservation: Provided, That such permits shall be issued without charge.

HISTORY: CL 1929, 5664;—CL 1948, 299.53.

299.54 Aboriginal records and antiquities; consent of landowner to removal.

Sec. 4. Without the consent of the land owner, it is hereby made unlawful for any person to remove any relics or records of antiquity such as human or other bones; shells, stone, bone or copper implements; pottery or shards thereof, or similar artifacts and objects from the premises on which same may have been discovered.

HISTORY: CL 1929, 5665;—CL 1948, 299.54.

299.55 Violation of act; misdemeanor, penalty.

Sec. 5. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not less than 10 dollars or more than 100 dollars or by imprisonment in the county jail for not more than 30 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5666;—CL 1948, 299.55.

299.101-299.109 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections made appropriations for acquiring and developing recreation facilities.

Act 316, 1965, p. 602; Imd. Eff. Jul. 22.

AN ACT to authorize participation by this state and its subdivisions in programs of federal assistance relating to the planning and development of outdoor recreation resources and facilities; and to prescribe the functions of the department of conservation related thereto.

The People of the State of Michigan enact:

299.111 Outdoor recreation; comprehensive plan.

Sec. 1. The department of conservation is authorized to prepare, maintain and keep up-to-date a comprehensive plan for the development of the outdoor recreation resources of the state.

HISTORY: New 1965, p. 602, Act 316, Imd. Eff. Jul. 22.

299.112 Federal aid programs.

Sec. 2. The department of conservation may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto, and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any such program, the department of conservation shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development and maintenance of outdoor recreation resources and facilities.

HISTORY: New 1965, p. 602, Act 316, Imd. Eff. Jul. 22.

299.113 Federal aid programs; federal land and water conservation fund apportionment of funds to subdivisions of state.

Sec. 3. Grants-in-aid received from the federal land and water conservation fund shall be deposited in the state treasury and disbursed to agencies and subdivisions

the state upon authorization of the department of conservation. Such apportionments of federal funds received on or before June 30, 1968, shall be made available in the ratio of 50 per centum for state projects and 50 per centum for projects proposed by subdivisions of the state, but the director of the Michigan department of conservation may vary said percentages by not more than 10 points either way to meet the current relative needs for recreational lands and facilities as indicated by the comprehensive recreational plan. In the apportionment of funds to subdivisions of the state the director of conservation shall give special consideration to those subdivisions where population density and land and facility needs are greatest.

HISTORY: New 1965, p. 602, Act 316, Imd. Eff. Jul. 22.

299.114 Federal land programs; appropriations; contracts on behalf of state subdivisions.

Sec. 4. The department of conservation shall make no commitment or enter into any agreement pursuant to an exercise of authority under this act until the legislature has appropriated sufficient funds to it for meeting the state's share, if any, of project costs. It is the legislative intent that, to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of this act, such areas and facilities shall be publicly maintained for outdoor recreation purposes. The department of conservation may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition and development projects involving participating federal-aid funds on behalf of any subdivision of this state, if such subdivision gives necessary assurances to the department of conservation that it has available sufficient funds to meet its share, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of the subdivision for public outdoor recreation use.

HISTORY: New 1965, p. 603, Act 316, Imd. Eff. Jul. 22.

299.115 Effective date.

Sec. 5. This act shall take effect on July 1, 1965.

HISTORY: New 1965, p. 603, Act 316, Imd. Eff. Jul. 22.

299.116 State assistance to subdivisions; guidelines and limits on state payments.

Sec. 6. The department of conservation is authorized to disburse state appropriated grants-in-aid to political subdivisions of the state to be used in conjunction with P.L. 85-578 which provides financial assistance for outdoor recreation. The criteria for project approval established for federal cost-sharing under the various federal grants-in-aid programs shall be used as guidelines in allocating state grants-in-aid to political subdivisions of the state. In no case, shall the state's share of the cost of a particular project exceed 25% of the total cost. In no case shall total state grants-in-aid under this act during any fiscal year exceed the amount specifically appropriated therefor by the legislature.

HISTORY: Add. 1966, p. 225, Act 301, Imd. Eff. Jul. 11.

Act 326, 1965, p. 613; Imd. Eff. Jul. 22.

AN ACT to establish a state recreation division in the department of conservation; to provide technical and advisory services in the development and promotion of recreation programs; to encourage the constructive use of leisure time; to prescribe its powers and duties.

*The People of the State of Michigan enact:***299.121 Recreation and cultural arts section; establishment.**

Sec. 1. There shall be established a state recreation and cultural arts section in the department of conservation.

HISTORY: New 1965, p. 614, Act 326, Imd. Eff. Jul. 22.

299.122 Head of section; qualifications.

Sec. 2. The head of the state recreation and cultural arts section shall be a person widely experienced in community recreation and shall be directly responsible to the deputy director of staff.

HISTORY: New 1965, p. 614, Act 326, Imd. Eff. Jul. 22.

299.123 Technical advice and guidance; collection and dissemination of information; duty of section.

Sec. 3. The state recreation and cultural arts section shall provide technical advice and guidance to the political subdivisions of this state and other interested groups and agencies in the planning and development of recreation programs, areas and facilities including but not limited to creative and cultural activities, and programs for senior citizens, the handicapped and the culturally deprived. The section shall collect and disseminate necessary data and information relating to its duties and shall maintain a cooperative relationship with the tourist, resort and educational extension services of the universities, the Michigan tourist council, Michigan's 4 regional tourist associations and the various federal agencies.

HISTORY: New 1965, p. 614, Act 326, Imd. Eff. Jul. 22.

299.124 Repealed. 1966, p. 187, Act 167, Imd. Eff. Jul. 1.

Section required state recreation and cultural arts section to provide staff for each of conservation department's regional headquarters.

299.125 Advisory committee; appointment, compensation, duties.

Sec. 5. The governor shall appoint 15 members to act as an advisory committee for the state recreation and cultural arts section. Members of the committee shall serve without compensation for terms of 4 years. The advisory committee shall provide continual representation of citizen interest, need and participation in a wide variety of leisure time pursuits.

HISTORY: New 1965, p. 614, Act 326, Imd. Eff. Jul. 22.

CITED IN OTHER SECTIONS: The above section is cited in § 318.377.

299.126 Existing employees; reassignment.

Sec. 6. The director of the department of conservation may reassign existing employees of the department or employ staff necessary to carry out the provisions of this act.

HISTORY: New 1965, p. 614, Act 326, Imd. Eff. Jul. 22.

299.127 Rules and regulations; promulgation by commission.

Sec. 7. The conservation commission, upon recommendation of the director of conservation and of the chief of the state recreation and cultural arts section, shall make rules and regulations necessary for the establishment and the carrying out of the provisions of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.10 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 614, Act 326, Imd. Eff. Jul. 22.

Act 281, 1939, p. 540; Eff. Sep. 29.

AN ACT to provide authorization for the state to cooperate with the federal government in the selection, development, and maintenance of wildlife restoration and management projects and areas, and to restrict the use of hunting license fees as provided in the act of congress, entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937, (Public No. 415, 75th Congress).

The People of the State of Michigan enact:

299.201 Wildlife restoration; conservation commission, authority to cooperate with federal government; use of hunters' license fees.

Sec. 1. The conservation commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of wildlife restoration, management, and research projects and areas in cooperation with the federal government as defined in the act of congress, entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937, (Public No. 415, 75th Congress), and with rules and regulations promulgated by the secretary of agriculture thereunder; and in compliance with said act no funds accruing to the state of Michigan from license fees paid by hunters shall be used for any purpose other than game and fish activities under the administration of the conservation department.

HISTORY. CL 1948, 299.201.

NOTE: Public No. 415, 75th Congress, above referred to, is 16 U.S.C.A. 669 et seq.

CHAPTER 300. CONSERVATION—FISH AND GAME

REGULATORY POWERS		Act 43 of 1948 (Ex. Ses.)	
Act 230 of 1925		300.21-300.28 Repealed.	
		COMPILATION OF LAWS	
		Act 239 of 1915	
		300.31, 300.32 Repealed.	
		BOARD OF FISH COMMISSIONERS	
		Act 63 of 1885	
300.1	Fish, game or birds; regulatory powers of commission.	300.51	Board of fish commissioners; corporate powers.
300.2	Fish, game or birds; definitions.	300.52	Board of fish commissioners; fish-breeding duties; property tax exempt; superintendent of fisheries, duties, salary; assistants.
300.3	Conservation commission orders protecting fish, game or birds; contents, filing, publication of orders; fisheries research; experimental game management areas.	300.53	Board of fish commissioners; accounts, records, biennial report.
300.4	Suspended open season; rescission or modification; exception.	300.54	Board of fish commissioners; powers, duties, expenses.
300.5	Violation; misdemeanor, penalty.	300.55	Appropriation; expenditure; unexpended balance.
SEIZURE AND ENFORCEMENT POWERS		300.56	Joint action with other states.
Act 192 of 1929		RECIPROCAL AGREEMENTS WITH ADJOINING STATES	
300.11	Director of conservation; enforcement of laws for protection of wild game and fish.	Act 158 of 1949	
300.12	Director of conservation; prosecution; search without warrant; private property, definition; common carrier not liable; issuance of warrant; seizures; probable cause.	300.101	Reciprocal agreements with adjoining states to cover taking of fish.
300.13	Complaints; contents, filing; order to show cause; service; posting or publication; property forfeited to state; return of property.	300.102	Fishing; reciprocal agreements; publication.
300.14	Property seized over \$300; condemnation and confiscation proceedings in circuit court, determination; property release; carrier, non-liability.	300.103	Violation of act; misdemeanor, penalty.
300.15	Review or certiorari; procedure; bond.	COOPERATION WITH FEDERAL GOVERNMENT	
300.16	Conservation officers declared peace officers; service of criminal process; arrest without warrant, procedure.	Act 111 of 1951	
300.17	Resisting or obstructing officers; penalty.	300.151	Fish restoration; cooperation with federal government; funds accruing from license fees, use.
300.18	Judgment fee; credit.	LIABILITY OF LANDOWNERS FOR INJURIES TO GUESTS	
		Act 201 of 1953	
		300.201	Liabilities of landowners for injuries to guests; gross negligence, wilful and wanton misconduct.

Act 230, 1925, p. 336; Eff. Aug. 27.

AN ACT to provide for the better protection and preservation of fish, game and fur-bearing animals and game birds, protected by the laws of this state; to provide a method by which the taking or killing thereof may be regulated and the open season for the taking or killing thereof suspended or abridged in any designated waters or area of this state; to provide for special fisheries research and regulations therefor; to provide a penalty for the violation thereof, and to repeal Act No. 9 of the Public Acts of 1917, as amended by Act No. 156 of the Public Acts of 1921. Am. 1945, p. 357, Act 252, Imd. Eff. May 25.

The People of the State of Michigan enact:

300.1 Fish, game or birds; regulatory powers of commission.

Sec. 1. The commission of conservation of the department of conservation of this state shall, in accordance with the provisions of this act, have power to regulate the taking or killing of all fish, game and fur-bearing animals and game birds protected by the laws of this state, and may suspend or abridge the open season provided by law for

the taking or killing of any such fish, animals or game birds in any designated waters or area of this state, whenever in the opinion of said commission of conservation it becomes necessary to assist in the increased or better protection of such fish, game or fur-bearing animals or game birds, or of any particular kinds or species of the same, which may in the opinion of said commission be threatened from any cause or causes with depletion or extermination in said waters or area, and for the purpose of such regulation, suspension, or abridgement, said commission of conservation is hereby empowered to make and promulgate any and all orders and regulations necessary to carry out the provisions of this act and as in this act provided, on the recommendation of the director of conservation after a thorough investigation has been made by him.

HISTORY: CL 1929, 6138;—CL 1948, 300.1.

CITED IN OTHER SECTIONS: Sections 300.1 to 300.5 are cited in § 24.307.

300.2 Fish, game or birds; definitions.

Sec. 2. As used in this act:

(a) "Waters" mean any single or individual inland lake, stream, river, pond or other single or individual body of water including the Great Lakes and connecting waters or any part or portion thereof, and any and all chains, systems or combinations of the same, in any township or townships, county or counties, within this state and in which any species of fish or waterfowl are protected by the laws of this state.

(b) "Area" means the whole of the state and the whole or any designated portion of any township or townships, county or counties within the state.

HISTORY: CL 1929, 6139;—CL 1948, 300.2;—Am. 1968, p. 136, Act 82, Eff. Nov. 15.

300.3 Conservation commission orders protecting fish, game or birds; contents, filing, publication of orders; fisheries research; experimental game management areas.

Sec. 3. Whenever the commission of conservation shall determine that any such fish, game or fur-bearing animals or game birds or any kinds or species of the same, are in danger of depletion or extermination and require additional protection in any designated waters or area within the state, the commission may make and promulgate an order suspending or abridging the open season on fish, game or fur-bearing animals or game birds, or may regulate the taking or killing thereof in the waters or area as in the judgment of the commission may be necessary or expedient for the further protection of fish, game or fur-bearing animals or game birds in such waters or area, and shall in the order clearly specify the manner and condition relative to the taking or killing in them. All such orders shall clearly and distinctly describe and set forth the waters or area affected by each order, and whether it is applicable to all fish, game or fur-bearing animals or game birds, or only to certain kinds or species designated therein and shall also clearly specify and set forth the length of time, which shall in no case exceed 5 years, which the order shall remain in force and effect. Such order shall be published at least 21 days but not more than 60 days prior to the taking effect thereof, and at least once annually thereafter while in force, in at least 1 newspaper, if any there be, published in each county, the whole or any portion of which is affected by the order, the first mentioned publication to appear at least once in each week for 3 successive weeks. A copy of the order as printed in the paper shall be filed with the clerk of each county. Proof by affidavit of the newspaper publication shall be filed with the commission, and a copy of the order, so long as it shall remain in force and effect, shall be included and printed in the authorized biennial compilation of the Michigan fish and game laws. The original of all such orders on file in the Lansing office of the department of conservation shall be under the seal of the department of conservation and shall bear the signatures of the chairman and secretary of the commission and shall be countersigned by the director of conservation. The conservation commission

shall have authority to establish the seasons, size limits, creel limits and methods of taking fish in certain designated inland lakes not to exceed 20 in number at any one time and in certain designated streams or portions of streams not to exceed 10 in number at any one time for the purpose of fisheries research. The conservation commission is authorized to establish not to exceed 1 experimental game management area which shall not exceed 40,000 acres in size, 4 experimental game management areas not to exceed 5,000 acres each in size, and 1 experimental game management area which shall include Beaver island in its entirety and the 4 islands which comprise the Little Beaver islands state game area, and shall have authority to establish rules and regulations governing the kind of game which may be taken thereon and the time, place and manner or method of taking same.

HISTORY: CL 1929, 6140;—Am. 1945, P. 365, Act 252, Imd. Eff. May 25;—CL 1948, 300.3;—Am. 1952, p. 139, Act 122, Eff. Sep. 18;—Am. 1957, p. 360, Act 272, Eff. Sep. 27;—Am. 1967, p. 123, Act 104, Imd. Eff. Jun. 21.

300.4 Suspended open season; rescission or modification; exception.

Sec. 4. Whenever in any waters or area in which the open season, during which any species of fish, game or fur-bearing animals or game birds may be taken or killed, have been suspended or abridged by any order of the commission of conservation as herein provided, and while such order is still in force, it shall appear to the satisfaction of said commission of conservation that the conditions existing in said waters or area no longer demand such additional protection for such species, the said commission shall cause a thorough investigation to be made of such waters and area, and the conditions therein prevailing; and if from such investigation said commission shall be satisfied that by reason of the increase of said fish, game or fur-bearing animals or game birds, protected by said order in said waters or area, or the removal of the cause threatening said species with depletion or extermination, the additional protection afforded by said order is no longer needed, said commission may, in their discretion, rescind or modify said original order, and notices of the rescinding or modifying of the order shall be published in the same manner as notice of the original order and filed in like manner in the office of the clerk of each county: Provided, That this act shall not be construed to suspend, abridge or regulate the open seasons established by law for the taking of fish for commercial purposes from the waters of lakes Superior, Michigan, Huron, Erie and the bays thereof.

HISTORY: Am. 1929, p. 531, Act 208, Imd. Eff. May 20;—CL 1929, 6141;—CL 1948, 300.4.

COMMERCIAL FISHING: See Act 84 of 1929, being Compilers' § 308.1 et seq.

300.5 Violation; misdemeanor, penalty.

Sec. 5. Any person who shall take or kill any fish, game or fur-bearing animal or game bird, contrary to the terms or provisions of any order or regulation of the commission of conservation, made, promulgated and published as in this act provided, and during the time said order or regulation shall remain in force, and effect, or who shall in any manner whatsoever violate any of the provisions of this act or of any order or regulation made, promulgated and published according to the terms hereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, for the first offense, shall be punished by a fine of not more than 100 dollars, or imprisonment in the county jail not to exceed 60 days, and for each and every second or subsequent offense by said person, when charged as such, he shall be punished by a fine of not less than 50 dollars nor more than 250 dollars and imprisonment in the county jail where said conviction is had or in the Detroit house of correction not less than 20 nor more than 90 days.

HISTORY: CL 1929, 6142;—CL 1948, 300.5.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1929, 6143;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 9, 1917.

Act 192, 1929, p. 509; Eff. Aug. 28.

AN ACT to prescribe certain powers and duties of the director of conservation; to provide for the enforcement of the laws relative to the protection, propagation or preservation of wild birds, wild animals and fish; to provide for the enforcement of laws pertaining to the powers and duties of the director of conservation or the commission of conservation; to provide for the condemnation of property seized for violation of such statutes and laws; and to declare as peace officers the director of conservation and any officer appointed by him and to vest in him and them all the powers, privileges, prerogatives and immunities of peace officers under the general laws of the state. Am. 1950, Ex. Ses., p. 38, Act 24, Imd. Eff. Jun. 7.

The People of the State of Michigan enact:

300.11 Director of conservation; enforcement of laws for protection of wild game and fish.

Sec. 1. It shall be the duty of the director of conservation and of any officer appointed by him to enforce the statutes and laws of this state for the protection, propagation or preservation of wild birds, wild animals and fish, now in force or hereafter enacted; to enforce the provisions of all other laws of this state now existing or hereafter enacted or promulgated which pertain to the powers and duties of the director of conservation or the commission of conservation; to bring or cause to be brought or to prosecute or cause to be prosecuted actions and proceedings in the name of the people of the state for the purpose of punishing any person for the violation of said statutes or laws. Such actions and proceedings shall be brought in the name of the people in like cases in the same courts and under the same procedure as they may now or may hereafter be brought by any individual or by the prosecuting attorneys of the several counties under and by virtue of any statute or law now existing or hereafter enacted.

HISTORY: CL 1929, 6144;—Am. 1943, p. 172, Act 135, Eff. Jul. 30;—CL 1948, 300.11;—Am. 1950, Ex. Ses., p. 38, Act 24, Imd. Eff. Jun. 7.
FORMER ACTS: Act 290 of 1921; Act 101 of 1925.

300.12 Director of conservation; prosecution; search without warrant; private property, definition; common carrier not liable; issuance of warrant; seizures; probable cause.

Sec. 2. The director of conservation, or any officer appointed by him, may make complaint and cause proceedings to be commenced against any person for a violation of any of the laws or statutes mentioned in section 1 of this act, without the sanction of the prosecuting attorney of the county in which such proceedings are commenced, and in such case, such officer shall not be obliged to furnish security for costs. Said director, or any of said officers, may appear for the people in any court of competent jurisdiction in any cases for violation of any of said statutes or laws, and prosecute the same in the same manner and with the same authority as the prosecuting attorney of any county in which such proceedings are commenced, and may sign vouchers for the payment of jurors' or witness' fees in such cases in the same manner and with the same authority as prosecuting attorneys in criminal cases. Whenever any of said officers have probable cause to believe that any of the aforesaid statutes or laws have been or are being violated by any particular person they shall have power to search, without warrant, any boat, conveyance, vehicle, automobile, fish box, fish basket, game bag, game coat, or any other receptacle or place, except dwellings or dwelling houses, or within the curtilage of any dwelling house in which nets, hunting or fishing apparatus or appliances, wild birds, wild animals or fish may be possessed, kept or carried by such person, and any of said officers may enter into or upon any private or public property for such purpose or for the purpose of patrolling or investigating, or examining when he has probable cause for believing that any of the aforesaid statutes or laws

have been or are being violated thereon. The term "private property" as used herein shall not include dwellings or dwelling houses, or that which is within the curtilage of any dwelling house. Said officer shall at any and all times seize and take possession of any and all nets, hunting or fishing apparatus or appliances or other property, wild birds, wild animals, or fish, or any part or parts thereof, which have been caught, taken, killed, shipped, or had in possession or under control, at a time, in a manner or for a purpose, contrary to any of the aforesaid statutes or laws, and such seizure may be made without a warrant. No common carrier shall be held responsible in damages or otherwise to any owner, shipper, or consignee by reason of any such seizure. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases, that any wild birds, wild animals, or fish, or any part or parts thereof, or any nets, hunting or fishing apparatus or appliances or other property, have been or are being killed, taken, or caught, or had in possession, or had under control or shipped, contrary to the aforesaid statutes or laws, and that the complainant believes same to be stored, kept or concealed in any particular house or place, such magistrate, if he be satisfied that there is probable cause for such belief, shall issue a warrant to search for such property. Such warrant shall be directed to the director of conservation or any officer appointed by him, or to any other peace officer. All wild birds, wild animals, or fish, or nets, or boats, or fishing or hunting appliances or apparatus, or automobiles, or other property, of any kind seized by any of said officers shall be turned over to the director of conservation to be held by him subject to the order of the court as hereinafter provided.

For the purposes of this act, "probable cause" or "probable cause to believe" shall be considered to be present on the part of a peace officer where there are facts which would induce any fair-minded man of average intelligence and judgment to believe that a law or statute had been violated or was being violated contrary to any of the aforesaid statutes or laws.

HISTORY: CL 1922, 6145;—CL 1948, 300.12;—Am. 1950, Ex. Ses., p. 39, Act 24, Imd. Eff. Jun. 7.

300.13 Complaints; contents, filing; order to show cause; service; posting or publication; property forfeited to state; return of property.

Sec. 3. When the property seized shall not exceed \$300.00 in value as appraised by the officer, the officer making the seizure shall make a complaint before any justice of the peace of the county, which complaint shall be under oath and shall contain a description of the property seized, the time and place of seizure and the reason or reasons for such seizure. Upon the filing of said complaint the justice with whom the same is filed shall issue an order to the owner of such property, if known, to show cause, if any, why the property mentioned in said complaint should not be condemned and confiscated, and the substance of the complaint shall be stated in the order. Such order to show cause shall have a date fixed therein for the hearing thereof, which date shall not be less than 5 days from the date of its issuance, and shall be served by delivering a true copy thereof to said owner at any time not less than 1 full day before the date of hearing, or if the owner is not known or cannot be located, said order shall be served by posting a true copy thereof in 1 or more public places in the county in which such seizure was made, or publishing a true copy thereof in any newspaper published in such county, or by sending a true copy thereof by registered mail to the last known address of said owner. Such posting or publication of said order shall be had at least 5 days before the date of hearing fixed in said order. Upon the hearing, if the justice shall determine that any of the property mentioned in the complaint was caught, killed, possessed, shipped, or used contrary to law, either by the owner or any person lawfully in possession of the same under an agreement with the owner, an order may be made confiscating by and forfeiting to the state such property and directing its sale

or other disposal by the director of conservation, the proceeds from any such sale to be paid into the state treasury and credited to the game protection fund: Provided, That in case the owner or person lawfully in possession of such goods or things seized signs a property release, forfeiting said property to the state of Michigan, no court proceedings shall be necessary. If upon such hearing, the justice should determine that said property was not caught, killed, possessed, shipped, or used contrary to law, he shall make an order directing the director of conservation to forthwith return said property to its owner.

HISTORY: CL 1929, 6146;—Am. 1937, p. 269, Act 174, Eff. Oct. 29;—Am. 1943, p. 173, Act 135, Eff. July 30;—CL 1948, 300.13.

300.14 Property seized over \$300; condemnation and confiscation proceedings in circuit court, determination; property release; carrier, non-liability.

Sec. 4. If the property seized shall be of greater value than 300 dollars, the officer seizing the same shall file a verified complaint in the circuit court for the county having jurisdiction of the offense, setting forth the kinds of property seized, the time and place of seizure and the reasons for such seizure, with a prayer for its condemnation and confiscation. Upon the filing of said petition, there shall be issued a citation returnable on the first day of the next term, unless the court shall be then in session, requiring the owner, if any, to show cause why the property should not be confiscated, which citation shall be served on the owner of the property as soon as possible, and at least 10 days before such petition is to be heard: Provided, The court, for cause shown, may hear such petition on shorter notice. If the owner of the property is not known or cannot be found, notice may be served by posting a copy of the citation in 5 conspicuous places in the township and publishing the same in a newspaper published in the county where such case is pending, at least 10 days before the date set for the hearing, or in such manner as the circuit court may direct. Upon the hearing of said petition, if the court shall determine that any of the property mentioned in the petition was caught, killed, possessed, shipped or used contrary to law, either by the owner or by any person lawfully in possession of the same under an agreement with the owner, an order shall be made condemning and confiscating said property and directing its sale or other disposal by the director of conservation, the proceeds from which shall be paid into the state treasury and credited to the game protection fund: Provided, That in case the owner or person lawfully in possession of such goods or things seized signs a property release, no court proceedings shall be necessary: Provided, That common carriers shall not be held responsible in damages or otherwise to any owner, shipper or consignee by reason of a loss or seizure as herein provided.

HISTORY: CL 1929, 6147;—CL 1948, 300.14.

300.15 Review or certiorari; procedure; bond.

Sec. 5. The proceedings for the condemnation and confiscation of any property under the provisions of this act shall be subject to review or certiorari as herein provided. A writ of certiorari may be issued within 10 days after final judgment and determination in any condemnation proceeding for the purpose of reviewing any error in such proceeding. Notice of such certiorari shall be served upon the director of conservation within 10 days after the date of issue, in the same manner as notice is required to be given of certiorari for reviewing judgments rendered by a justice of the peace, and the writ shall be issued and served and bond given and approved in the same manner as is required for reviewing judgments by justices of the peace.

HISTORY: CL 1929, 6148;—CL 1948, 300.15.

300.16 Conservation officers declared peace officers; service of criminal process; arrest without warrant, procedure.

Sec. 6. Said director of conservation and any special assistants or conservation officers appointed by him are hereby declared to be peace officers and are vested with all the powers, privileges, prerogatives and immunities conferred upon peace officers by the general laws of this state and shall have the same power to serve criminal process as sheriffs, and shall have the same right as sheriffs to require aid in executing such process, and shall be entitled to the same fees as sheriffs in performing any of said duties. Any of said officers shall have the power to arrest, without warrant, any person or persons violating any of the aforesaid laws mentioned in section 1 of this act in the presence of any such officer. Any person or persons so arrested shall be brought forthwith before a justice of the peace, or other magistrate having jurisdiction, who shall prepare, without delay, to hear, try, and determine the matter and the same proceedings shall be had as near as may be as in other criminal matters triable before a justice of the peace, or other magistrate having jurisdiction. Such arrests may be made on Sunday and in such case the person so arrested shall be taken before a justice of the peace, or other magistrate having jurisdiction, and proceeded against as soon as may be, on a week day following the arrest.

HISTORY: CL 1929, 6149;—CL 1948, 300.16;—Am. 1950, Ex. Ses., p. 40, Act 24, Imd. Eff. Jun. 7.

300.17 Resisting or obstructing officers; penalty.

Sec. 7. Any person who shall knowingly or wilfully obstruct, resist or oppose the director of conservation or any officer appointed by him or any other peace officer in the performance of the duties and the execution of the powers prescribed herein or in any statute or law, or in making an arrest or search as provided herein, or in serving or attempting to serve or execute any process or warrant issued by lawful authority, or who shall obstruct, resist, oppose, assault, beat or wound the said director of conservation or any officer appointed by him or any other peace officer while lawfully making an arrest or search, or while lawfully serving or attempting to serve or execute any such process or warrant, or while lawfully executing or attempting to execute, or lawfully performing or attempting to perform any of the powers and duties provided for in the aforesaid statutes or laws, shall be guilty of a misdemeanor and shall be punished as provided for in section 479 of Act No. 328 of the Public Acts of 1931, as amended, being section 750.479 of the Compiled Laws of 1948. In making an arrest or search as provided herein, or in serving or attempting to serve or execute any process or warrant, the director of conservation or any officer appointed by him or any other peace officer shall identify himself by uniform, badge, insignia or official credentials.

HISTORY: CL 1929, 6150;—CL 1948, 300.17;—Am. 1950, Ex. Ses., p. 40, Act 24, Imd. Eff. Jun. 7.

CITED IN OTHER SECTIONS: The above section is cited in § 312.10.

300.18 Judgment fee; credit.

Sec. 8. In all prosecutions for violation of the law for the protection of game and fish, there shall be taxed by the justice, as costs, the sum of 3 dollars, to be known as the judgment fee, and when collected the same shall be paid into the state treasury and placed to the credit of the game protection fund.

HISTORY: CL 1929, 6151;—CL 1948, 300.18.

Sec. 9. (This was a repeal section.)

HISTORY: CL 1929, 6152;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 101, 1925.

300.21-300.26 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections declared state's proprietorship in wild life, imposed limitations on privilege of hunting, fishing and trapping.

300.31, 300.32 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections authorized secretary of state and state game, fish and forestry warden to revise and compile laws protecting fish and wild animals and birds.

Act 63, 1885, p. 62; Eff. Sep. 19.

AN ACT to establish a state board of fish commissioners, and to repeal Act No. 124, Session Laws of 1873, Act No. 71, Session Laws of 1875, and Act No. 3, Session Laws of 1882.

The People of the State of Michigan enact:

300.51 Board of fish commissioners; corporate powers.

Sec. 1. That it shall be the duty of the governor, by and with the advice and consent of the senate, to appoint 3 persons, residents of this state, who shall constitute a board of fish commissioners. The persons so appointed shall hold office each for the term of 6 years, the terms of office of the several persons now composing said board, to continue for the time for which they were appointed, or until their respective successors are appointed, confirmed, and qualified. The board of fish commissioners, as at present organized and constituted by law, and their successors in office appointed hereunder, or under any act of the legislature of this state which may hereafter become a law shall constitute a body corporate by and with the name and title of the "state board of fish commissioners," with the right, as such corporation of contracting, suing, and being sued, of making and using a common seal, taking conveyances and leases of lands and tenements, and holding and disposing of the same, in the said corporate name, and of owning, using, and disposing of personal property, for the uses of said board in carrying out the objects of their organization and appointment, as the same are herein, or may by law hereafter be declared. Any vacancies occurring in the membership of said board, to be filled by the governor; appointments to fill vacancies to be submitted to the senate for confirmation at its next regular session, if extending beyond a session of the legislature.

HISTORY: How. 2184a;—CL 1897, 5833;—CL 1915, 7573;—CL 1929, 6193;—CL 1948, 300.51.

BOARD OF FISH COMMISSIONERS: Abolished; powers and duties transferred to conservation department, see Compilers' § 299.2.

INLAND WATERS: Protection of fish in, see Act 165 of 1929, being Compilers' § 301.1 et seq.

300.52 Board of fish commissioners; fish-breeding duties; property tax exempt; superintendent of fisheries, duties, salary; assistants.

Sec. 2. It shall be the duty of the said board of commissioners to select suitable locations within this state whereon to establish and maintain fish-breeding establishments for the propagation and cultivation of whitefish, and such other kinds of food fish as they may direct, for the purpose of stocking with such fish and replenishing the supply of the same in such of the inland and bordering waters of this state as they may know, or have reason to believe are suitable for the kinds of fish they may select. All property owned or leased by the fish commission shall be exempt from taxation so long as held and used for state purposes under this act. Said board of commissioners shall employ a competent person as superintendent of fisheries, whose duty it shall be to devote his entire time to gathering ova, hatching and planting, or distributing fish, and superintending generally the practical operations of the work, under the direction of the board of commissioners at a salary of not to exceed 2,500 dollars per annum. They may also employ such other assistants as the exigencies of the work may require. All persons employed by the board shall be governed by the regulations it may adopt for that purpose.

HISTORY: How. 2148b;—CL 1897, 5834;—Am. 1903, p. 203, Act 157, Imd. Eff. May 27;—Am. 1913, p. 260, Act 148, Eff. Aug. 14;—CL 1915, 7574;—CL 1929, 6194;—CL 1948, 300.52.

300.53 Board of fish commissioners; accounts, records, biennial report.

Sec. 3. Said board of commissioners shall cause to be kept proper books of accounts and records of their own transactions, and also of all operations and experiments in the

discharge of the duties aforesaid, and shall report biennially to the governor upon their operations and the practical results and success of the same.

HISTORY: How. 2148c;—CL 1897, 5835;—CL 1915, 7575;—CL 1929, 6195;—CL 1948, 300.53.

300.54 Board of fish commissioners; powers, duties, expenses.

Sec. 4. The said board may take, or cause to be taken, any fish in any manner or at any time, for the purposes connected with the fish culture or with scientific observation. And they shall further discharge any duties required of them by law relating to the fishing interests, or the enforcement of laws relating to the protection of fish and fisheries in this state. Said board may receive from the state treasurer, out of the appropriations made therefor, all the expenses actually disbursed by them while in the discharge of the duties required of them by law.

HISTORY: How. 2148d;—CL 1897, 5836;—CL 1915, 7576;—CL 1929, 6196;—CL 1948, 300.54.

300.55 Appropriation; expenditure; unexpended balance.

Sec. 5. Appropriations for the necessary expenses of the work of said board shall be paid to them by the state treasurer on the warrants of the auditor general, from time to time, as their vouchers for the same are exhibited and approved. The unexpended balance of any appropriation at the end of the year for which the same is made shall be carried forward to the credit of the board, provided the board certify to the auditor general and state treasurer that the same is needed for the purchase of additional grounds, making permanent improvements upon any of its property, or for apparatus or labor in extending the work.

HISTORY: How. 2148e;—CL 1897, 5837;—CL 1915, 7577;—CL 1929, 6197;—CL 1948, 300.55.

300.56 Joint action with other states.

Sec. 6. In case appropriations by other states contiguous to the waters of Michigan shall be made, and a disposition for joint action with the state of Michigan be expressed, the said board of commissioners, with the approval of the governor of the state, may arrange for and carry into effect joint action for replenishing the supply of food fish in such contiguous waters.

HISTORY: How. 2148f;—CL 1897, 5838;—CL 1915, 7578;—CL 1929, 6198;—CL 1948, 300.56.

Sec. 7. (This was a repeal section.)

HISTORY: How. 2148g;—CL 1915, 7579;—CL 1929, 6199;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 194, 1873; Act 71, 1875; Act 3, 1882, Ex. Ses.

Act 158, 1949, p. 167; Imd. Eff. May 24.

AN ACT to provide for making reciprocal agreements with adjoining states to cover the taking of fish from inland waters and the Great Lakes that lie on the common boundary; and to provide a penalty for the violation of any such reciprocal agreements. Am. 1968, p. 92, Act 52, Imd. Eff. May 28.

The People of the State of Michigan enact:

300.101 Reciprocal agreements with adjoining states to cover taking of fish.

Sec. 1. In order to provide uniform fishing regulations in any river or any of the Great Lakes forming a common boundary with an adjoining state and any inland lake or lakes bisected by such boundary the conservation commission may enter into a reciprocal agreement with the authorized representatives of any adjoining state to establish the minimum size of fish that may be taken, the number that may be taken in any one day, the seasons when fish may be taken and the methods by which they may be taken from said waters.

Any such agreement shall clearly set forth the waters to be included and the period during which it shall be in effect.

HISTORY: New 1949, p. 167, Act 158, Imd. Eff. May 24;—Am. 1968, p. 92, Act 52, Imd. Eff. May 28.

300.102 Fishing; reciprocal agreements; publication.

Sec. 2. Any order promulgated under authority of this act shall supersede all other laws and regulations governing fishing in such waters that in any way conflict. The regulations contained in any such order shall be included in the annual digest of fishing laws, rules and regulations published and distributed annually by the department of conservation.

HISTORY: New 1949, p. 168, Act 158, Imd. Eff. May 24;—Am. 1962, p. 40, Act 47, Eff. Mar. 28, 1963.

300.103 Violation of act; misdemeanor, penalty.

Sec. 3. Any person who shall violate any regulation made under such reciprocal agreement shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not more than \$100.00 and costs of prosecution, or by imprisonment for a term of not more than 90 days in the county jail, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1949, p. 168, Act 158, Imd. Eff. May 24.

Act 111, 1951, p. 141; Imd. Eff. May 31.

AN ACT to provide authorization for the state to cooperate with the federal government in the selection, development, and maintenance of fish restoration and management projects and areas, to restrict the use of fishing license fees as provided in the act of congress, entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950, (Public Law 681, 81st Congress), and to assent to said act.

The People of the State of Michigan enact:

300.151 Fish restoration; cooperation with federal government; funds accruing from license fees, use.

Sec. 1. The conservation commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of fish restoration, management, and research projects and areas in cooperation with the federal government as defined in the act of congress, entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950, (Public Law 681, 81st Congress), and with rules and regulations promulgated by the secretary of the interior thereunder; and in compliance with said act no funds accruing to the state of Michigan from license fees paid by fishermen shall be used for any purpose other than fish and game activities under the administration of the conservation department.

HISTORY: New 1951, p. 141, Act 111, Imd. Eff. May 31.

Act 201, 1953, p. 281; Eff. Oct. 2.

AN ACT restricting suits by persons coming upon the property of another for the purpose of hunting, fishing, trapping, camping, hiking, sightseeing or other similar outdoor recreational use; and to declare the limited liability of owners of property within this state. Am. 1964, p. 270, Act 199, Imd. Eff. May 22.

The People of the State of Michigan enact:

300.201 Liabilities of landowners for injuries to guests; gross negligence, wilful and wanton misconduct.

Sec. 1. No cause of action shall arise for injuries to any person who is on the lands of another without paying to such other person a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing or other similar outdoor recreational use, with or without permission, against the owner, tenant or lessee of said premises unless the injuries were caused by the gross negligence or wilful and wanton misconduct of the owner, tenant or lessee.

HISTORY: New 1953, p. 281, Act 201, Eff. Oct. 2;—Am. 1964, p. 270, Act 199, Imd. Eff. May 22.

CHAPTERS 301-306. CONSERVATION—FISHING, SPORTSMEN LAW

Inland Fishing Law
Act 165 of 1929

CHAPTER		SECTIONS
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Act 165, 1929, p. 438; Eff. Aug. 28.

AN ACT to protect fish in all the waters over which this state has jurisdiction; to regulate the manner of taking, possession, transportation, size and sale of fish; to regulate the taking and sale of minnows, wigglers, sturgeon, and noxious fish in all waters over which this state has jurisdiction; to provide for the issuing of licenses and permits to take fish from all waters over which this state has jurisdiction and for the disposition of the funds derived therefrom; to define what shall be classed as inland waters; to regulate the manner and method of taking turtles; to provide penalties for the violation of the provisions of this act, and to repeal certain acts relating thereto. Am. 1931, p. 562, Act 326, Imd. Eff. Jun. 16;—Am. 1937, p. 818, Act 344, Eff. Jan. 1, 1938;—Am. 1941, p. 620, Act 356, Eff. Jan. 10, 1942;—Am. 1947, p. 549, Act 325, Eff. Jan. 1, 1945;—Am. 1951, p. 414, Act 259, Eff. Sep. 28.

The People of the State of Michigan enact:

CHAPTER I.—DEFINITIONS.

301.1	Michigan sportsmen fishing law; short title.	301.6	Game fish; definition.
301.2	Fish; property of state.	301.7	Non-game fish; definition.
301.3	Inland waters; definition; great lakes and connecting waters excepted.	301.8	Trout stream; definition; restricted streams.
301.4	Person; definition.	301.9	Non-trout streams; definition.
301.5	Open season; definition.	301.10	Trout lakes; definition.
		301.11	Repealed.

301.1 Michigan sportsmen fishing law; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan Sportsmen Fishing Law."

HISTORY: CL 1929, 6365;—Am. 1939, p. 899, Act 337, Eff. Jan. 1, 1940;—CL 1948, 301.1.

COMPILER'S NOTE: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

FORMER ACTS: See acts listed under Sec. 1, Ch. 6.

ST. JOSEPH RIVER: See Compiler's § 307.161.

CITED IN OTHER SECTIONS: Sections 301.1 to 306.3 are cited in §§ 24.207 and 800.8511.

301.2 Fish; property of state.

Sec. 2. All fish found in any of the inland waters of this state are hereby declared to be the property of the state of Michigan and may only be taken at such times and in such manner as hereinafter provided.

HISTORY: CL 1929, 6368;—CL 1948, 301.2.

301.3 Inland waters; definition; great lakes and connecting waters excepted.

Sec. 3. For the purpose of this act the inland waters of this state shall be construed to be all the waters within the jurisdiction of the state of Michigan except Saginaw river, lakes Michigan, Superior, Huron and Erie and the bays and the connecting waters which are hereby defined as follows: The connecting waters between lake Superior and lake Huron shall be defined as all that part of the Straits of St. Mary in this state extending from a line drawn from Birch Point Range front light to the most westerly point of Round Island, thence following the shore of Round Island to the most northerly point thereof, thence from the most northerly point of said Round Island to Point Aux Pins light, Ontario, to a line drawn due east and west from the most southerly point of Little Lime Island; and the connecting waters of lake Huron and lake Erie shall be defined as all the St. Clair river and all of lake St. Clair and all of the Detroit river extending from Fort Gratiot light in lake Huron to a point in the lower Detroit river where the center line of Oak street, city of Wyandotte, Wayne county, Michigan, extended due east, would intersect the international boundary line.

HISTORY: CL 1929, 6367;—Am. 1933, p. 233, Act 161, Imd. Eff. June 22;—CL 1948, 301.3;—Am. 1955, p. 435, Act 256, Eff. Oct. 14.

301.4 Person; definition.

Sec. 4. Whenever used in this act unless a contrary intention is evident from the context, the word "person" shall include individuals, co-partnerships, associations, and corporations; the singular shall include the plural, and the masculine, the feminine and neuter.

HISTORY: CL 1929, 6368;—CL 1948, 301.4.

301.5 Open season; definition.

Sec. 5. Open season. The term "open season" shall mean the time during which fish may be legally taken or killed, and shall include both the first and last day of the season or period designated by this act.

HISTORY: CL 1929, 6369;—CL 1948, 301.5.

301.6 Game fish; definition.

Sec. 6. The term "game fish" as used in this act shall be deemed to include:

- (a) Mackinaw or lake trout, (*Christivomer namaycush*);
- (b) Brook or speckled trout, (*Salvelinus fontinalis*);
- (c) Brown and lock leven trout, (*Salmo trutta*);
- (d) Rainbow and steelhead trout, (*Salmo gairdnerii*);
- (e) Landlocked salmon (*Salmo salar sebago*);
- (f) Grayling, (*Thymallus tricolor* and *thymallus montanus*);
- (g) Largemouth black bass, (*Huro salmoides*);
- (h) Smallmouth black bass, (*Micropterus dolomieu*);
- (i) Bluegill, (*Lepomis macrochirus*);
- (j) Pumpkinseed or common sunfish, (*Lepomis gibbosus*);
- (k) Black crappie and white crappie, also known as calico bass and strawberry bass, (*Pomoxis sparoides* and *pomoxis annularis*);
- (l) Yellow perch, commonly called perch, (*Perca flavescens*);
- (m) Pike-perch, commonly called walleyed pike, (*Stizostedion vitreum*);
- (n) Northern pike, also known as grass pike or pickerel, (*Esox lucius*);
- (o) Muskellunge, (*Esox masquinongy*);
- (p) Sturgeon.

HISTORY: CL 1929, 6370;—Am. 1931, p. 562, Act 326, Imd. Eff. June 16;—Am. 1933, p. 233, Act 161, Imd. Eff. June 22;—Am. 1937, p. 819, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 869, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 820, Act 356, Eff. Jan. 10, 1942;—CL 1948, 301.6;—Am. 1949, p. 300, Act 243, Eff. Sep. 23;—Am. 1958, p. 15, Act 16, Eff. Sep. 13.

301.7 Non-game fish; definition.

Sec. 7. Non-game fish. The term "non-game fish" as used in this act shall be deemed to include all kinds of fish, except game fish.

HISTORY: CL 1929, 6371;—CL 1948, 301.7.

301.8 Trout stream; definition; restricted streams.

Sec. 8. A trout stream within the terms of this act shall be construed to mean any stream or portion of any stream which contains a significant population of any species of trout or salmon as determined by the director of conservation. The director of conservation may designate not more than 100 miles of trout streams wherein only such lures or baits as he prescribes may be used in fishing and may prescribe the size and number of fish which may be taken therefrom.

HISTORY: CL 1929, 6372;—CL 1948, 301.8;—Am. 1964, p. 143, Act 151, Eff. Aug. 28;—Am. 1967, p. 35, Act 26, Eff. Nov. 2.

301.9 Non-trout streams; definition.

Sec. 9. Non-trout streams. The term "non-trout streams" under the provisions of this act shall be deemed to be all streams or portions of streams other than trout streams as defined herein.

HISTORY: CL 1929, 6373;—CL 1948, 301.9.

301.10 Trout lakes; definition.

Sec. 10. A trout lake under the terms of this act shall be deemed to be a lake in which brook trout, brown trout, or rainbow trout are the predominating species of game fish found therein, and commonly known as trout lakes, such lakes to be designated by the conservation commission: Provided, That the conservation commission may designate certain trout lakes in which certain species of fish are not desired, in which lakes it shall be unlawful to use live fish of any kind for bait.

HISTORY: CL 1929, 6374;—Am. 1941, p. 620, Act 356, Eff. Jan. 10, 1942;—CL 1948, 301.10;—Am. 1949, p. 300, Act 243, Eff. Sep. 23.

301.11 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section defined "pike lakes."

CHAPTER II.—FISHING DEVICES.

302.1	Fishing devices; lawfulness. Hook and line; limitation; smelt fishing. Spear and bow and arrow; prohibited waters; exceptions; Lake Huron. Handnets for smelt, suckers, mullet, carp, dogfish and garpike. Dipnets; use. Setover nets; use; suckers. Trammel nets; use; limit of catch. Turtle traps; use; markers; license. Spears and bow and arrow; carp and suckers in certain waters. Hoop nets for burbot (lawyers).	302.2a	Lamprey control weirs; prohibited waters for fishing.
302.1b	Gill net, cisco.	302.2b	Smelt nets; length, mesh, license fee, marking.
302.2	Seines or nets; unlawful use near dams; definition.	302.3	Dam or barrier; unlawful destruction.
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		302.5a	Fishing in propagating beds prohibited; exception.
		302.5b	Fishing to remove eggs prohibited.
		302.6	Fishing devices; penalties.

302.1 Fishing devices; lawfulness.

Sec. 1. Except as otherwise provided by law no person shall take, catch or kill or attempt to take, catch or kill any fish of any kind in any of the waters of this state with any kind of a spear or grab hook, snag hook, gaff hook, or by the use of jack or artificial light of any kind, or by the use of set or night lines, or any kind of a net, or any kind of firearms, or any explosive substance or combination of substances which have a tendency to kill or stupefy fish, and frogs, or any other device of whatsoever name or description other than—

Hook and line; limitation; smelt fishing.

(a) A single line, or a single rod and line while held in the hand or under immediate control, and with a hook or hooks attached, baited with a natural or artificial bait while being used for still fishing, ice fishing, casting, or trolling for fish, which shall be by means of the fish taking the bait or hook in the mouth. Any person may use not to exceed 2 single lines, or 2 single rods and lines, or a single line and a single rod and line, to which may be attached not to exceed a total of 4 hooks on all lines. For the purpose of this act a hook shall be deemed to be any single, double or treble pointed hook. All hooks, single, double or treble pointed, attached to a manufactured artificial bait shall be counted as 1 hook. The director of conservation may designate waters wherein treble hooks and artificial baits and lures having more than 1 single pointed hook may not be used during such periods as he may designate. In recognized smelt waters any number of hooks, attached to a single line, may be used for the taking of smelt.

Spear and bow and arrow; prohibited waters; exceptions; Lake Huron.

(b) Spear and bow and arrow may be used from April 1 to May 31 in the Lower Peninsula and during the month of May in the Upper Peninsula for taking carp, suckers, redhorse, mullet, dogfish and garpike in the rivers and streams of the state. The director of conservation may designate the counties, streams or portions of streams in which jack or other artificial lights may be used in taking fish with spears and bow and arrow only. It shall be unlawful to use or possess any kind of a spear or bow and arrow in, upon or along any trout stream in this state, excepting in such streams, or portions of streams which may be designated by the director of conservation in which carp, suckers, redhorse, mullet, dogfish and garpike may be taken. It shall be lawful to spear carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, whitefish, ciscoes, pilot fish or Menominee whitefish, sturgeon, catfish, bullheads, dogfish and garpike through the ice during the months of January and February in the inland waters of this state not otherwise closed to spearing. The director of con-

servation may designate certain inland waters in which spears and bow and arrow may be used, with or without artificial light, for the taking of carp, dogfish and garpike during the periods from May 1 to August 15 in each year. The director of conservation may designate certain trout lakes, trout streams or portions of trout streams in which spears may be used through the ice. The director of conservation may designate certain waters in which rubber or spring propelled spears may be used for the taking of carp, dogfish, garpike and suckers, but only when the person using the spear is swimming or submerged in the water and has the spear under control by means of an attached line not exceeding 20 feet in length. It shall be lawful to use spear and bow and arrow for the taking of carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or Menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish and garpike through the ice with or without jack or other artificial lights in the connecting waters of the Great Lakes, except that jack or other artificial lights may not be used in any of the connecting waters between lake Erie and lake Huron. In the connecting waters between lakes Huron and Erie it shall be lawful to take carp, dogfish and garpike with spears and bow and arrow at any time without the use of artificial light. All species of fish except largemouth and smallmouth black bass, crappies, bluegills, sunfish, brook or speckled trout, rainbow and steelhead trout, brown and lochleven trout, muskellunge or sturgeon may be taken with spears and bow and arrow with or without the use of jack or other artificial lights at any time from the waters of the Great Lakes not otherwise closed to spearing except that no species of commercial fish shall be so taken during any closed season established under the laws governing commercial fishing. No fishing, other than with seines for the taking of carp, shall be permitted in the waters of the lake Huron between Pointe-Aux Barques light and Harbor Beach within 1 mile of the shore line except with a hook and line.

Handnets for smelt, suckers, mullet, carp, dogfish and garpike.

(c) Hand nets, which may be used from March 1 to May 31, for taking smelt, suckers, mullet, carp, dogfish and garpike. The director of conservation may designate the waters where such fish may be taken, and the time within said dates when such fish may be taken. For the purpose of this act a hand net is defined as a mesh bag of webbing or wire, suspended from a circular, oval or rectangular frame attached to a handle.

Dip nets; use.

(d) Dip nets without sides or walls and not exceeding 9 feet square may be used in the nontrout rivers and streams and in such other rivers and streams, or portions of such rivers and streams as may be designated by the director of conservation from April 1 to May 31 in the Lower Peninsula and during the month of May in the Upper Peninsula for the purpose of taking suckers, mullet, smelt, carp, dogfish and garpike. For the purpose of this act dip net means a square net which shall be constructed from a piece of webbing of relatively heavy twine, hung on heavy cord or a frame so as to be without sides or walls and which is suspended from the corners and attached in such a manner that when the net is lifted no part shall be more than 4 feet below the plane formed by the imaginary lines connecting the corners from which the net is suspended. As used in fishing it shall be lowered and raised vertically as nearly as possible.

Setover nets; use; suckers.

(e) Setover nets not to exceed 5 feet in diameter may be used from March 15 to May 15 for the purpose of taking suckers from such inland lakes as may be designated by the director of conservation.

Trammel nets; use; limit of catch.

(f) Trammel nets not to exceed 12 feet in length may be used from April 1 to May 31 for taking carp, suckers, redhorse, mullet, dogfish and other nongame fish in the Tittabawassee river and its tributaries down from the dam at Sanford, down from the dam at St. Louis and down from the dam at Mt. Pleasant, and the Shiawassee river and its tributaries down from the dam at Chesaning in Saginaw county. No person shall take more than 100 such fish in any one day.

Turtle traps; use; markers; license.

(g) Turtle traps of any common design may be used for taking turtles in any of the waters over which the state exercises jurisdiction where they do not interfere with or take fish. The owner must attach a marker to each trap bearing his name and address, and must also first inform the conservation officer of the county in which the traps are to be used. Persons using traps for taking turtles must have a fishing license.

Spears and bow and arrow; carp and suckers in certain waters.

(h) Spears and bow and arrow may be used during the daytime and with lights at night from May 15 to June 24 for the taking of carp and suckers in the Tittabawassee river and its tributaries, and in the Tobacco river and its tributaries, not heretofore designated by the department of conservation as a trout stream in Gladwin and Midland counties.

Hoop nets for burbot (lawyers).

(i) Hoop nets may be used between the dates of December 15 and February 28 in such rivers and streams or portions thereof as may be designated by the director of conservation for the taking of burbot (lawyers).

HISTORY: CL 1929, 6376;—Am. 1931, p. 562, Act 386, Imd. Eff. June 16;—Am. 1933, p. 234, Act 161, Imd. Eff. June 22;—Am. 1937, p. 919, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 870, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 620, Act 356, Eff. Jan. 10, 1942;—Am. 1943, p. 70, Act 64, Imd. Eff. March 31;—Am. 1945, p. 421, Act 270, Eff. Jan. 1, 1946;—Am. 1947, p. 236, Act 169, Eff. Oct. 11;—CL 1948, 302.1;—Am. 1949, p. 300, Act 243, Eff. Sep. 23;—Am. 1951, p. 414, Act 259, Eff. Sep. 28;—Am. 1954, p. 497, Act 201, Eff. Jan. 1, 1955;—Am. 1955, p. 435, Act 256, Eff. Oct. 14;—Am. 1958, p. 10, Act 10, Eff. Sep. 13;—Am. 1959, p. 227, Act 164, Eff. Mar. 19, 1960;—Am. 1961, p. 372, Act 220, Eff. Sep. 5;—Am. 1967, p. 104, Act 85, Imd. Eff. Jun. 21.

302.1b Gill net, cisco.

Sec. 1b. Any person holding a resident fishing license may take cisco with 1 gill net, not exceeding 165 feet in length and having meshes not less than 2 inches nor more than 4 inches extension measure, between November 15 and December 10 of each year in those inland lakes and under such rules as prescribed by the director of natural resources.

HISTORY: Add. 1969, p. 212, Act 117, Imd. Eff. Jul. 29.

302.2 Seines or nets; unlawful use near dams; definition.

Sec. 2. It shall be unlawful for any person to fish with any kind of seines or nets within a radius of 100 feet of or from any dam or to frighten or hinder fish from the free passage up or down a fish chute or ladder, or to place any obstruction or device in or across any race, stream or river in this state in such a manner as to obstruct the free passage of fish up and down the same except as otherwise provided by law. For the purpose of this act a dam shall be defined as any artificial barrier or obstruction placed in any river or stream in this state which changes the natural elevation of the water level more than 2 feet.

HISTORY: CL 1929, 6377;—Am. 1937, p. 830, Act 344, Eff. Jan. 1, 1938;—CL 1948, 302.2.

302.2a Lamprey control weirs; prohibited waters for fishing.

Sec. 2a. It shall be unlawful to fish in any manner within a distance of 100 feet up or down stream from such lamprey control weirs installed by the department of conservation or the United States fish and wildlife service as may be designated by the director of conservation.

HISTORY: Add. 1955, p. 437, Act 250, Eff. Oct. 14.

302.2b Smelt nets; length, mesh, license fee, marking.

Sec. 2b. It shall be lawful to use a net not more than 50 feet in length and having meshes not less than 1 ¼ inches nor more than 1 ¾ inches, for the purpose of taking smelt in waters along the shores of the great lakes and connecting waters thereof, as shall be designated by the director of conservation. The annual license fee for each such net shall be \$3.00. When set there shall be affixed to both ends of the net, a buoy or staff marker which shall have affixed thereto the name, address and license number of the owner of the net.

HISTORY: Add. 1962, p. 126, Act 132, Eff. Mar. 28, 1963.

302.3 Dam or barrier; unlawful destruction.

Sec. 3. No person shall destroy or attempt to destroy, or interfere with in any manner, any artificial dam or barrier placed in trout streams under the direction of the director of conservation.

HISTORY: CL 1929, 6378;—CL 1948, 302.3.

302.4 Gaff; landing nets; scope of act, limitations.

Sec. 4. Nothing in this chapter shall be construed to prohibit the use of a gaff except on or along trout streams or landing net to assist in landing fish already caught by a lawful device, nor to apply to any person engaged in the business of propagating fish under authority of Act No. 170 of the Public Acts of 1905, being sections 308.101 to 308.106 of the Compiled Laws of 1948, or to fish caught by a device for which a lawful permit or license is obtained from the director of conservation under the provisions of this act.

HISTORY: CL 1929, 6379;—Am. 1941, p. 622, Act 356, Eff. Jan. 10, 1942;—CL 1948, 302.4;—Am. 1955, p. 437, Act 256, Eff. Oct. 14;—Am. 1967, p. 106, Act 85, Imd. Eff. Jun. 21.

302.5 Unlawful possession of fishing devices; confiscation; evidence; certain controls not affected.

Sec. 5. It shall be unlawful for any person to have in his possession any net, set lines, jack or other artificial light of any kind, dynamite, giant powder or other explosive substance, or combination of substances, hook and line or any other contrivance or device whatsoever, to be used for the purpose of taking fish in violation of the provisions of this or any other act. Any such property, contrivance, or device, so found in possession of any person, or found in any boat, boathouse, or any other place on any of the waters of this state or along the shores thereof, shall be confiscated and disposed of in the manner provided by law. It shall be unlawful at any time for any person to have a gaff in his possession on or along any trout stream in this state, or to use except from June 1 to Labor Day, inclusive, on any trout stream a single hook of any kind that is more than 3/8 inches between the point of the hook and the shank. The provisions of this section shall not be construed to prohibit the use or possession of minnow seines, minnow traps or dip nets as provided in section 4 of chapter 4 of this act, nor to the use and possession of seines, nets, spears, or artificial lights for the use of which a lawful permit or license has been issued by the director of conservation. It shall not be unlawful for any person to have in his possession any artificial light of any kind to be used for the purpose of taking white bass. Commercial fishermen who have licenses to take fish in the great lakes may have in their possession nets or hook lines for that purpose only. In prosecutions for the violations of the provisions hereof, and in proceedings for the confiscation of the property described in this section, the possession of any such property, contrivance or device, or, when not found in possession of any person, the presence of any such property in a boat, boathouse, or any other place on the waters of this state, or along the shores thereof, shall be deemed prima facie evidence that such property is owned, possessed or used for the purpose of violating the provisions of this act. The possession of any such property, contrivance or device on such

waters of this state as shall be closed to all fishing during the closed season on or along such waters shall be prima facie evidence that such property is owned, possessed or used for the purpose of violating the provisions of this act. The provisions of this or any other act shall not apply to the department of conservation in its program in fisheries management or in the control of aquatic vegetation by individuals under permit issued by the director of conservation when, in the opinion of said director, such control is not inimical to the public interest.

HISTORY: CL 1929, 6390;—Am. 1931, p. 563, Act 326, Imd. Eff. June 16;—Am. 1937, p. 820, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 571, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 622, Act 356, Eff. Jan. 10, 1942;—Am. 1947, p. 549, Act 325, Eff. Jan. 1, 1948;—CL 1948, 302.5;—Am. 1949, p. 302, Act 243, Eff. Sep. 23;—Am. 1959, p. 229, Act 164, Eff. Mar. 19, 1960.

302.5a Fishing in propagating beds prohibited; exception.

Sec. 5a. It shall be unlawful for any person to catch any fish or attempt to catch any fish in any manner in any lake, stream or pond, or such portion of any lake, stream or pond which is used by the state or federal government for the propagation of fish, except in such portion or portions of said lakes, streams or ponds as may be designated by the director of conservation as open to fishing.

HISTORY: Add. 1933, p. 235, Act 161, Imd. Eff. June 22;—Am. 1947, p. 550, Act 325, Eff. Jan. 1, 1948;—CL 1948, 302.5a.

302.5b Fishing to remove eggs prohibited.

Sec. 5b. It is unlawful for any person to catch any game or nongame fish in any manner in any lake, stream, pond or in the Great Lakes for the purpose of removing its eggs.

HISTORY: Add. 1968, p. 93, Act 53, Imd. Eff. May 28.

302.6 Fishing devices; penalties.

Sec. 6. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 5 dollars nor more than 100 dollars and costs of prosecution, or imprisonment in the county jail not to exceed 90 days, or both such fine and imprisonment in the discretion of the court: Provided, That any person using dynamite, nitroglycerin, lime, electricity or other explosive substance, or poison or combination of explosive substances or poisons for the purpose of taking or killing fish or using nets for taking brook, brown or rainbow trout upon conviction thereof shall be punished by a fine of not less than 100 dollars nor more than 300 dollars and costs of prosecution, or imprisonment in the county jail for not less than 90 days, or more than 120 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6381;—Am. 1933, p. 235, Act 161, Imd. Eff. June 22;—Am. 1935, p. 240, Act 156, Imd. Eff. June 4;—CL 1948, 302.6.

CHAPTER III.—OPEN SEASONS.

303.1	Open seasons by classification of waters.	303.5	Game fish; carried as open hand baggage; transportation.
303.1a	Open seasons by species of fish.	303.6	Maximum catch or possession; unlawful purchase, sale, transportation or possession; exceptions.
303.2	Extension of closed season; spawning beds; notices; use of boat or floating device over spawning bed; opening lakes out of season.	303.7	Grayling; unlawful taking or possession.
303.3	Legal sizes of fish; mutilation.	303.8	Scope and limitation of chapter.
303.3b	Open season for fishing in Crystal lake, Benzie county.	303.9	Violation of chapter; penalty.
303.4	Maximum catch or possession; illegal possession.	303.10	Harvest of new species; adoption of rules and regulations.

303.1 Open seasons by classification of waters.

Sec. 1. Except as otherwise provided by law it shall be unlawful for any person to take, catch or kill, or attempt to take, catch or kill any species of fish in any:

(a) Trout stream or in any inland lake designated as a trout lake under the provisions of this act except from the last Saturday in April through the second Sunday in September: Provided, That the director of conservation may designate certain trout streams, or portions of such streams in which non-game fish and game fish other than trout occur, as open to hook and line fishing at all seasons of the year for taking any species of fish on which the season is not closed;

(b) Inland lakes other than lakes designated as trout lakes shall be open to fishing throughout the year for taking any species of fish on which the season is not closed. The non-trout streams, the great lakes and the connecting waters thereof shall be open to fishing throughout the year for taking any species of fish on which the season is not closed.

HISTORY: CL 1929, 6392;—Am. 1931, p. 504, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 235, Act 161, Imd. Eff. Jun. 22;—Am. 1935, p. 116, Act 75, Eff. Jan. 1, 1936;—Am. 1937, p. 823, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 872, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 623, Act 356, Eff. Jan. 10, 1942;—Am. 1945, p. 423, Act 270, Eff. Jan. 1, 1946;—Am. 1947, p. 550, Act 325, Eff. Jan. 1, 1948;—CL 1948, 303.1;—Am. 1949, p. 303, Act 243, Eff. Sep. 23;—Am. 1951, p. 416, Act 259, Eff. Sep. 28.

303.1a Open seasons by species of fish.

Sec. 1a. It shall be unlawful for any person to take, catch or kill, or attempt to take, catch or kill any fish of the species named in this section in any of the waters over which this state has jurisdiction except during the following open seasons:

(a) Largemouth and smallmouth black bass from May 30 to December 31, except in lake St. Clair and the St. Clair and Detroit rivers from the third Saturday in June to December 31.

(b) Bluegills and sunfish no closed season.

(c) Northern pike, pike-perch and muskellunge from the last Saturday in April to March 15 from the inland waters. Such fish may be taken at any time from lake Macatawa, Ottawa county; Muskegon lake and White lake, Muskegon county; Spring lake, Muskegon and Ottawa counties; Pentwater lake, Oceana county; Pere Marquette lake, Mason county; Manistee lake, Bar lake at Arcadia and Portage lake, Manistee county; Betsie lake, Benzie county; lake Charlevoix and Round lake, Charlevoix county; the Muskegon river down stream from Rogers dam, Mecosta county; and from lake Erie and the connecting waters of the Great Lakes. In lakes Superior, Michigan and Huron, except Saginaw bay, such fish may be taken from May 21 to March 31. In Saginaw bay such fish may be taken from April 11 to March 4. In that part of upper lake Huron known as Whitney bay, Pike bay, Island harbor, Les Cheneaux channels, Potagannissing bay and certain waters on the south side of Drummond island, all as described in sections 36, 36a, 38 and 38a of Act No. 84 of the Public Acts of 1929, as amended, being sections 308.36, 308.36a, 308.38 and 308.38a of the Compiled Laws of 1948, such fish may be taken from May 1 to March 31.

(d) Brook trout, brown trout, rainbow trout, lake trout, splake and landlocked salmon from the last Saturday in April through the second Sunday in September in the inland waters. The director of conservation shall designate the waters wherein, in addition to the aforesaid season, any species of trout and in addition such other fish upon which the season is open may be taken with hook and line only during additional open seasons as he may prescribe.

(e) All species of trout except lake trout from the first Saturday in April to November 30 in the Great Lakes and connecting waters not otherwise closed to their taking. No closed season on lake trout in these waters.

(f) Perch, saugers, white bass, rock bass, warmouth bass, crappies, catfish, bullheads, ciscoes, herring, whitefish, pilot fish or menominee whitefish, smelt, suckers, mullet, redhorse, carp, buffalo, shad, garfish, dogfish, lawyers and sheepshead may be taken at all seasons of the year in waters that are open to fishing.

(g) Sturgeon—January and February from inland waters; at any time from waters of the Great Lakes and connecting waters not otherwise closed to their taking.

HISTORY: Add. 1939, p. 873, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 623, Act 356, Eff. Jan. 10, 1942;—Am. 1941, p. 776, Act 384, Eff. Jan. 10, 1942;—Am. 1945, p. 563, Act 322, Eff. Sep. 6;—Am. 1947, p. 550, Act 325, Eff. Jan. 1, 1948;—CL 1948, 303.1a;—Am. 1949, p. 303, Act 243, Eff. Sep. 23;—Am. 1951, p. 416, Act 259, Eff. Sep. 28;—Am. 1953, p. 37, Act 41, Imd. Eff. May 6;—Am. 1954, p. 499, Act 201, Eff. Jan. 1, 1955;—Am. 1955, p. 438, Act 258, Eff. Oct. 14;—Am. 1959, p. 229, Act 164, Eff. Mar. 19, 1960;—Am. 1961, p. 374, Act 220, Eff. Sep. 8;—Am. 1962, p. 116, Act 126, Eff. Mar. 28, 1963;—Am. 1967, p. 530, Act 273, Eff. Nov. 2;—Am. 1968, p. 191, Act 129, Eff. Nov. 15.

303.2 Extension of closed season; spawning beds; notices; use of boat or floating device over spawning bed; opening lakes out of season.

Sec. 2. The director of conservation may establish a closed season on any spawning bed when it appears that spawning or guarding does not coincide with the time of the closed season provided by law. Notices defining the closed areas must be posted not less than 5 days prior to taking effect. For the purpose of this act a spawning bed means any section of a lake, river, pond or other body of water where fish are known to congregate for the purpose of spawning. It shall be unlawful to operate any boat, floating device or other contrivance propelled by or using as motive power, steam, gas, naphtha, oil, gasoline or electricity upon any spawning bed posted as herein provided. The director of conservation may open to fishing at any time, for any species, in any manner, any waters in which an excessive mortality of fish occurs or is threatened.

HISTORY: CL 1929, 6383;—Am. 1931, p. 565, Act 326, Imd. Eff. Jun. 16;—Am. 1937, p. 823, Act 344, Eff. Jan. 1, 1938;—Am. 1947, p. 551, Act 325, Eff. Jan. 1, 1948;—CL 1948, 303.2;—Am. 1959, p. 230, Act 164, Eff. Mar. 19, 1960.

303.3 Legal sizes of fish; mutilation.

Sec. 3. No person shall take or have in possession any:

(a) Brook trout, brown trout, rainbow trout, steelhead, lake trout and splake of a less length than 7 inches when taken from the inland waters; 10 inches when taken from the Great Lakes and connecting waters;

(b) Black bass, large or smallmouth, and landlocked salmon, of a less length than 10 inches;

(c) Pike (great northern, grass pike or pickerel) of a less length than 20 inches, except that in Cisco lake, Thousand Island lake, Big African lake, Lindsley lake and Poor lake in the Cisco chain of lakes and the West Branch of the Presque Isle river, all in the Upper Peninsula, great northern pike shall not be of a length less than 14 inches, and further the director may lower size limits in designated waters;

(d) Pike-perch (wall-eyed pike), of a less length than 13 inches;

(e) Muskellunge, of a less length than 30 inches;

(f) Sturgeon of a less length than 42 inches.

It shall be unlawful to have in possession on any waters over which this state has jurisdiction any fish which is so mutilated that the identification or measurement thereof is impossible.

HISTORY: CL 1929, 6384;—Am. 1931, p. 565, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 236, Act 161, Imd. Eff. Jun. 22;—CL 1948, 303.3;—Am. 1949, p. 304, Act 243, Eff. Sep. 23;—Am. 1951, p. 417, Act 259, Eff. Sep. 28;—Am. 1955, p. 438, Act 256, Eff. Oct. 14;—Am. 1959, p. 530, Act 164, Eff. Mar. 19, 1960;—Am. 1964, p. 50, Act 43, Imd. Eff. May 6;—Am. 1967, p. 531, Act 273, Eff. Nov. 2.

303.3b Open season for fishing in Crystal lake, Benzie county.

Sec. 3b. Notwithstanding the provisions of section 3a, the director of conservation may designate Crystal lake in Benzie county as open to fishing without regard to the seasons prescribed in section 3a whenever it appears that such action is not inimical to the public interest.

HISTORY: Add. 1964, p. 240, Act 180, Eff. Aug. 28.

303.4 Maximum catch or possession; illegal possession.

Sec. 4. No person shall in any one day catch, kill or have in possession at any one time, more than the number of fish hereby designated:

(a) Brook trout, brown trout, rainbow trout, steelhead, lake trout and splake, of the combined species, 10 when taken from rivers and streams, 5 when taken from inland lakes or Great Lakes, but not more than 10 pounds and 1 fish.

(b) Largemouth and smallmouth black bass, 5.

(c) Bluegills, sunfish, warmouth bass, rock bass, crappies, 25 aggregate of any one species or in any combination of species.

(d) Pike-perch, 5. Any person may take and have in possession 10 pike-perch when legally taken in the connecting waters or the waters of the Great Lakes.

(e) Saugers, 20, when taken from the waters commonly known as the Portage canal and including Portage lake and Torch lake, all in Houghton county. Such fish when so taken shall not be bought or sold.

(f) Northern pike, 5.

(g) Landlocked salmon, 5.

(h) White bass, 10; 25 when taken from Great Lakes and connecting waters.

(i) Whitefish, 7.

(j) Sturgeon, 2, per season. It shall be unlawful to possess any sturgeon on or along the shores of any inland water except during the months of January and February.

No person shall in any one day catch, kill or have in possession more than a combined total of 5 large or smallmouth bass, pike-perch and northern pike, except that any person may take and have in possession a combined total of 10 such fish when taken in the connecting waters or the waters of the Great Lakes. It shall be unlawful for any person to have in possession any fish illegally taken.

HISTORY: CL 1929, 6385;—Am. 1931, p. 565, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 237, Act 161, Imd. Eff. Jun. 22;—Am. 1937, p. 523, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 874, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 624, Act 356, Eff. Jan. 10, 1942;—Am. 1945, p. 423, Act 270, Eff. Jan. 1, 1946;—Am. 1947, p. 552, Act 325, Eff. Jan. 1, 1948;—CL 1948, 303.4;—Am. 1949, p. 304, Act 243, Eff. Sep. 23;—Am. 1951, p. 417, Act 259, Eff. Sep. 28;—Am. 1955, p. 439, Act 256, Eff. Oct. 14;—Am. 1956, p. 4, Act 3, Eff. Aug. 11;—Am. 1959, p. 231, Act 164, Eff. Mar. 19, 1960;—Am. 1961, p. 375, Act 220, Eff. Sep. 8;—Am. 1967, p. 531, Act 273, Eff. Nov. 2.

303.5 Game fish; carried as open hand baggage; transportation.

Sec. 5. Any person holding an unexpired fishing license issued in his name, either resident or non-resident, shall be entitled to carry as open hand baggage not to exceed 1 day's legal catch of fish: Provided, That any person holding an unexpired fishing license shall be entitled to obtain 1, and only 1, permit from the director of conservation or his designated representatives authorizing such person to ship 1 day's legal catch of any species of game fish or combination thereof. The catch of 2 or more licensed fishermen may be combined in a single package: Provided, however, That the permit of each such fisherman is attached.

HISTORY: CL 1929, 6386;—Am. 1941, p. 625, Act 356, Eff. Jan. 10, 1942;—Am. 1945, p. 424, Act 270, Eff. Jan. 1, 1946;—CL 1948, 303.5.

303.6 Maximum catch or possession; unlawful purchase, sale, transportation or possession; exceptions.

Sec. 6. It shall be unlawful for any person to purchase, buy or sell, or attempt to purchase, buy or sell, or transport to any point outside of this state at any time, or have in possession during the periods in which the taking or catching of such fish is prohibited, any species of fish taken on a sport fishing license or any species of fish taken without a commercial fishing license. Any lawfully taken fish may be possessed for 60 days after the close of the respective open seasons. Any person possessing a nonresident fishing license may take from this state a day's legal catch of fish in accordance with the provisions of his license. Nothing in this section shall interfere with the possession, sale or transportation of fish taken legally under the commercial fishing laws and regulations of this state.

HISTORY: CL 1929, 6387;—Am. 1931, p. 565, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 237, Act 161, Imd. Eff. Jun. 22;—Am. 1937, p. 823, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 874, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 625, Act 356, Eff. Jan. 10, 1942;—Am. 1947, p. 552, Act 325, Eff. Jan. 1, 1948;—CL 1948, 303.6;—Am. 1958, p. 15, Act 16, Eff. Sep. 13;—Am. 1967, p. 531, Act 273, Eff. Nov. 2.

303.7 Grayling; unlawful taking or possession.

Sec. 7. It shall be unlawful for any person at any time to take or attempt to take or have in possession any grayling taken from any of the waters over which this state has jurisdiction.

HISTORY: CL 1929, 6388;—Am. 1947, p. 238, Act 169, Eff. Oct. 11;—CL 1948, 303.7;—Am. 1949, p. 305, Act 243, Eff. Sep. 23;—Am. 1951, p. 418, Act 259, Eff. Sep. 28.

303.8 Scope and limitation of chapter.

Sec. 8. The provisions of this chapter shall not be construed to prohibit the propagation, transportation or sale of game fish under authority of act number 170 of the public acts of 1905.

HISTORY: CL 1929, 6389;—CL 1948, 303.8.

NOTE: Act 170 of 1905, above referred to, is Compilers' §§ 306.101 to 306.106.

303.9 Violation of chapter; penalty.

Sec. 9. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than 5 dollars nor more than 100 dollars, together with costs of prosecution, or imprisonment in the county jail not to exceed 90 days or both such fine and imprisonment in the discretion of the court. For a second or subsequent offense, in addition to the penalty provided in this section, the license shall be revoked.

HISTORY: CL 1929, 6390;—CL 1948, 303.9.

303.10 Harvest of new species; adoption of rules and regulations.

Sec. 10. The conservation commission may adopt such fishing rules and regulations as it deems necessary for the harvest of new species of game fish including coho (silver) salmon, kokanee salmon, chinook salmon and striped bass in any of the waters of this state.

HISTORY: Add. 1966, p. 316, Act 236, Imd. Eff. Jul. 11.

CHAPTER IV.—MINNOWS.

304.1	Minnows and wrigglers; definitions; commercial purposes, construction of term.	304.3	Director of conservation; power to designate waters, rules.
304.2	Minnows, wrigglers, goldfish, carp and lamprey; unlawful possession or use; minnows for export or preservation.	304.4	Minnow seines and dip nets; size, limitation.
		304.5	Violation of chapter; penalty.

304.1 Minnows and wrigglers; definitions; commercial purposes, construction of term.

Sec. 1. For the purpose of this act minnows shall be defined as chubs, shiners, suckers (when of a size ordinarily used for bait in hook and line fishing), dace, stonerollers, muddlers and mud-minnows. Wrigglers shall be defined as May-fly nymphs or any other aquatic insect nymphs or larvae. Commercial purposes shall be construed to mean offering for sale, selling, giving or furnishing to others.

HISTORY: CL 1929, 6391;—Am. 1931, p. 566, Act 326, Imd. Eff. June 16;—Am. 1933, p. 237, Act 161, Imd. Eff. June 22;—Am. 1939, p. 574, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 625, Act 356, Eff. Jan. 10, 1942;—Am. 1947, p. 553, Act 325, Eff. Jan. 1, 1948;—CL 1948, 304.1.

MINNOW LICENSE: See Compilers' § 305.8.

CITED IN OTHER SECTIONS: The above section is cited in § 308.39.

304.2 Minnows, wrigglers, goldfish, carp and lamprey; unlawful possession or use; minnows for export or preservation.

Sec. 2. It shall be unlawful for any person:

(a) To take or attempt to take or have in possession minnows or wrigglers for commercial purposes from any of the waters over which this state has jurisdiction, or to import minnows or wrigglers for commercial purposes from without the state, or in either case transport the same without having first procured a license therefor as provided in section 6 of chapter 5. No license other than a license to fish in the inland waters of this state as provided in chapter 5 shall be required of persons taking minnows or wrigglers for their individual use for bait. No person shall set or use any kind of device except dip net or seine for the taking of minnows for personal use or commercial purposes unless there shall be securely attached to each such device a metallic plate or tag bearing, in legible English, the name and address of the user thereof. The taking of minnows, wrigglers and other aquatic insects from Gun lake in Barry and Allean counties for commercial purposes shall be unlawful at any time.

(b) To transport outside of this state any minnows or wrigglers, dead or alive, taken either within or without this state. The director of conservation is authorized, upon the payment of a fee of \$5.00, to issue a permit, revocable at the pleasure of the director and if not sooner revoked to automatically expire on December 31 following date of issue, under such regulations as he may prescribe, to any resident person who has procured the license required by section 6 of chapter 5, to transport without this state minnows preserved in liquid and bottled for fish bait. The director is authorized to limit to 15 days or less of any 1 year the taking of minnows by a licensed person for preserving for fish bait purposes. Each day's catch shall be with the knowledge of a conservation officer. The books and records of such person shall be open to inspection at all reasonable times to the duly authorized representative or representatives of the director of conservation.

(c) To use minnows except for bait used in hook and line fishing.

(d) To use or attempt to use live goldfish or carp for bait in fishing.

(e) To use or possess live, dead or preserved fish for bait on designated trout lakes.

(f) To offer for sale or use lamprey for bait in fishing.

(g) Who is not a resident of this state to take or attempt to take, possess or transport

minnows or wigglers for commercial purposes from any of the waters over which this state has jurisdiction.

HISTORY: CL 1929, 6392;—Am. 1931, p. 566, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 237, Act 161, Imd. Eff. Jun. 22;—Am. 1933, p. 348, Act 220, Eff. Oct. 17;—Am. 1941, p. 625, Act 356, Eff. Jan. 10, 1942;—Am. 1945, p. 424, Act 270, Eff. Jan. 1, 1946;—CL 1948, 304.2;—Am. 1949, p. 305, Act 243, Eff. Sep. 23;—Am. 1954, p. 499, Act 201, Eff. Jan. 1, 1955;—Am. 1955, p. 439, Act 256, Eff. Oct. 14;—Am. 1956, p. 13, Act 7, Eff. Aug. 11;—Am. 1968, p. 180, Act 118, Imd. Eff. Jun. 11.

NOTE: Sec. 6, Ch. 5, above referred to, is Compilers' § 305.6.

304.3 Director of conservation; power to designate waters, rules.

Sec. 3. Power is hereby vested in the director of conservation to designate the lakes and streams and parts of same from which minnows and wigglers may be taken for commercial purposes; also to make such rules, regulations and restrictions for taking, possessing and transporting said minnows and wigglers as he may deem advisable: Provided, That it shall be unlawful to take or attempt to take minnows or wigglers for commercial purposes from any waters of the state not designated by the director of conservation or to violate any of the rules, regulations and restrictions established under authority of this section.

HISTORY: CL 1929, 6393;—Am. 1941, p. 626, Act 356, Eff. Jan. 10, 1942;—CL 1948, 304.3.

304.4 Minnow seines and dip nets; size, limitation.

Sec. 4. (a) Minnow seines not to exceed 30 feet in length and 8 feet in width may be used in the inland lakes, streams and rivers of this state, except trout streams, and minnow seines not to exceed 80 feet in length and 8 feet in width may be used in the great lakes and connecting waters;

(b) Dip nets not exceeding 3 feet square without sides or walls, minnow traps not exceeding 24 inches in length, and hook and line may be used for taking minnows in any of the waters designated by the director of conservation in accordance with section 3 of this chapter: Provided, That nothing herein contained shall be construed as permitting the use of dip nets in trout streams: Provided further, That dip nets not exceeding 9 feet square without sides or walls may be used for taking minnows in the great lakes, the connecting waters thereof, and in the following lakes directly connected with Lake Michigan: Lake Macatawa, (Black lake), Ottawa county; Muskegon lake and White lake, Muskegon county; Pentwater lake, Oceana county; Pere Marquette lake, Mason county; Manistee lake, Bar lake at Arcadia and Portage lake, Manistee county; Betsie lake, Benzie county; lake Charlevoix and Round lake, Charlevoix county.

HISTORY: CL 1929, 6394;—Am. 1931, p. 566, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 238, Act 161, Imd. Eff. Jun. 22;—Am. 1941, p. 777, Act 384, Eff. Jan. 10, 1942;—Am. 1947, p. 553, Act 325, Eff. Jan. 1, 1948;—CL 1948, 304.4;—Am. 1949, p. 305, Act 243, Eff. Sep. 23.

304.5 Violation of chapter; penalty.

Sec. 5. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than 10 dollars and not more than 100 dollars and costs of prosecution, or imprisonment in the county jail not to exceed 90 days or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6395;—CL 1948, 304.5.

CHAPTER V.—LICENSES AND PERMITS.

305.1	Resident fishing licenses; age, persons in military service exempted; trout and salmon licenses; fees; catch reports; exceptions.	305.5	Licenses; exhibition on demand.
305.1a	Indians; exempt from certain fishing laws.	305.6	Commercial minnow and wriggler licenses; issuance.
305.1b	Sportsman's license; fishing privileges.	305.7	Cisco, whitefish, suckers and carp season; designation of waters for use of spear and artificial light; purchase or sale; Higgins lake, season.
305.2	Nonresident fishing licenses; age, fees, special, limited license; catch reports; sport trolling and guide licenses. Great Lakes, 1-day license. Reciprocity. Sport trolling license, reciprocity. Licensed guide; sport trolling.	305.8	Permit to remove noxious fish from waters; issuance.
305.2a	Mental defectives and disabled veterans; fishing without license permitted, conditions.	305.9	Permit to take fish for culture or scientific investigation; importing fish or eggs; issuance.
305.2b	Fishing licenses; age, additional fee.	305.9a	Removal of caddis fly larvae or other insect larvae from trout streams; prohibition; exception.
305.3	License handlers; designation, bond; license forms and buttons; loss of license.	305.10	Sale of licenses and stamps; disposition of proceeds.
305.4	License sales; proceeds.	305.11	Unlawful acts; penalty; license application of convicted person.
		305.12	Violation of act; misdemeanor, penalty.
		305.13	Fish taken unlawfully; additional penalty, reimbursement of state, exceptions.

305.1 Resident fishing licenses; age, persons in military service exempted; trout and salmon licenses; fees; catch reports; exceptions.

Sec. 1. No person who has passed his seventeenth birthday and who is a resident of the state of Michigan except residents in military service while on furlough shall take or catch or attempt to take or catch any fish in any manner in any of the waters over which this state has jurisdiction without first procuring a license therefor as provided in this act. The fee for a resident fishing license shall be \$3.00. Such license shall entitle a man and his wife to take fish other than any species of trout or salmon. Residents who are 65 years or older may purchase a fishing license for a fee of 50 cents which license shall entitle such persons to take fish including any species of trout or salmon, in accordance with the provisions of this and any other act which regulates fishing. Such licensee, except residents who are 65 years of age or older, may upon payment of an additional fee of \$2.00 procure a special license which shall entitle the person named and his wife to take trout and salmon in accordance with the provisions of this and other acts regulating fishing, except this provision shall not apply to residents in military service while on furlough. Any resident, except persons 65 years of age or older, may purchase for \$3.00 a limited license entitling the holder and his wife to fish for all species of fish including trout and salmon in accordance with the provisions of this and other acts regulating fishing for a period not to exceed the 7 consecutive days from the date of issue. The director of conservation is authorized to require catch reports for certain species of trout and salmon on suitable license forms provided by him, when in the opinion of the director this information is necessary for the protection and management of this fishery resource. It shall be unlawful for any licensed trout and salmon angler to fail to report in the prescribed manner the catch information requested on the license by the director of conservation. Any person in military service on furlough shall have his furlough papers in his possession at all times while fishing without a regular annual, special trout and salmon or limited license. Any person who has not actually resided in this state for the 6 consecutive months immediately preceding his application for a fishing license shall be considered a nonresident under the provisions of this act. The provisions of this section shall not apply to nor prevent the owner, lessee, occupant, or anyone regularly domiciled on any farm or other lands, all of which are enclosed, situated in this state, who actually resides thereon throughout the year, or

the members of his family so residing upon the farm or land, from fishing in the waters wholly within the limits of the farm or land at any time when permitted by law.

HISTORY: CL 1929, 6396;—Am. 1931, p. 566, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 90, Act 76, Eff. Oct. 17;—Am. 1937, p. 823, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 874, Act 337, Eff. Jan. 1, 1940;—Am. 1945, p. 425, Act 270, Eff. Jan. 1, 1946;—Am. 1947, p. 553, Act 325, Eff. Jan. 1, 1948;—CL 1948, 305.1;—Am. 1949, p. 306, Act 243, Eff. Sep. 23;—Am. 1957, p. 267, Act 211, Eff. Jan. 1, 1958;—Am. 1965, p. 196, Act 128, Eff. Mar. 31, 1966;—Am. 1968, p. 108, Act 85, Imd. Eff. Jun. 14;—Am. 1967, p. 300, Act 208, Eff. Dec. 1.

305.1a Indians; exempt from certain fishing laws.

Sec. 1a. Any person having Indian status and being a legal resident of the state is exempt from the fishing laws and rules of this state when such laws and rules are in conflict with federal treaty rights. The term "Indian status" is presumed to refer to those persons of Indian ancestry and enrolled as members of an Indian community.

HISTORY: Add. 1970, p. 417, Act 130, Imd. Eff. Jul. 29.

305.1b Sportsman's license; fishing privileges.

Sec. 1a [B]. For the purpose of this act, any resident person in possession of a valid sportsman's license as authorized by section 9a of chapter 4 of Act No. 286 of the Public Acts of 1929 may take or catch any fish, including any species of trout or salmon, from any waters over which this state has jurisdiction. A licensee shall be subject to all the duties, conditions, limitations, restrictions and provisions of all laws and of all rules adopted by the commission and director governing fishing which are applicable to persons having individual licenses under this act. Each licensee shall have his sportsman's license in possession at all times while fishing.

HISTORY: Add. 1970, p. 578, Act 203, Imd. Eff. Aug. 25.

NOTE: The bracketed letter was inserted by the editor to differentiate this section 1a of this act added by Act No. 130 of the Public Acts of 1970, which was not amended or repealed.

305.2 Nonresident fishing licenses; age, fees, special, limited license; catch reports; sport trolling and guide licenses.

Sec. 2. (a) No person who has passed his seventeenth birthday and who is a nonresident of this state shall take or catch or attempt to take or catch any fish in any of the waters over which this state has jurisdiction without first procuring a license. The fee for each nonresident license issued under the provisions of this act, authorizing the licensee and his wife to fish for all kinds of fish, except any species of trout or salmon, shall be \$6.00. The holder of a current annual nonresident fishing license may upon the payment of an additional fee of \$3.00 procure a special license which shall entitle him and his wife to take any species of trout and salmon in accordance with the provisions of this and other acts regulating fishing. Any nonresident may purchase for \$5.00 a limited license entitling the holder and his wife to fish all species of fish including trout and salmon in accordance with the provisions of this and other acts regulating fishing for a period not to exceed 7 consecutive days from the date of issue. The director of conservation is authorized to require catch reports for certain species of trout and salmon upon suitable license forms provided by him, when in the opinion of the director this information is necessary for the protection and management of this fishery resource. It shall be unlawful for any licensed trout and salmon angler to fail to report in the prescribed manner the catch information requested on the license by the director of conservation.

Great Lakes, 1-day license.

Any resident or nonresident may purchase for the sum of \$1.00 per day a limited license entitling the holder and his wife to fish for all species of fish on the Great Lakes and lake St. Clair.

Reciprocity.

The director of conservation shall prepare and furnish suitable licenses for such purposes. The director of conservation may permit persons licensed under fishing laws of adjacent states to fish under the licenses in the Michigan waters of the inland lakes and rivers or portions of rivers which constitute a part of the boundary of this state, in

the event like privileges are granted to persons licensed under this act, permitting the persons to fish under their Michigan license in any part of such boundary waters.

Sport trolling license, reciprocity.

(b) A sport trolling license as provided in section 24 of Act No. 84 of the Public Acts of 1929, as amended, being sections 308.1 to 308.48 of the Compiled Laws of 1948, or as may hereinafter be provided by this act, shall be deemed to be a guide license for the purpose of reciprocity with other states and provinces.

Licensed guide; sport trolling.

(c) Any person licensed to guide in an adjoining state or province of which the Great Lakes forms a common boundary, and who complies with the laws of this state, may guide and engage in sport trolling for hire on the Michigan waters of the Great Lakes with all rights, privileges and immunities enjoyed by the holders of equivalent licenses issued by this state, if the adjoining state or province grants the same privileges on the Great Lakes lying within its boundaries to holders of Michigan guide and sport trolling licenses.

HISTORY: CL 1929, 6397;—Am. 1931, p. 566, Act 326, Imd. Eff. Jun. 16;—Am. 1933, p. 90, Act 76, Eff. Oct. 17;—Am. 1937, p. 824, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 875, Act 337, Eff. Jan. 1, 1940;—Am. 1939, p. 898, Act 340, Eff. Sep. 29, (passed over veto Jun. 29, 1939);—Am. 1941, p. 622, Act 356, Eff. Jan. 10, 1942;—Am. 1945, p. 425, Act 270, Eff. Jan. 1, 1946;—Am. 1947, p. 554, Act 325, Eff. Jan. 1, 1948;—CL 1948, 305.2;—Am. 1949, p. 306, Act 243, Eff. Sep. 23;—Am. 1951, p. 418, Act 259, Eff. Sep. 28;—Am. 1953, p. 39, Act 44, Eff. Oct. 2;—Am. 1954, p. 500, Act 201, Eff. Jan. 1, 1955;—Am. 1955, p. 184, Act 119, Eff. Oct. 14;—Am. 1957, p. 298, Act 211, Eff. Jan. 1, 1958;—Am. 1963, p. 227, Act 164, Eff. Sep. 6;—Am. 1967, p. 301, Act 208, Eff. Dec. 1;—Am. 1969, p. 218, Act 123, Imd. Eff. Jul. 29.

305.2a Mental defectives and disabled veterans; fishing without license permitted, conditions.

Sec. 2a. The director of conservation may issue a permit authorizing mentally retarded persons and persons otherwise mentally afflicted, when they are members of a group accompanied by one or more adult leaders who are licensed, and disabled veterans confined to a state or federal veterans' facility, to fish without a license.

HISTORY: Add. 1964, p. 84, Act 82, Imd. Eff. May 12.

305.2b Fishing licenses; age, additional fee.

Sec. 2a. [B] Every applicant for any fishing license, except residents who are 65 years of age or older, shall, in addition to the license fee prescribed in this act, pay a service fee of 10 cents to the person authorized by the director of conservation to issue licenses.

HISTORY: Add. 1968, p. 177, Act 114, Eff. Dec. 1.

NOTE: The bracketed number was inserted by the editor to differentiate this section 2a from the existing section 2a of this chapter which was not amended or repealed.

305.3 License handlers; designation, bond; license forms and buttons; loss of license.

Sec. 3. All persons who have been designated by the director of conservation to handle licenses and who have filed a surety bond in such sum as shall be deemed by the director of conservation to be sufficient are authorized to issue licenses in accordance with the provisions of this act. The director of conservation shall prepare suitable licenses in convenient form and size with stub attached, which license and stub shall be numbered and which shall provide for the insertion of the name, age, height, color of hair and eyes, post office address and place of residence of the licensee. The director shall also prepare suitable trout and salmon licenses to comply with the provisions of sections 1 and 2 of this chapter. There may be issued with each nonresident license and each resident fishing license, a license button bearing the license number, and no such person shall fish in any of the waters of this state unless the button be at such time continually displayed on the outer garment in such a manner that the license figures are plainly visible. When all the conditions as herein provided have been complied with, the license shall be issued to the applicant, which shall be his authority to fish in the waters of this state. Licenses so issued shall be valid from December 1 in 1

year to December 31 in the next succeeding year, both dates inclusive. Not more than 1 license shall be issued to any 1 person for the same license year, except upon affidavit by the applicant that the license previously issued has been lost or destroyed, and then only upon the payment of a fee of 50 cents and no license as herein provided shall be transferable or used by any other person than the 1 to whom it was issued.

HISTORY: CL 1929, 6398;—Am. 1931, p. 567, Act 326, Imd. Eff. Jun. 16;—Am. 1947, p. 554, Act 325, Eff. Jan. 1, 1948;—CL 1948, 305.3;—Am. 1951, p. 419, Act 259, Eff. Sep. 28;—Am. 1955, p. 440, Act 256, Eff. Oct. 14;—Am. 1967, p. 302, Act 206, Eff. Dec. 1.

305.4 License sales; proceeds.

Sec. 4. On or before the tenth day of every month all persons authorized to sell licenses as herein provided shall pay over to the director of conservation all moneys received from the sale of the licenses for the preceding months, and all persons who shall refuse or neglect to pay over the moneys as herein provided shall, in addition to other penalties provided by law, forfeit their rights to sell licenses. However, all persons, except conservation officers who receive a regular salary from the state and except persons who receive a regular salary from any political subdivision of this state, issuing licenses shall retain as compensation therefor 15 cents, plus the 10 cents service fee, for each license or duplicate license, so issued.

On or before December 15 of each year, a complete report of all licenses sold shall be filed by each person handling them, and stubs and all unsold licenses, and license buttons returned to the department of conservation. No person shall charge more for such license than the amount stamped thereon.

HISTORY: CL 1929, 6399;—Am. 1931, p. 567, Act 326, Imd. Eff. Jun. 16;—Am. 1939, p. 875, Act 337, Eff. Jan. 1, 1940;—Am. 1947, p. 555, Act 325, Eff. Jan. 1, 1948;—CL 1948, 305.4;—Am. 1955, p. 440, Act 256, Eff. Oct. 14;—Am. 1957, p. 269, Act 211, Eff. Jan. 1, 1958;—Am. 1967, p. 302, Act 206, Eff. Dec. 1;—Am. 1968, p. 177, Act 114, Eff. Dec. 1.

305.5 Licenses; exhibition on demand.

Sec. 5. On demand of a commissioned officer of the department of conservation, either special or regularly employed, or of any peace officer, any person who has passed his seventeenth birthday, and who may be found fishing in any of the waters of this state, shall exhibit a license issued in his name, bearing the same number as the license button in his possession.

HISTORY: CL 1929, 6400;—Am. 1931, p. 567, Act 326, Imd. Eff. June 16;—Am. 1947, p. 555, Act 325, Eff. Jan. 1, 1948;—CL 1948, 305.5.

305.6 Commercial minnow and wriggler licenses; issuance.

Sec. 6. Commercial minnow and wriggler license. The director of conservation is hereby authorized upon the payment of a fee of \$5.00, to issue a license to permit the taking, collecting, transportation and possession of live or fresh minnows or wigglers to be used for commercial purposes in accordance with the provisions of this act. Each such license, which shall be known as a retail minnow license, shall entitle and permit the licensee to operate 1 crew consisting of not more than 4 persons and 1 motor truck or other vehicle for the purpose of taking, collecting and transporting live or fresh minnows or wigglers and to operate 1 place of business to deal commercially in such minnows and wigglers. For the purpose of this act, 1 place of business shall be defined as the place designated in said license: Provided, That any licensee desiring to possess minnows or wigglers for commercial purposes at more than 1 place of business shall obtain a separate license for each such additional place of business: Provided further, That any licensee desiring to use more than 1 crew of not to exceed 4 men in taking, collecting and transporting minnows and wigglers, or to use more than 1 truck or other vehicle in collecting and transporting minnows or wigglers shall procure a license for each such additional crew of not more than 4 persons and for each additional motor truck or other vehicle: Provided, That there shall be issued with each license 4 identification cards bearing the number of said license and the year for which issued. Each member of a single crew engaged in taking, collecting and transporting minnows or wigglers for commercial purposes under authority of said license shall carry such card

on his person at all times while so engaged. The director of conservation shall cause to be prepared a suitable form of license blank which shall state the name and address of licensee and the lakes and streams and parts of same from which minnows or wigglers may be taken. Any person to whom such a license has been issued under the provisions of this act shall prominently display at the place of business designated in said license a placard to be furnished by the director of conservation which will contain the following words "Licensed Minnow Dealer," and the number of the license and the year for which issued: Provided further, That any person to whom such a license has been issued under the provisions of this act shall prominently display in the motor truck or other vehicle a distinctive placard issued by the director of conservation with each such license which shall indicate such vehicle is legally being used for taking, collecting or transporting minnows or wigglers in accordance with the provisions of the commercial minnow or wiggler license. On demand of any commissioned conservation officer of the department of conservation, or of any other peace officer, any person found taking, collecting, possessing and/or transporting any live or fresh minnows or wigglers for commercial purposes shall exhibit the license or identification card provided for in this section: Provided, That the records, seines, nets, minnow traps, transporting and other equipment of every kind for handling minnows and wigglers, and the tanks and ponds where minnows and wigglers are held shall be open to inspection by any conservation officer or other duly authorized representative of the conservation department, or any other duly authorized peace officer at any reasonable time: Provided, That the license fee for taking, possessing and/or transporting or selling minnows or wigglers at wholesale, that is to licensed minnow or wiggler dealers for resale, shall be \$25.00. All such wholesale licensees shall operate under the same privileges as apply to retail minnow licenses. All commercial minnow and wiggler licenses issued under authority of this section shall be revocable at the pleasure of the director of conservation and, if not sooner revoked, shall automatically expire on December 31 following date of issue: Provided, however, That any person whose license has been revoked shall not be issued a commercial minnow and wiggler license within a period of 1 year from the date of such revocation.

HISTORY: CL 1929, 6401;—Am. 1931, p. 567, Act 326, Imd. Eff. June 16;—Am. 1933, p. 238, Act 161, Imd. Eff. June 22;—Am. 1939, p. 576, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 627, Act 356, Eff. Jan. 10, 1942;—CL 1948, 305.6.

MINNOWS: See Compilers' § 304.1 et seq.

305.7 Cisco, whitefish, suckers and carp season; designation of waters for use of spear and artificial light; purchase or sale; Higgins lake, season.

Sec. 7. The director of conservation is hereby authorized to designate the lakes or streams in this state from which cisco, whitefish, suckers and carp may be taken by means of a spear and artificial light from October fifteenth to December thirty-first in the waters lying north of north line of town 16 north, and west of Saginaw bay and from November first to December thirty-first in the waters south of north line of town 16 north, and east of Saginaw bay including the thumb: Provided, That whitefish or cisco so taken shall not be bought or sold: And provided further, That in Higgins lake, Roscommon county, such fish shall not be taken by means of a spear and artificial light before November 1.

HISTORY: CL 1929, 6402;—Am. 1937, p. 825, Act 344, Eff. Jan. 1, 1938;—Am. 1939, p. 876, Act 337, Eff. Jan. 1, 1940;—Am. 1947, p. 555, Act 325, Eff. Jan. 1, 1948;—CL 1948, 305.7;—Am. 1949, p. 307, Act 243, Eff. Sep. 23.

CISCO ACT: In certain counties, see Compilers' § 307.201 et seq.

305.8 Permit to remove noxious fish from waters; issuance.

Sec. 8. Permit to remove noxious fish from the waters of this state. The director of conservation may in his discretion issue permits for the removal of dogfish, carp, garfish, sheepshead, and other noxious fish from all the waters over which this state has jurisdiction with seines, nets, spears, or in any other manner, and sell or authorize the sale of same for the purpose of paying the expense of such removal on such terms as

shall be to the best advantage of the state: Provided, That the director of conservation or a deputy designated by him shall be present at the time and place of the taking and removing of such fish and shall personally superintend the same. The director of conservation shall incorporate such regulations and restrictions in said permits as he may deem advisable and any person taking such fish under said permit shall conform to all the regulations and restrictions specified therein: Provided, That non-residents who operate under this permit shall in addition to the percentage paid to the state, be required to pay the non-resident license fee, as provided for non-residents under the commercial fishing laws of this state.

HISTORY: CL 1929, 6403;—CL 1948, 305.8.

NON-RESIDENT'S LICENSE FEE: See Compilers' § 308.24.

305.9 Permit to take fish for culture or scientific investigation; importing fish or eggs; issuance.

Sec. 9. It shall be unlawful for any person to take from any of the inland waters of this state any kind of fish in any manner for the purpose of fish culture or scientific investigation, without first obtaining a permit from the director of conservation, except that persons who are operating a private fish pond may take such fish from their own ponds for the purpose of propagation, scientific investigation or sale under the provisions of Act No. 196 of the Public Acts of 1957, being sections 308.111 to 308.119 of the Compiled Laws of 1948. The director of conservation may issue permits to possess live game fish in public or private ponds, pools and aquariums under such rules and regulations as the conservation commission may prescribe. The director of conservation may cause to be taken from the inland waters of this state, whitefish or any other species of fish for the purpose of obtaining spawn for fish culture or scientific investigation, and all fish so taken shall be taken under the supervision of a deputy of the department duly appointed for that purpose, and fish so taken may be sold to pay the expense of taking same. No person shall import or bring any live game fish or viable eggs of any game fish from without the state except under authority of a permit from the director of conservation or under authority of Act No. 196 of the Public Acts of 1957, as amended, and the rules promulgated in accordance with that act. No person shall plant any spawn, fry or fish of any kind in any of the public waters of this state, or any other waters in this state connected therewith without first obtaining a permit from the director of conservation; such permit to state the species, number and the approximate size or age of the spawn, fry or fish to be planted and the name and location of the waters where such spawn, fry or fish shall be planted. No permit shall be required to plant spawn, fry or fish furnished by the federal or state government.

All permits shall be exhibited upon the request of any law enforcement officer.

HISTORY: CL 1929, 6404;—Am. 1933, p. 238, Act 161, Imd. Eff. Jun. 22;—Am. 1937, p. 825, Act 344, Eff. Jan. 1, 1938; CL 1948, 305.9;—Am. 1959, p. 231, Act 164, Eff. Mar. 19, 1960;—Am. 1968, p. 91, Act 51, Eff. Nov. 15.

305.9a Removal of caddis fly larvae or other insect larvae from trout streams; prohibition; exception.

Sec. 9a. Except as herein provided, it shall be unlawful for any person to take or remove or attempt to take or remove any caddis fly larvae or other insect larvae or insects of any kind from any trout stream of the state. The director of conservation may designate trout streams or portions thereof from which caddis fly larvae or other insect larvae or insects may be taken for commercial purposes by persons licensed in accordance with section 6 of chapter 5 of this act. Nothing in this section shall be construed to prohibit the taking of any caddis fly larvae or other insect larvae or insects in any trout stream of the state for personal use in fishing the stream from which taken.

HISTORY: Add. 1935, p. 326, Act 196, Imd. Eff. Jun. 6;—Am. 1937, p. 825, Act 344, Eff. Jan. 1, 1938;—CL 1948, 305.9a;—Am. 1959, p. 232, Act 164, Eff. Mar. 19, 1960.

305.10 Sale of licenses and stamps; disposition of proceeds.

Sec. 10. All moneys collected from the sale of licenses and stamps as provided in this act shall be paid over to the auditor general by the director of conservation and held to the credit of the game and fish protection fund, and shall be used for the purposes necessary to the protection, propagation, and distribution of fish and game, and as otherwise provided by law.

HISTORY: CL 1929, 6405;—Am. 1947, p. 555, Act 385, Eff. Jan. 1, 1948;—CL 1948, 305.10.

305.11 Unlawful acts; penalty; license application of convicted person.

Sec. 11. Any person who makes any false statement as to any of the facts required by this act for the purpose of obtaining any license, or any person who affixes to any license a date other than the date upon which it was issued, or any person charging more than the license fees provided for in this act or any person taking or attempting to take any fish in any manner without a license as provided in this act, or any person taking or attempting to take brook, brown, or rainbow trout without having procured and having affixed to his fishing license a special stamp as provided in this act, or any person who shall loan or permit another to use his license, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than \$5.00 nor more than \$100.00 and costs of prosecution, or by imprisonment in the county jail for a term of not more than 90 days or by both such fine and imprisonment in the discretion of the court, and shall surrender such license and license button as may have been obtained. Applicants for licenses under this act, who have previously been convicted of a violation of the fish laws of this state, may be required to file such applications with the director of conservation together with such information as the director may deem expedient and such licenses shall thereafter be issued in the discretion of the director.

HISTORY: CL 1929, 6406;—Am. 1933, p. 239, Act 161, Imd. Eff. June 22;—Am. 1939, p. 877, Act 337, Eff. Jan. 1, 1940;—Am. 1941, p. 628, Act 356, Eff. Jan. 10, 1942;—Am. 1947, p. 555, Act 325, Eff. Jan. 1, 1948;—CL 1948, 305.11.

305.12 Violation of act; misdemeanor, penalty.

Sec. 12. Any person who shall violate any provision of this act, for which violation a penalty is not otherwise provided for in this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not more than 100 dollars and costs of prosecution, or by imprisonment for a term of not more than 90 days in the county jail, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1937, p. 828, Act 344, Eff. Jan. 1, 1938;—CL 1948, 305.12.

305.13 Fish taken unlawfully; additional penalty, reimbursement of state, exceptions.

Sec. 13. (1) In addition to the penalties provided in this act for violating the provisions thereof, any person convicted of taking brook, brown and rainbow trout, splake, steelhead, chinook, coho and kokanee salmon, lake trout, northern pike, pike-perch (walleye pike), largemouth and smallmouth black bass, muskellunge and sturgeon during any closed season, or taking or possessing such fish in excess of lawful limits, or taking such fish by use of any unlawful device shall reimburse the state for the value of these fish so taken as follows:

(a) Such game fish, of an individual weight of 1 pound or more, not less than \$5.00 nor more than \$10.00 for each pound of fish illegally taken or possessed.

(b) Such game fish, of an individual weight of less than 1 pound, \$5.00 for each fish illegally taken or possessed.

(2) In every case of conviction for any of said offenses, the court or magistrate before whom such conviction is obtained shall enter judgment in favor of the state and against the defendant for liquidated damages in a sum as provided in subsection (1), and it shall be the duty of the department of conservation with the assistance of the

prosecuting attorney to collect the same by execution or otherwise. If 2 or more defendants are convicted of the illegal taking or the illegal possession of the same game fish, the damages shall be entered against them jointly. Any person who refuses or neglects to pay any such judgment rendered against him shall not be eligible to obtain and shall not obtain any fishing license until such judgment has been satisfied, but the period of ineligibility shall not exceed the 3 next succeeding license years.

(3) All magistrates collecting such damages forthwith shall remit the same to the county treasurer, who shall transmit it to the state treasurer, who shall credit it to the game and fish protection fund.

(4) This section shall not apply to those game fish described in subsection (1) taken under authority of a commercial fishing license. Neither shall this section apply to the taking or possessing by sport fishing in lake Superior, 6 lake trout, prior to January 1, 1969.

HISTORY: Add. 1968, p. 362, Act 236, Eff. Jul. 1.

CHAPTER VI.—REPEALS.

306.2 Acts not repealed.

306.3 Saving clause.

Sec. 1. (This was a repeal section.)

ACTS REPEALED:

Public Act Number	Year of Act	Public Act Number	Year of Act
228	1861	21	1907
334	1869	36	1907
349	1873	38	1907
362	1879	50	1907
386	1887	52	1907
329	1885	59	1907
45	1889	60	1907
131	1889	76	1907
134	1889	88	1907
35	1891	92	1907
154	1891	96	1907
25	1893	113	1907
32	1893	135	1907
54	1893	149	1907
213	1895	165	1907
50	1897	190	1907
273	1897	200	1907
279	1897	214	1907
280	1897	215	1907
287	1897	231	1907
8	1899	233	1907
71	1899	239	1907
74	1899	293	1907
104	1899	59	1909
111	1899	89	1911
23	1901	101	1911
101	1901	20	1913
306	1901	120	1913
307	1901	122	1913
123	1901	342	1913
125	1901	366	1913
132	1901	236	1915
134	1901	263	1915
152	1901	224	1917
158	1901	288	1917
159	1901	289	1917
20	1903	290	1917
41	1903	291	1917
42	1903	349	1917
67	1903	359	1917
310	1903	86	1919
113	1903	87	1919
140	1903	166	1919
152	1903	245	1919
187	1903	269	1919
242	1903	329	1919
29	1905	366	1919
30	1905	387	1919
41	1905	7	Ex. Ses. 1919
47	1905	16	1921
48	1905	23	1921
49	1905	24	1921
57	1905	25	1921
106	1905	119	1921
113	1905	232	1921
121	1905	267	1921
139	1905	280	1921
143	1905	289	1921
152	1905	68	1923
187	1905	73	1923
19	1905	30	1925
102	1905	336	1925
142	1905	166	1927
204	1905	246	1927
177	1905	325	1927
1	1907	334	1927
20	1907	350	1927

HISTORY. CL 1929, 6407;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

REPEAL. Act 213 of 1895 and Act 120 of 1913 also appeared on obsolete law bill of 1929, Act 309, being CL 1929, 121.

306.2 Acts not repealed.

Sec. 2. Nothing in this act shall be construed to repeal Act No. 170 of the Public Acts of 1905, Act No. 247 of the Public Acts of 1919, or Act No. 194 of the Public Acts of 1925.

HISTORY: CL 1929, 6406;—CL 1948, 306.2.

NOTE: Act 170 of 1905, above referred to, is Compilers' §§ 308.101 to 308.106; Act 247 of 1919, see note to Compilers' § 305.7; Act 194 of 1925 is Compilers' §§ 307.271 and 307.172.

306.3 Saving clause.

Sec. 3. All suits, actions or proceedings for the violation of any law now in force, which may be started before this act takes effect, shall not be thereby abated, but may be prosecuted in the same manner and with like effect as though this act had not been passed.

HISTORY: CL 1929, 6409;—CL 1948, 306.3.

Sec. 4. (This was a severing clause section.)

HISTORY: CL 1929, 6410;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

CHAPTER 307. CONSERVATION—FISHING, MISCELLANEOUS

PASSAGE OF FISH OVER DAMS		tion by license holder, prerequisite to new license.	
Act 123 of 1929		307.59	Mussels; definitions.
307.1	Free passage of fish; rules; fish ladders.	307.60	Taking mussels for culture or scientific investigation; permit required.
307.2	Inspector of dams; duties; plan, contents, copies.	307.61	Violation of act; penalty.
307.3	Inspector of dams; compliance with order, time allowance.	FISHING FROM INLAND WATERS	
307.4	Prosecutions; mandamus.	Act 14 of 1923	
307.5	Violations of act; separate offenses.	307.71	Inland lakes; fishing prohibited, exception.
307.6	Construction of passageways for fish by director of conservation; expenses, payment; tax assessment.	307.72	Violation of act; penalty.
307.7	Passage of fish through and over dams; unlawful apparatus in rivers, streams, creeks; authority of director of conservation.	FROGS	
CONTAMINATION OF WATERS		Act 156 of 1933	
Act 350 of 1865		307.101	Frogs; closed season; spearing with aid of artificial light prohibited.
307.21	Repealed.	307.102	Frogs; lawful purchase.
307.22	Refuse from fish catch; disposal.	307.103	Frogs; permits to take for scientific or experimental purposes; revocation.
307.28	Transient or non-resident fishing license; fee; forfeiture; moneys, disposition.	307.104, 307.105	Repealed.
307.30	Unlawful dumping into waters; molesting of nets.	307.106	Violation of act; penalty.
307.31	Violation of act; penalty.	HOUGHTON LAKE, SPEARING PROHIBITED	
307.32	Unlawful acts; penalty; civil liability.	Act 4 of 1939	
HOOK AND LINE FISHING		307.151	Houghton lake; spearing fish prohibited, penalty.
Act 121 of 1891		ST. JOSEPH RIVER	
307.41	Lawful fishing with hook and line.	Act 57 of 1931	
307.42	Fishing rights; action at law, defense.	307.161	St. Joseph river; general laws applicable.
MUSSELS		SOO RAPIDS, ST. MARY'S RIVER	
Act 261 of 1915		Act 194 of 1925	
307.51	Mussels; fishing, registration and license requirements.	307.171	Soo Rapids and certain connecting waters of St. Mary's river; closed seasons on rainbow trout; excepted waters.
307.52	License; application, fee.	307.172	Violation of act; penalty.
307.53	License; issuance, contents, possession, exhibition.	CISCO	
307.54	Applications and licenses; record; receipt, disposition; non-resident, definition.	Act 247 of 1919	
307.55	Mussels; number of boats permitted; crowfoot bars; hand rods; prohibited devices; mufflers.	307.201-307.204	Repealed.
307.56	Mussels; limitation on catch of undersized of certain species.	FISH HATCHERIES TO RESTOCK GREAT LAKES	
307.57	Mussels; closed areas, orders of conservation commission, publication, effective date.	Act 175 of 1956	
307.58	Mussels; report to director of conserva-	307.251	Fish hatcheries to restock great lakes; establishment, plan.
		307.252	Fish hatcheries; appropriation from game and fish fund.
		307.253	Fish hatcheries; appropriation, disbursement.

Act 123, 1929, p. 278; Eff. Aug. 28.

AN ACT to confer power and authority upon the conservation commission to provide for the erection and maintenance of proper means for the free passage of fish through and over dams now in existence or which shall hereafter be erected across rivers, streams or creeks, and to prohibit the obstruction of rivers, streams and creeks in such manner as to prevent the free passage of fish up and down; and to repeal Act No. 265 of the Public Acts of 1909, as amended by Act No. 26 of the Public Acts of 1921.

The People of the State of Michigan enact:

307.1 Free passage of fish; rules; fish ladders.

Sec. 1. It is hereby made the duty of the conservation commission to prescribe means and to lay down rules and regulations to admit of the free passage and uninterrupted passage of fish over or through dams now in existence or which shall hereafter be erected over rivers, streams or creeks: Provided, That the director of conservation is authorized to abrogate the provisions of this act requiring the erection of fish ladders whenever, in the opinion of the commissioner, the height of the dam or the condition of the river or stream makes the installation of such ladders impracticable or unnecessary.

HISTORY: CL 1929, 6411;—CL 1948, 307.1.

CITED IN OTHER SECTIONS: Sections 307.1 to 307.7 are cited in § 46.22.

307.2 Inspector of dams; duties; plan, contents, copies.

Sec. 2. The director of conservation is hereby made inspector of dams across rivers, streams and creeks of this state and it shall be his duty to prepare a draft of a general plan that will, in his opinion, best permit of the free passage of large and small fish up and down a stream at the dam. Each such plan shall set forth such details and specifications in respect to material and construction and connection with the dam as will enable the owner of such dam to properly construct and place the means designated and it shall be the duty of the director of conservation to furnish a copy of such plans and specifications to each owner or occupant of a dam, on request.

HISTORY: CL 1929, 6412;—CL 1948, 307.2.

307.3 Inspector of dams; compliance with order, time allowance.

Sec. 3. Any person, firm or corporation owning or using any dam now existing, or which may hereafter be constructed across any river, stream or creek in this state, when ordered to do so by the director of conservation, shall, within 90 days after the issuance of said order, erect and maintain in good repair sufficient and permanent means to admit of the free and uninterrupted passage of fish over or through such dam. Such means providing for the free passage of fish shall be of such kind and shall be placed in such manner as shall be prescribed by the director of conservation.

HISTORY: CL 1929, 6413;—CL 1948, 307.3.

307.4 Prosecutions; mandamus.

Sec. 4. It shall be the duty of the director of conservation to prosecute in the name of the people of the state in all cases where the provisions of this act are not complied with and it shall be the duty of the prosecuting attorney of the county in which a prosecution is commenced under this act to aid in said prosecution when requested to do so by the director of conservation or any of his deputies or such officer or department as shall accede to the powers and duties of this office: Provided, That the attorney general may institute mandamus proceedings in the circuit court for Ingham county to compel any person, firm or corporation to comply with the provisions of this act.

HISTORY: CL 1929, 6414;—CL 1948, 307.4.

307.5 Violations of act; separate offenses.

Sec. 5. If any person, firm or corporation owning, using or employing the use of any dam across any of the rivers, streams or creeks of this state shall refuse or fail to erect and maintain in proper repair the means or equipment, when ordered by the director of conservation so to do, such person, firm or corporation shall be deemed guilty of a violation of the provisions of this act and every period of 30 days during which any person, firm or corporation owning or using a dam shall fail to erect or maintain in proper repair such means for the free passage of fish or equipment shall render such

person or corporation guilty of a distinct and separate offense of the provisions of this act.

HISTORY: CL 1929, 6415;—CL 1948, 307.5.

307.6 Construction of passageways for fish by director of conservation; expenses, payment; tax assessment.

Sec. 6. In case the owner or user of any dam shall refuse or fail to construct and maintain the means or equipment for the free passage of fish when ordered by the director of conservation so to do, said director may cause the same to be constructed over or through said dam at such place in the dam as will cause least injury to the water power, and the expense of the construction of such means for the free passage of fish shall be by him certified to the board of supervisors of the county in which such dam is located and such expense shall be audited by the board of supervisors and shall be paid from the general fund of said county. The board of supervisors of any county, upon auditing and allowing such expense, shall, by resolution, order the supervisor of the township or ward in which said dam is situated to spread the amount of such expense upon the assessment roll of such township or ward as a tax against the property to which said dam is appurtenant and against the owners of such property to be collected in the same manner as other township taxes and paid over to the county treasurer or returned as delinquent in accordance with law.

HISTORY: CL 1929, 6416;—CL 1948, 307.6.

GENERAL TAX LAW: See Compilers' § 211.1 et seq.

307.7 Passage of fish through and over dams; unlawful apparatus in rivers, streams, creeks; authority of director of conservation.

Sec. 7. It shall be unlawful for any person, firm or corporation to obstruct the channel or course of any river, stream or creek in this state by placing or causing to be placed therein any net, wire screen or any other apparatus or material of any kind whatever, which will tend to prevent the free passage of fish up and down such river, stream or creek, except as authorized by law, and any person or corporation so offending shall be deemed guilty of a violation of the provisions of this act: Provided, That the director of conservation may, when deemed to be in the public interest, authorize the placing of screens in any river, stream, creek or in the inlet or outlet of any lake.

HISTORY: CL 1929, 6417;—Am. 1939, p. 29, Act 16, Imd. Eff. March 20;—CL 1948, 307.7.

Sec. 8. (This was a repeal section.)

HISTORY: CL 1929, 6418;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 265, 1909, CL 1915, 7623-7630.

Act 350, 1865, p. 717; Eff. Jun. 22.

AN ACT to protect fish and to preserve the fisheries of this state; and to prescribe penalties for violations of the provisions of this act. Am. 1951, p. 112, Act 82, Eff. Sep. 25.

The People of the State of Michigan enact:

307.21 Repealed. 1963, p. 137, Act 106, Eff. Sep. 6.

Section made it unlawful to contaminate or litter waters under state jurisdiction.

307.22 Refuse from fish catch; disposal.

Sec. 2. All fish, offal or filth of any description accruing from the catching and curing of fish, shall be burned or buried 10 rods distant from the beach or shore of any stream, pond or lake.

HISTORY: CL 1871, 3073;—How. 2164;—CL 1897, 5855;—CL 1915, 7638;—Am. 1921, p. 448, Act 234, Eff. Aug. 18;—CL 1929, 6420;—CL 1946, 307.22.

Secs. 3-7.

HISTORY: CL 1871, 2074-2078;—How. 2165-2169.

Sec. 3: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

Secs. 4 and 7: Rep. 1885, p. 93, Act 91, Eff. Sept. 19.

Secs. 5 and 6: Rep. 1887, p. 350, Act 265, Eff. Sept. 28.

Secs. 3-7 dealt with nets, spawn and speckled trout and were superseded by Acts 265 of 1887 and 139 of 1889. Act 265 of 1887 was superseded by Act 111 of 1890, which was repealed by Act 165 of 1929, see CL 1929, 6407. Act 139 of 1889 was repealed by Act 309 of 1929, see CL 1929, 121.

307.28 Transient or non-resident fishing license; fee; forfeiture; moneys, disposition.

Sec. 8. The board of supervisors of each county, or a majority of them, shall grant, on the application of any transient or non-resident person or persons, a written permission or license for 1 year, for each and every pound or trap net used, on payment of 50 dollars legal money, all persons concerned in the breach of this act, shall forfeit the sum of 100 dollars, with all costs of suit. It shall be the duty of the board of supervisors, or a majority of them, to enforce the provisions of this act; and all moneys accruing from fishing licenses and forfeitures, shall be paid over to the county treasurer.

HISTORY: CL 1871, 2079;—How. 2170;—CL 1897, 5856;—CL 1915, 7639;—CL 1929, 6421;—CL 1948, 307.28.

Sec. 9.

HISTORY: CL 1871, 2080;—How. 2171;—Rep. 1887, p. 350, Act 265, Eff. Sept. 28.

307.30 Unlawful dumping into waters; molesting of nets.

Sec. 10. It shall be unlawful for any person or persons to put into said waters any sand, coal, cinders, ashes, log slabs, decayed wood, bark, sawdust, or filth. It is further provided that it shall be unlawful for any person or persons, or any boat owner, or captain of any boat or vessel to run into or molest any *pond net, trap net, or other stationary nets or fixtures set in any lake for fishing purposes.

HISTORY: Add. 1869, p. 160, Act 94, Imd. Eff. Apr. 2;—CL 1871, 2081;—How. 2172;—CL 1897, 5857;—CL 1915, 7640;—Am. 1921, p. 448, Act 234, Eff. Aug. 18;—CL 1929, 6422;—CL 1948, 307.30.

*NOTE: It is evident the word "pond" should be "pound".

307.31 Violation of act; penalty.

Sec. 11. Any person or persons offending against the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine not exceeding 100 dollars or imprisonment in the county jail not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court, and such person or persons shall be liable civilly for damages done in an action in any court having jurisdiction thereof.

HISTORY: Add. 1869, p. 160, Act 94, Imd. Eff. Apr. 2;—CL 1871, 2082;—How. 2173;—CL 1897, 5858;—CL 1915, 7641;—Am. 1921, p. 448, Act 234, Eff. Aug. 18;—CL 1929, 6423;—CL 1948, 307.31.

Secs. 12-13.

HISTORY: Add. 1885, p. 59, Act 59, Eff. Sept. 19;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

Secs. 12 and 13 were superseded by Act 139 of 1889, which was repealed by Act 309 of 1929, being CL 1929, 121.

307.32 Unlawful acts; penalty; civil liability.

Sec. 12. It shall be unlawful for any person or persons to wilfully cut, tear, untie, remove or in any manner injure, damage, molest or destroy any net, rope, line, stake, anchor or other property belonging to, in use, or to be used in any *pond net or trap net or other net or nets and fixtures thereto belonging, lawfully set and used for the purpose of taking fish from any of the lakes or streams in the state of Michigan or in any of the lakes or waters bordering upon said state of Michigan. Any person or persons offending against the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not to exceed 500 dollars or imprisonment in the county jail not more than 6 months, or both such fine and imprisonment in the discretion of the court; and such person or persons shall be liable civilly for all damages done wilfully to such property to the legal owners or occupants

thereof, to be recovered in an action of trespass in any court of the county where such property is situate, having jurisdiction thereof.

HISTORY: Add. 1917, p. 722, Act 237, Eff. Aug. 10;—CL 1929, 6424;—CL 1948, 307.32.

*NOTE: It is evident the word "pond" should be "pound".

Act 121, 1891, p. 140; Imd. Eff. Jun. 9.

AN ACT to secure to the people of the state of Michigan certain rights on any of the navigable or meandered waters of this state where fish have been or hereafter may be propagated, planted or spread at the expense of the people of this state or the United States.

The People of the State of Michigan enact:

307.41 Lawful fishing with hook and line.

Sec. 1. That in any of the navigable or meandered waters of this state where fish have been or hereafter may be propagated, planted or spread at the expense of the people of this state or the United States, the people shall have the right to catch fish with hook and line during such seasons and in such waters as are not otherwise prohibited by the laws of this state.

HISTORY: CL 1897, 5859;—CL 1915, 7604;—CL 1929, 6425;—CL 1948, 307.41.

307.42 Fishing rights; action at law, defense.

Sec. 2. No action at law shall be maintained against persons entering upon such waters for the purpose of such fishing, by the owner, lessee, or persons having the right of possession of adjoining lands, except for actual damage done. In any such action the defendant under a proper notice may dispute on the trial the plaintiff's right to either title or possession of the land claimed to be trespassed upon.

HISTORY: CL 1897, 5860;—CL 1915, 7605;—CL 1929, 6426;—CL 1948, 307.42.

Act 261, 1915, p. 460; Eff. Aug. 24.

AN ACT to regulate the taking, catching or killing of mussels in any of the inland waters of this state, and to provide an open and closed season for taking same; to provide for the issuing of licenses and permits pertaining thereto and the disposition of the moneys derived therefrom, and to provide penalties for the violation of the provisions of this act. Am. 1931, p. 291, Act 181, Imd. Eff. May 28.

The People of the State of Michigan enact:

307.51 Mussels; fishing, registration and license requirements.

Sec. 1. It shall be unlawful for any person to take, catch or kill mussels by means of any kind of apparatus or in any manner whatsoever in any of the inland waters of this state without first having been registered in the office of the director of conservation and a license issued therefor in accordance with the provisions of this act.

HISTORY: CL 1915, 7746;—CL 1929, 6427;—Am. 1931, p. 291, Act 181, Imd. Eff. May 28;—CL 1948, 307.51.

307.52 License; application, fee.

Sec. 2. Any person desiring to take, catch or kill mussels in any of the inland waters of this state shall make application therefor to the director of conservation on a blank provided for that purpose by the director of conservation, accompanied by a fee of 3 dollars, if the applicant is a resident of this state, and a fee of 50 dollars, if the applicant is a non-resident of this state.

HISTORY: CL 1915, 7747;—CL 1929, 6428;—Am. 1931, p. 291, Act 181, Imd. Eff. May 28;—CL 1948, 307.52.

307.53 License; issuance, contents, possession, exhibition.

Sec. 3. The director of conservation shall upon receipt of such application and the proper fee issue a license to take, catch or kill mussels. All such licenses shall begin July 1 and expire on the thirtieth day of September following their issue. Licenses shall be consecutively numbered as issued and a record shall be kept thereof in the office of the department of conservation. Such license shall state whether it is a resident or non-resident license, the address of the licensee and the amount paid for the license. Said license shall also state what waters have been closed to the capture of mussels by the conservation commission. Every person while taking, catching or killing mussels shall have such license in his possession and shall exhibit the same when requested to do so by an authorized officer.

HISTORY: CL 1915, 7748;—CL 1929, 6429;—Am. 1931, p. 291, Act 181, Imd. Eff. May 28;—CL 1948, 307.53.

307.54 Applications and licenses; record; receipt, disposition; non-resident, definition.

Sec. 4. The director of conservation shall keep a record of all applications and licenses issued by him and on the first day of each month shall pay over to the auditor general all moneys received for the sale of licenses issued under the provisions of this act and such moneys shall be credited to the game and fish protection fund and shall be disbursed by the auditor general for services of the director of conservation and his deputies and their expenses in enforcing this act and the game and fish laws of this state, for propagation and for biological investigations and such other investigations as may be necessary. For the purpose of this act, a non-resident of this state shall be deemed to be any person who has not resided within this state for a period of at least the 6 consecutive months immediately prior to the time application is made for license under the provisions of this act.

HISTORY: CL 1915, 7749;—CL 1929, 6430;—Am. 1931, p. 291, Act 181, Imd. Eff. May 28;—CL 1948, 307.54.

307.55 Mussels; number of boats permitted; crowfoot bars; hand rods; prohibited devices; mufflers.

Sec. 5. Any person to whom a license has been issued under the provisions of this act may operate not more than 1 boat, with or without motor, in taking, catching or killing mussels. Any such person may use 1 additional boat, with or without motor, for the purpose of towing only when no apparatus for taking, catching or killing mussels is used or kept thereon. It shall be unlawful to have in possession on the waters while engaged in taking, catching or killing mussels, more than 4 crowfoot bars, not more than 2 of said bars to be in the water at 1 time, or to use or have in possession a crowfoot bar of greater length than 20 feet. Any such person may also use his hands or a device known as a hand rod in taking, catching or removing mussels from the waters: Provided, That it shall be unlawful to use a fork, dredge, tongs or other device, which in use digs deeply into the bed of the stream, in gathering mussels: Provided further, That all boats propelled by an internal combustion engine or motor and used in taking, catching, killing or conveying mussels taken under the provisions of this act shall be equipped at all times with a quiet muffler for the exhaust.

HISTORY: CL 1915, 7750;—CL 1929, 6431;—Am. 1931, p. 291, Act 181, Imd. Eff. May 28;—Am. 1937, p. 201, Act 130, Imd. Eff. June 28;—CL 1948, 307.55.

307.56 Mussels; limitation on catch of undersized of certain species.

Sec. 6. It shall be unlawful to take, catch, kill, offer for sale or have in possession more than 1 per cent by weight, mussels of the varieties known either as mucket or pocketbook species of a size less than 3 inches in greatest dimension. Undersized mussels shall be immediately culled and returned to the water whence taken without avoidable injury.

HISTORY: Add. 1931, p. 292, Act 181, Imd. Eff. May 28;—CL 1948, 307.56.

307.57 Mussels; closed areas, orders of conservation commission, publication, effective date.

Sec. 7. The conservation commission may from time to time as may be required for the conservation of the mussel resources of the state, prescribe areas in any part of the state from which mussels shall not be taken for such a period as may be specified by the commission. It shall be unlawful to take, catch or kill mussels in waters so closed. All orders of the conservation commission affecting mussels shall be published once a year in a newspaper of general circulation, published within each county containing or having on its boundary waters affected by such order. All such orders shall take effect at the time fixed therein, but not less than 21 days after the publication thereof. The conservation commission may extend the time within which such order shall take effect.

HISTORY: Add. 1931, p. 292, Act 181, Imd. Eff. May 28;—Am. 1937, p. 302, Act 130, Imd. Eff. June 26;—CL 1948, 307.57.

307.58 Mussels; report to director of conservation by license holder, prerequisite to new license.

Sec. 8. On or before the thirty-first day of December of the year in which any license was issued, the holder thereof shall make a written report to the director of conservation, on blanks furnished by the director of conservation, under oath when requested so to do, stating the total weight of mussel shells taken, caught or killed under such license, the names and locations of waters from which the mussels were taken, the weight of shells taken from each water, and the amount of moneys received for shells sold, and such other information as may be required by the director of conservation in determining the trend of the industry and available supply of mussels. The director of conservation may deny a new license to such holder until such report shall be made in accordance with the provisions of this act.

HISTORY: Add. 1931, p. 292, Act 181, Imd. Eff. May 28;—Am. 1937, p. 302, Act 130, Imd. Eff. June 26;—CL 1948, 307.58.

307.59 Mussels; definitions.

Sec. 9. As used in this act the words:

(a) "Mussel" shall mean and embrace the pearly fresh-water mussel, clam, or naiad, and the shells thereof.

(b) "Crowfoot bar" shall mean a bar of any material bearing a series of hooks designed to catch or adapted for catching mussels by the insertion of such hooks between the shells of mussels.

(c) "Hand rod" shall mean any mechanism of capture which is adapted for picking the mussels singly from the bottom of waters and is operated by the picker holding the hand rod in the hand.

HISTORY: Add. 1931, p. 292, Act 181, Imd. Eff. May 28;—CL 1948, 307.59.

307.60 Taking mussels for culture or scientific investigation; permit required.

Sec. 10. Permit to take mussels for culture or scientific investigation. It shall be unlawful for any person to take from any of the inland waters of this state any kind of mussels in any manner for the purpose of culture or scientific investigation, without first obtaining a permit from the director of conservation.

HISTORY: Add. 1931, p. 292, Act 181, Imd. Eff. May 28;—CL 1948, 307.60.

NOTE: The catchline following the section number is part of the section as enacted.

307.61 Violation of act; penalty.

Sec. 11. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than 10 nor more than 100 dollars and costs of prosecution and in default thereof by imprisonment in the county jail for a period not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1931, p. 292, Act 181, Imd. Eff. May 28;—CL 1948, 307.61.

Act 14, 1923, p. 29; Eff. Aug. 30.

AN ACT to prohibit the taking of fish from the inland waters of this state where the public is excluded from taking fish therefrom and fish have been planted therein at public expense and to provide a penalty for violation of the provisions of this act.

The People of the State of Michigan enact:

307.71 Inland lakes; fishing prohibited, exception.

Sec. 1. No person shall take any fish from any of the inland lakes of this state, within which fish shall be planted at the expense of the people of this state, after the passage of this act, from which waters the public is excluded from taking fish: Provided, however, That this act shall not apply to any small inland lakes covering less than 250 acres in which fish may be so planted without the written consent of the persons who together own in fee simple the submerged acreage.

HISTORY: CL 1929, 6442;—Am. 1933, p. 399, Act 247, Eff. Oct. 17;—CL 1948, 307.71.

307.72 Violation of act; penalty.

Sec. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof subject to a fine of not less than 10 dollars or more than 100 dollars or imprisonment in the county jail for a term of not more than 30 days or both said fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6443;—CL 1948, 307.72.

Act 156, 1933, p. 225; Eff. Oct. 17.

AN ACT to provide for the protection of all species of frogs; to regulate the taking, sale and possession of frogs; to provide for issuing permits for taking frogs; and to provide penalties for the violation of this act. Am. 1949, p. 61, Act 64, Eff. Sep. 23.

The People of the State of Michigan enact:

307.101 Frogs; closed season; spearing with aid of artificial light prohibited.

Sec. 1. Hereafter it shall be unlawful to take or kill in any manner any species of frogs in this state from November 16th in any year to the Friday immediately preceding the opening of the season on black bass of the year following, both dates inclusive: Provided, however, That it shall be unlawful to spear frogs at any time with the aid of an artificial light.

HISTORY: Am. 1943, p. 68, Act 60, Eff. Jul. 30;—Am. 1947, p. 91, Act 83, Eff. Oct. 11;—CL 1948, 307.101;—Am. 1949, p. 61, Act 64, Eff. Sep. 23;—Am. 1954, p. 99, Act 78, Eff. Aug. 13.

307.102 Frogs; lawful purchase.

Sec. 2. Nothing in this act shall be construed to prevent at any time the purchase, sale or possession of frogs or any portion of the carcasses of frogs that have been legally taken or that have been shipped in from without the state.

HISTORY: CL 1948, 307.102;—Am. 1949, p. 62, Act 64, Eff. Sep. 23.

307.103 Frogs; permits to take for scientific or experimental purposes; revocation.

Sec. 3. The director of conservation may upon written application issue permits to take frogs at any season of the year when used for scientific or experimental purposes. All permits so issued shall be revocable at the pleasure of the director of conservation.

HISTORY: Am. 1943, p. 68, Act 60, Eff. Jul. 30;—CL 1948, 307.103;—Am. 1949, p. 62, Act 64, Eff. Sep. 23.

307.104, 307.105 Repealed. 1949, p. 62, Act 64, Eff. Sep. 23.

Sections authorized issuance of permits for propagation, sale and possession of frogs and provided for disposition of funds collected from issuance of permits.

307.106 Violation of act; penalty.

Sec. 6. Any person violating any of the provisions of this act or who makes any false statement in securing or attempting to secure a permit provided herein shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than 50 dollars, together with costs of prosecution, or imprisonment in the county jail not to exceed 90 days or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 307.106.

Sec. 7. (This was a repeal section.)

HISTORY: Rep. 1945, p. 406, Act 367, Imd. Eff. May 25.

ACTS REPEALED: Act 90, 1915, CL 1929, 6432-6436; Act 131, 1917, CL 1929, 6437-6441.

Act 4, 1939, p. 11; Eff. Sep. 29.

AN ACT to prohibit the spearing of fish in Houghton lake, Roscommon county; and to provide penalties for the violation thereof.

The People of the State of Michigan enact:

307.151 Houghton lake; spearing fish prohibited, penalty.

Sec. 1. It shall be unlawful to spear any fish in Houghton lake, Roscommon county. Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than \$10.00 nor more than \$100.00, or by imprisonment in the county jail for a period of not less than 10 days nor more than 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 307.151.

Act 57, 1931, p. 92; Eff. Sep. 18.

AN ACT to make all general laws relative to fishing on inland lakes applicable to a certain part of St. Joseph river.

The People of the State of Michigan enact:

307.161 St. Joseph river; general laws applicable.

Sec. 1. On and after the effective date of this act all general laws now in effect or that may hereafter be enacted relative to fishing on inland lakes shall be and the same are hereby made applicable to the waters in that part of the St. Joseph river formerly known as Municipal pond, and now known as Union Lake, Union City, Branch

county, Michigan, extending from a point known as Arbogast bridge westward to and including the Riley dam.

HISTORY: CL 1948, 307.161.

NOTE: General laws, see Compilers' § 301.1 et seq.

Act 194, 1925, p. 280; Eff. Aug. 27.

AN ACT to regulate the taking of rainbow trout in the Soo Rapids and certain waters connected therewith in the St. Mary's river, Chippewa county, and to provide penalties for the violation thereof.

The People of the State of Michigan enact:

307.171 Soo Rapids and certain connecting waters of St. Mary's river; closed seasons on rainbow trout; excepted waters.

Sec. 1. It shall be unlawful for any person to take or attempt to take rainbow trout in the waters of the Soo Rapids, and the United States power canal and tailrace, the north and south canals, the locks and the approaches thereto, between the international railway bridge and a line drawn from the ferry dock immediately below the St. Mary's falls in Sault Ste. Marie, Michigan, to the ferry dock in Sault Ste. Marie, Ontario, all being a part of the St. Mary's river, Chippewa county, except from June 1 to November 30, inclusive: Provided, That the above regulations shall not apply to the Michigan northern power canal which shall be considered a part of the connecting waters between Lake Superior and Lake Huron for the purpose of regulating fishing therein.

HISTORY: CL 1929, 6444;—Am. 1947, p. 167, Act 127, Imd. Eff. May 26;—CL 1948, 307.171.

307.172 Violation of act; penalty.

Sec. 2. Any person violating the provisions of this act shall upon conviction be punished by a fine of not less than 10 dollars nor more than 100 dollars or by imprisonment in the county jail for a period of not less than 10 days nor more than 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6445;—CL 1948, 307.172.

307.201-307.204 Repealed. 1969, p. 212, Act 117, Imd. Eff. Jul. 29.

Sections permitted gill net fishing for cisco on certain inland lakes at times specified; license, fee; tag or seal affixed to net; penalty.

Act 175, 1956, p. 334; Eff. Aug. 11.

AN ACT to authorize the conservation commission to plan fish hatcheries for the purpose of restocking the great lakes which border the state; and to appropriate money therefor.

The People of the State of Michigan enact:

307.251 Fish hatcheries to restock great lakes; establishment, plan.

Sec. 1. The conservation commission may plan the establishment of fish hatcheries for the propagation and cultivation of pickerel, trout and whitefish for restocking the great lakes which border the state of Michigan.

HISTORY: New 1956, p. 334, Act 175, Eff. Aug. 11.

307.252 Fish hatcheries; appropriation from game and fish fund.

Sec. 2. There is hereby appropriated from the game and fish fund of the state of Michigan for the fiscal year ending June 30, 1957, the sum of \$5,000.00, for the purpose of carrying out the provisions of this act.

HISTORY: New 1956, p. 334, Act 175, Eff. Aug. 11.

307.253 Fish hatcheries; appropriation, disbursement.

Sec. 3. The amounts hereby appropriated shall be paid out of the state treasury and the expenditures thereof shall be accounted for at such time and in such manner as is or may be provided by law.

HISTORY: New 1956, p. 334, Act 175, Eff. Aug. 11.

CHAPTER 308. CONSERVATION—FISHING, COMMERCIAL

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Act 84, 1929, p. 201; Imd. Eff. Apr. 29.

AN ACT to protect fish and to preserve the fisheries of this state; to regulate the taking of fish in the waters of lakes Superior, Michigan, Huron, and Erie, and the bays thereof, and the connecting waters between the lakes within the jurisdiction of this state; to prescribe the powers and duties of the director of conservation; to provide for financial remuneration to this state for fish taken for commercial purposes and disposition of moneys derived therefrom; to provide for establishment of great lakes fishery advisory committee and prescribe its powers and duties; to regulate the transportation, sale and possession of fish in this state; to provide for the issuing of licenses and permits pertaining thereto and the disposition of the moneys derived therefrom; to provide for the confiscation of property used or possessed in violation of this act; and to provide penalties for the violations of the provisions of this act. Am. 1947, p. 540, Act 324, Imd. Eff. Jul. 2;—Am. 1968, p. 616, Act 336, Eff. Nov. 15;—Am. 1970, p. 143, Act 53, Imd. Eff. Jul. 10.

The People of the State of Michigan enact:

308.1 Fish in great lakes; property of state.

Sec. 1. All fish of whatever kind found in the waters of lakes Superior, Michigan, Huron and Erie, commonly known as the Great Lakes, and the bays thereof and the connecting waters between the lakes within the jurisdiction of this state, shall be, and are declared to be, the property of the state and the taking thereof is declared to be a privilege. All fish in such waters shall be taken, transported, sold and possessed only in accordance with the provisions of this act.

HISTORY: CL 1929, 6307;—Am. 1933, p. 430, Act 255, Imd. Eff. Jul. 11;—CL 1948, 308.1;—Am. 1966, p. 616, Act 336, Eff. Nov. 15.
CITED IN OTHER SECTIONS: Sections 306.1 to 308.48; 308.1 to 308.51 are cited in §§ 307.51a, 306.2, and 306.202.

308.1a Commercial fishing law of 1929; short title.

Sec. 1a. This act shall be known and may be cited as "The commercial fishing law of 1929".

HISTORY: Add. 1943, p. 35, Act 39, Imd. Eff. March 24;—CL 1948, 308.1a.

308.1b Fishing license; limited number to be issued, qualifications; provisions; expiration date; suspension or revocation; renewal, transfer.

Sec. 1b. (1) Notwithstanding the provisions of this or any other act, the director of conservation, when in his opinion it is necessary for the better protection, preservation, management, harvesting and utilization of the fisheries in the waters described in section 1 may limit the number of fishing licenses to be issued under the provisions of this act and fix and determine the qualifications of such licensees. In determining the number of licenses that the director of conservation issues during any license year, he shall take into consideration the number of persons holding such licenses, the number of licensees needed to harvest the fish known or believed to be harvestable, the capacity of the boats and equipment owned and used by licensees to effectuate such harvesting, and any other facts which may bear upon the allowing of a limited number of licensed persons to engage in commercial fishing in an economical and profitable manner. In determining the qualifications of the licensees, the director of conservation shall consider the kind, nature and condition of the boats and fishing equipment and gear to be used by the applicant, the years of experience the applicant has had in commercial fishing and the quantity and kinds of fish that the applicant has caught during the previous 5 years and such other facts which may assist him in determining that the applicant is capable to engage in commercial fishing in a proper and profitable manner and will comply with the laws applicable to commercial fishing.

Licenses, provisions.

(2) In addition to the requirements of this act and rules promulgated pursuant to this act, the license issued by the director of conservation may contain provisions:

- (a) Fixing the amount of fish to be taken by species and kind.
- (b) Designating the areas in which the licensee shall be permitted to fish.
- (c) Specifying the season when and the depths where the licensee may conduct his commercial fishing operations.
- (d) Specifying the methods and gear which the licensee shall use.
- (e) Specifying other conditions, terms and restrictions which are deemed to be necessary in carrying out the provisions of this act, including but not limited to the right to inspect the licensee's fishing operations in the waters, on board or ashore.

Expiration date.

(3) All licenses issued by the director pursuant to this act shall expire on December 31 of the year in which issued.

Suspension or revocation.

(4) The director of conservation may suspend or revoke any license issued under this act when the licensee fails to fulfill or violates any of the conditions, terms or restrictions of the license. The director shall afford the licensee a hearing in accordance with the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. Any person whose license has been suspended or revoked shall not be eligible to apply for or receive a license for the ensuing 2 calendar years following such suspension or revocation.

Existing licenses, renewal; transferability.

(5) Any licensee presently licensed at the time this section becomes effective shall have the right to have his license renewed from year to year by the director of conservation if such licensee continues to meet the qualifications set forth in this section and the qualifications specified in any rules promulgated under this section regardless of the determination of the number of licenses to be issued hereunder. Such licenses so issued shall not be transferable without the permission of the director.

HISTORY: Add. 1968, p. 616, Act 336, Eff. Nov. 15.

308.1c Fish and game protection fund; receipts, use.

Sec. 1c. The conservation commission shall provide a financial remuneration to the state for fish taken for commercial purposes by collection from the licensee of not more than 5% of the price received by the licensee. Moneys received shall be credited to the fish and game protection fund to be used in the development and management of the fisheries resource.

HISTORY: Add. 1968, p. 617, Act 336, Eff. Nov. 15.

308.1d Great lakes fishery advisory committee; appointment, purpose, members, terms, expenses.

Sec. 1d. The governor shall appoint a Great Lakes fishery advisory committee to advise the director of conservation on matters affecting the Great Lakes fisheries as submitted to it by the director. The committee shall consist of not more than 9 members. The terms of office shall be 3 years, except that of the members first appointed, 3 shall be appointed for 3 years, 3 for 2 years and 3 for 1 year, or if a lesser number than 9 are appointed, their terms of office shall be prorated accordingly. The members of the advisory committee shall be entitled to actual and necessary expense incurred in the performance of their advisory duties in accordance with standard travel regulations of the department of administration.

HISTORY: Add. 1968, p. 617, Act 336, Eff. Nov. 15.

308.1e Rules; applicability of sections.

Sec. 1e. For the purpose of carrying out the provisions of sections 1b to 1e, the director of conservation may promulgate such rules as may be necessary in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended. Sections 1b to 1e do not apply to lake Erie.

HISTORY: Add. 1968, p. 617, Act 336, Eff. Nov. 15.

308.2 Commercial fishing law; unlawful setting of nets or hook lines; connecting waters, definition.

Sec. 2. It shall be unlawful to place or set any kind of a net or set hook lines or take or attempt to take any kind of fish with a net or set hooklines [sic] except minnow seines as provided in section 5 of this act, in any of the connecting waters between lake Superior and lake Huron and the connecting waters between lake Huron and lake Erie. For the purpose of this act the connecting waters between lake Superior and lake Huron shall be defined as all that part of the straits of St. Mary in this state, extending

from a line drawn from Birch point range front light to the most westerly point of Round island, thence following the shore of Round island to the most northerly point thereof, thence from the most northerly point of said Round island to Point Aux Pins light, Ontario, to a line drawn east and west from the most southerly point of Little Lime island; and the connecting waters of lake Huron and lake Erie shall be defined as all the St. Clair river and all of lake St. Clair and all of the Detroit river extending from fort Gratiot light in lake Huron to a point in the lower Detroit river where the center line of Oak street, city of Wyandotte, Wayne county, Michigan, extended due east, would intersect the international boundary line. The boundary line between lake Michigan and lake Huron shall be defined as a line extending due north from old Mackinac point lighthouse across the straits of Mackinac.

HISTORY: CL 1929, 6308;—Am. 1933, p. 430, Act 255, Imd. Eff. Jul. 11;—Am. 1939, p. 879, Act 339, Eff. Sep. 29;—CL 1948, 308.2;—Am. 1957, p. 372, Act 277, Eff. Sep. 27.

Sec. 2-a.

HISTORY: Add. 1933, p. 430, Act 255, Imd. Eff. July 11;—Rep. 1947, p. 548, Act 324, Imd. Eff. July 2.

308.3 Unlawful setting of nets or hook lines; channel at mouth of stream or outlet of inland lake; fishing from docks; spearing through ice.

Sec. 3. It shall be unlawful to set any net, set hook lines or other device for the purpose of taking or catching fish within 160 rods on either side of the thread of the stream at the mouth of any river or outlet of an inland lake emptying into lakes Superior, Michigan, Huron or Erie, commonly known as the great lakes, or the bays thereof, navigable for vessels drawing 10 feet or more, leaving an open channel of 1 mile in width for the free passage of fish, extending at right angles from the shore line as near as may be, 2 miles from shore: Provided, That within the next 1/2 mile on either side of any such rivers or outlets of inland lakes no nets, set hook lines or other devices shall be used for the purpose of taking fish that will extend a greater distance than 1 mile from shore. The purpose being to leave an open channel of 1 mile in width 1 mile out, and 2 miles in width for the second mile out for the free passage of fish. No net or other device for taking fish shall be set or used within 40 rods on either side of the thread of the stream at the mouth of any other river or the outlet of any other inland lake leaving an open channel of 80 rods in width for the free passage of fish, extending at right angles with the shore line as near as may be 2 miles out from shore. For the purpose of this section the shore shall be deemed to commence at the average low water mark. In case of dispute as to the location of the open channel or the average low water mark, the same shall be determined by the director of conservation. Except as provided in sections 6 and 8 of this act, it shall be lawful at all times to catch any kind of fish in all the waters named in this act, and from the docks, harbors of refuge or breakwaters, with a hook and line except largemouth black bass, smallmouth black bass, bluegills, sunfish, brook or speckled trout, rainbow and steelhead trout, brown and Loch Leven trout, northern pike, pike-perch, perch or muskellunge, which shall only be taken or possessed in the manner and at the time specified by the laws of this state protecting such fish: Provided, That it shall be lawful to spear carp, suckers, mullet, redhorse, sheepshead, lake trout, herring, smelt, perch, pike-perch, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee white fish, catfish, dogfish and garpike through the ice in the connecting waters as defined in this act.

HISTORY: CL 1929, 6309;—Am. 1933, p. 431, Act 255, Imd. Eff. Jul. 11;—Am. 1935, p. 49, Act 36, Eff. Sep. 21;—Am. 1939, p. 880, Act 339, Eff. Sep. 29;—Am. 1947, p. 540, Act 324, Imd. Eff. Jul. 2;—CL 1948, 308.3;—Am. 1951, p. 245, Act 194, Imd. Eff. Jun. 8;—Am. 1957, p. 373, Act 277, Eff. Sep. 27.

308.4 Set hook lines, spears and gill nets; use permitted; unlawful marketing; unused bait.

Sec. 4. Except as otherwise provided by law, it shall hereafter be lawful to use in the waters of lakes Michigan, Superior, Huron, and Erie and the bays thereof, within the

jurisdiction of this state, set hook lines or spears for the purpose of taking fish; and for the purpose of securing bait for use in baiting said hook lines, it shall be lawful to use gill nets as provided in section 5 of this act: Provided, That it shall be unlawful to market or have in possession for the purpose of marketing any fish taken in such bait nets: Provided, That all unused bait, fresh or old, shall be taken ashore.

HISTORY: CL 1929, 8310;—Am. 1947, p. 541, Act 324, Imd. Eff. July 2;—CL 1948, 308.4.

308.5 Nets; use, meshes.

Sec. 5. It shall be unlawful for any person to possess on any boat licensed under the provisions of this act or to use in the waters of lakes Michigan, Superior, Huron and Erie and the bays thereof, within the jurisdiction of this state, any pound or trap net, gill net, seine or any fixed, set or movable net of any kind or description whatever, the meshes of which are different than prescribed by this section, as follows:

Gill nets, mesh size; whitefish, lake trout, yellow pickerel.

(a) Gill nets with meshes of not less than 4 ½ inches shall be used for the taking of whitefish, lake trout and yellow pickerel. In lake Erie such nets shall have meshes not less than 4 ¾ inches. Such nets shall be set not nearer than 20 rods from the shore of the mainland fronting lake Superior and its bays. Such nets shall be set not nearer than 20 rods from the shore of the mainland fronting lake Michigan southerly from Seven Mile point, Emmet county, during the months of March, April and May. There shall be no nets, except gill nets, of any kind with mesh larger than 2 ¾ inches set in the waters of lake Superior within a radius of 50 miles of the village of Houghton, Michigan, during the period between October 10 and November 4, except by permit from the department of conservation for the taking of spawn from trout for the fish hatcheries.

Same; herring, chubs, perch, pilot fish; disposal of undersized fish.

(b) Gill nets with meshes of not less than 2 ½ inches or more than 2 ¾ inches may be set in water of any depth and gill nets with meshes of not less than 2 ½ inches or more than 3 inches may be set in waters not exceeding 100 feet in depth, for the purpose of taking herring, chubs, perch and pilot fish, commonly called menominees, wherever and whenever they will not take to exceed 10% by weight of other fish, such percentage to be determined by the director of conservation, or any of his deputies, by inspection of the fish taken in such nets. All uninjured fish, except herring, chubs, perch and pilot fish, shall be returned to the waters from which they were taken with as little injury as possible, by the persons lifting the nets; all sound, undersized, dead fish found in the nets shall be the property of the state, and shall not be sold or disposed of, but shall be dressed and brought in and delivered immediately to the director of conservation or his representatives at the fishing port of the person taking the same. The sound, undersized, dead fish shall be then disposed of by the director of conservation as hereinafter provided; if more than 10% of fish other than herring, chubs, perch and pilot fish are taken, then all of such other fish shall be disposed of by the director of conservation. It shall not be unlawful for fishermen to have in possession, not to exceed in quantity the percentage allowed of lake trout, whitefish, yellow pickerel, perch or suckers, of a less weight or length than established by this act, which are caught in 2 ½ inch to 2 ¾ inch or 2 ½ inch to 3 inch mesh gill nets, as provided for in this subsection, but the same may be shipped and disposed of only under the direction of the director of conservation. All undersized fish taken over under the provisions of this section shall be disposed of by the director of conservation to state, county or charitable institutions; parties handling the fish shall be paid not to exceed 3 cents per pound for boxing, packing and icing the fish. The director of conservation shall remove or cause to be removed any of such nets whenever or wherever, from the inspection herein pro-

vided, he shall determine that such nets are taking more fish of the species other than herring, chubs, perch and pilot fish than allowed by the provisions of this section.

Same; blue back herring.

(c) Gill nets with meshes of not less than 2 ¼ inches nor more than 2 ¾ inches may be used for the purpose of taking blue back herring in the waters of lake Superior and Whitefish bay, and those waters of the straits of Mackinac bounded on the lake Huron end by a line drawn from the southernmost tip of St. Martin point, Mackinac county, to the westernmost tip of Lime Kiln point on Bois Blanc island, thence in a southerly direction to the northernmost tip of Point Au Sable in T 38 N, R 2 W, Cheboygan county, and bounded on the lake Michigan end by a line drawn from the southernmost tip of Seul Croix point in Schoolcraft county in an easterly direction to the Lansing shoal lighthouse, thence to the White shoal lighthouse, thence in a southeasterly direction to the westernmost tip of Waugoshance point in Emmet county, and Green bay of lake Michigan, as defined in section 6 of this act, wherever they will not interfere with or take whitefish or lake trout or any other fish protected under the laws of this state.

Same; smelt, alewife.

(d) The director of conservation may issue permits to allow the use of gill nets having meshes not less than 1 ½ inches nor more than 1 ¾ inches for taking smelt and alewife for commercial purposes under such rules and regulations as he may prescribe.

Same; bait.

(e) Gill nets with meshes of not less than 1 ¼ inches nor more than 1 ¾ inches may be used for the purpose of securing bait for use in baiting hook lines, when and where such nets will not take undersized fish.

Pound nets, mesh size; whitefish, lake trout; setting.

(f) Pound nets having meshes not less than 4 ½ inches in the lifting pot, crib or pocket and in the heart and tunnel, and having meshes not less than 5 inches in the lead, shall be used for taking whitefish and lake trout. In such pound nets, meshes not more than 3 ½ inches may be used in 1 side of the pot or in the back, being that part of the pot opposite the tunnel entrance. In fishing such pound nets, or any other pound nets permitted by this act, the crib or pot and hearts and lead shall extend to or above the surface of the water; the crib or pot and hearts shall be entirely open at the top, the sides or walls of the pot or crib and of the hearts shall be held vertically as near as possible and shall have 5 or more stakes driven into the earth at the bottom of the lake to hold said net in place. No pound net permitted under this act nor any part of the webbing thereof shall be set in water of a depth greater than 80 feet. Pound nets fished through the ice may be held in place by fastening them to the ice without the use of stakes.

Same; other legal fish; rough fish grounds; commercial smelt and alewife.

(g) Pound nets having meshes not exceeding 3 ½ inches in the lifting pot or crib and in the tunnel inside the pot or crib, and having meshes not less than 3 ½ inches in that part of the tunnel outside of the pot or crib and in the heart and lead, may be used for taking all legal fish except whitefish and lake trout. Saginaw bay as defined in section 33 of this act shall be considered rough fish grounds, and other similar bays may be designated by the director of conservation as rough fish grounds if the catch of whitefish and lake trout taken in pound nets and trap nets during the last 2 preceding years averaged less than 12% of the total catch, on which grounds all legal fish caught in pound nets and trap nets having meshes not exceeding 3 ½ inches in the lifting pot or crib may be taken and all lake trout and whitefish taken in such nets set in all other waters shall be returned uninjured to the waters. The director of conservation may issue permits to allow the use of pound nets having meshes less than 3 ½ inches in that part of the tunnel outside of the pot or crib and in the heart and lead for the taking of

smelt and alewife for commercial purposes, under such rules and regulations as he may prescribe, which may include the waters wherein such nets may be fished and the period of time during which they may be used.

Trap nets, mesh size; whitefish, lake trout.

(h) Trap nets having meshes not less than 4 ½ inches in the lifting pot, crib or pocket and in the heart and tunnel and having meshes not less than 5 inches in the lead shall be used for taking whitefish and lake trout. In such trap nets, meshes not more than 3 ½ inches may be used in the tunnel inside the pot, in either the front, back or 1 side of the pot for a distance not exceeding 5 feet from the bottom of the net and in that portion of the bottom of the net connected thereto for a distance not exceeding 5 feet, and in the connecting ends for a depth and width not exceeding 5 feet, for the purpose of shoaling fish. Such trap nets shall not be used in any of the waters under the jurisdiction of this state except in lakes Huron and Erie and then only in such a manner that no trap net or any part of the webbing thereof is set in water of a depth greater than 80 feet. Trap nets having meshes as described in this subsection and with no part of the lifting pot or crib over 15 feet in depth may be used to take whitefish and lake trout in lakes Superior and Michigan in water of a depth not greater than 80 feet.

Same; other legal fish; setting; commercial smelt and alewife.

(i) Trap nets having meshes not exceeding 3 ½ inches in the lifting pot or crib and in the tunnel inside the pot or crib and having meshes not less than 3 ½ inches in that part of the tunnel outside of the pot or crib and in the heart and lead may be used for taking all legal fish except whitefish and lake trout. The depth of no part of the lifting pot or crib shall be greater than 15 feet. No such trap nets nor any part of the webbing thereof shall be set in water of a depth greater than 50 feet in lakes Michigan and Superior, nor in water of a depth greater than 80 feet in lakes Huron and Erie. The director of conservation may issue permits to allow the use of trap nets having meshes less than 3 ½ inches in that part of the tunnel outside the pot or crib and in the heart and lead for the taking of smelt and alewife for commercial purposes, under such rules and regulations as he may prescribe which may include the waters wherein such nets may be fished and the period of time during which they may be used. Trap nets having a lifting pot or crib not exceeding 4 feet in depth may have webbing less than 3 ½ inches in the 2 sides of inner heart.

Pound or trap nets, mesh size; hoop, fyke, drop and gobbler nets considered trap nets.

(j) Any pound net or trap net with meshes in the lifting pot or crib between 3 ½ and 4 ½ inches, or any lifting pot or crib of such nets with meshes between 3 ½ and 4 ½ inches, is hereby declared illegal and shall be seized and confiscated when found in use. Hoop nets, fyke nets, drop nets and gobbler nets are considered under this act to be trap nets.

Seines, mesh size; carp, yellow pickerel, perch, herring and other rough fish; minnow seines, size.

(k) Seines having wings with meshes of not less than 4 inches, and the pocket or bag, the bag of which shall be not more than 1/4 the length of the seine, having meshes of not less than 2 ¼ inches, may be used for the purpose of taking carp, yellow pickerel, perch, herring and other rough fish wherever they will not interfere with or take whitefish or lake trout. All seines in use or set along the shores of the waters named in section 1 of this act, when unattended, shall have a metal tag securely attached thereto bearing the commercial fishing license number of the owner or user thereof. Minnow seines not to exceed 80 feet in length and 8 feet in width may be used in the great lakes and connecting waters.

Nets, seines, measurement of mesh; gauges; confiscation; sealing; inspection; destruction of seal, penalty; trawls not licensed.

(l) The measurement of the mesh of all nets and seines as prescribed in this section shall be by extension measure. The size of the mesh of all nets or netting used in fishing as provided by this act shall be determined by extension measure and the measurement shall be made of meshes irrespective of where the net or netting is found, whether in the water, on boat, on reel, on dock, or in any other place on land. Extension measure shall mean the distance between the extreme angles of any single mesh, and such measurements shall be taken between and inside the knots. All measurements of the mesh in gill nets or gill netting shall be made with a flexible steel gauge constructed and used as herein prescribed. All measurements of the mesh of gill nets or gill netting shall be made by inserting in the mesh parallel with the selvage a gauge made of spring steel free from rust, of a length equal to the number of inches prescribed in this section for the mesh measured. The ends of the gauge shall be free of sharp edges or burrs. The gauge shall not be graduated, and any necessary markings shall be placed near the ends of the gauge. The length of the gauge measured parallel with the long edge shall not at any point exceed or be less than the prescribed length by more than $2/1000$ of an inch. Its width at any point shall not exceed $9/16$ of an inch or be less than $7/16$ of an inch. Its thickness shall be such that when it is set vertically on a solid anvil with its upper end loaded with a dead weight between $7\frac{1}{2}$ and $8\frac{1}{2}$ ounces, the gauge shall deflect at its middle $1/10$ of its length.

The meshes to be gauged shall be at least 3 meshes removed from the selvage or side lines, shall not be stretched or manipulated in any way prior to or after the insertion of the gauge and the same mesh shall not be gauged more than once. In gauging a mesh, the flexible gauge shall be held only by the ends and bent between thumb and forefinger, and the bent rule shall then be inserted in the mesh parallel with the selvage and with the collapsed mesh, and finger pressure shall be released immediately, not gradually. If the gauge does not straighten out completely under its own tension within 2 seconds after its release in the mesh without slipping a knot or breaking the twine, the mesh shall be considered unlawful, and if the majority of 10 or more meshes selected at random by the enforcement officer from any part or parts of the gill net or from the entire gill net or from any gill netting being gauged are found to be unlawful, the gill net or gill netting if found in use or in or upon any licensed commercial fishing boat shall be seized and confiscated. If found in possession but not in use, any such gill net or gill netting shall be sealed by the enforcement officer with a suitable seal provided by the director of conservation and, when once sealed and for so long as the seal shall remain intact thereon, may be possessed by the owner thereof until disposed of or destroyed by him as herein provided. Such gill net or gill netting shall not be disposed of or destroyed except under direction of a conservation officer and, until that time, shall be available for inspection by the director of conservation or any conservation officer. Any person who, without authority from the director of conservation, shall break or destroy any such seal attached to a gill net or gill netting, or any person who shall refuse or neglect to produce for inspection any gill net or gill netting so sealed, or who shall dispose of or destroy same except under the direction of a conservation officer, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalty provided for in section 21 of this act. It shall be unlawful to use any gill net of a greater measurement than 11 feet in depth in any of the waters of the Great lakes and the bays thereof. In lake Erie no gill net shall be over 36 meshes deep. No trawl of any kind may be licensed.

Gill nets, mesh size; carp.

m) Gill nets having meshes not less than 8 inches may be used for taking carp in Wildfowl bay in Huron county.

HISTORY: CL 1929, 6311;—Am. 1933, p. 431, Act 255, Imd. Eff. Jul. 11;—Am. 1935, p. 394, Act 235, Imd. Eff. Jun. 8;—Am. 1937, p. 659, Act 348, Imd. Eff. Aug. 5;—Am. 1939, p. 880, Act 339, Eff. Sep. 29;—Am. 1945, p. 565, Act 323, Eff. Sep. 6;—Am. 1947, p. 541, Act 324, Imd. Eff. Jul. 2;—CL 1948, 308.5;—Am. 1950, Ex. Ses., p. 60, Act 28, Eff. Mar. 31, 1951;—Am. 1951, p. 455, Act 269, Eff. Sep. 28;—Am. 1953, p. 260, Act 195, Eff. Oct. 2;—Am. 1957, p. 373, Act 277, Eff. Sep. 27;—Am. 1958, p. 132, Act 124, Imd. Eff. Apr. 15;—Am. 1959, p. 386, Act 253, Eff. Mar. 19, 1960.

308.6 Closed seasons; setting of nets or hooks; disposition of fish taken during closed season; revocation of license; chilling fish.

Sec. 6. (1) It shall be unlawful to take from any of the waters named in section 1 of this act any:

(a) Lake trout, in lake Huron and lake Michigan from October 1 to December 10; in lake Superior from October 5 to November 4.

(b) Whitefish, in lake Huron and lake Michigan from October 1 to December 10; in lake Superior from November 1 to November 26.

(c) Pike-perch (yellow pickerel), northern pike, from April 1 to May 20. In Saginaw bay, as defined in section 32 of this act, it shall be unlawful to take pike-perch from March 5 to April 10. It shall be lawful to spear pike-perch through the ice during the closed season in lake Huron and the connecting waters of the great lakes for non-commercial use only.

(d) Perch, from April 15 to May 20. In the waters of lake Michigan only, it shall be unlawful to take perch from April 25 to June 1. In Saginaw bay perch of legal size may be taken at any time. The taking of perch with hook and line shall be lawful at any time.

(e) White bass, in lake Michigan at any time of the year. The taking of white bass with hook and line shall be lawful at any time.

(f) Suckers, from April 15 to May 20. In Saginaw bay suckers may be taken at any time. The taking of suckers with hook and line shall be lawful at any time.

(g) Black crappie, also known as calico bass, in lake Huron from June 1 to August 25; and in lake Erie, lake Michigan and lake Superior, black crappie may not be taken at any time.

(2) In the waters of Green bay of lake Michigan within the jurisdiction of this state, which for the purpose of this act shall be deemed to be those waters lying inside a line drawn from the most southerly part of Point Detour to the most easterly points of Sumner and Poverty islands, thence due south to the Michigan-Wisconsin boundary line, thence along the boundary line to the shore, it shall be unlawful from April 15 to May 20 to set, place or use any gill net having meshes less than 4 ½ inches. The director of conservation may issue permits under such rules and regulations as he may prescribe to allow the use of gill nets having meshes not less than 2 ¼ inches or more than 2 ¾ inches for taking herring from the waters of Green bay from April 15 to May 20, when and where such nets will not interfere with or take any other species of fish. The closed seasons established by this section shall not apply to lake Erie and the lower Detroit river, where no nets shall be set and no fish of any kind shall be taken with nets from January 1 to March 10. It shall not be unlawful to take carp with seines at any time from said waters.

(3) In every case the season shall open and close at 12 o'clock noon on the dates named in this section.

(4) All live fish, on which the season is closed, shall be liberated and returned to the water with as little injury as possible, and any sound, dead fish, on which the season is closed, shall be dressed, brought ashore and delivered immediately to the director of conservation or his representatives at their or his fishing port, which fish shall be dis-

posed of in the same manner as provided for the disposition of undersized fish in section 5 of this act.

(5) It is a violation of this act to set nets or hooks for the taking of lake trout or whitefish before the first day of the open season for taking the fish, and the license of any person, firm, copartnership, association or corporation shall be immediately revoked upon conviction of unlawfully setting nets before the first day of the open season as provided in this act, and revocation shall prohibit the use of boat and gear by any person during the balance of the year for which license was issued. Any person, firm, copartnership, association or corporation engaged in the taking of fish for commercial purposes from May 15 to September 15, both dates inclusive, under the provisions of this act shall carry sufficient ice and properly chill the fish at the time and place of their removal from the waters.

HISTORY: CL 1929, 6312;—Am. 1933, p. 434, Act 255, Imd. Eff. Jul. 11;—Am. 1937, p. 562, Act 348, Imd. Eff. Aug. 5;—Am. 1939, p. 884, Act 339, Eff. Sep. 29;—Am. 1941, p. 26, Act 27, Imd. Eff. Mar. 18;—Am. 1941, p. 94, Act 76, Eff. Jan. 10, 1942;—Am. 1943, p. 150, Act 112, Eff. Jul. 30;—Am. 1945, p. 568, Act 323, Eff. Sep. 6;—Am. 1947, p. 544, Act 324, Imd. Eff. Jul. 2;—CL 1948, 308.6;—Am. 1951, p. 458, Act 364, Eff. Sep. 28;—Am. 1953, p. 263, Act 195, Eff. Oct. 2;—Am. 1955, p. 16, Act 16, Eff. Oct. 14;—Am. 1956, p. 27, Act 20, Imd. Eff. Mar. 22;—Am. 1957, p. 377, Act 277, Eff. Sep. 27;—Am. 1958, p. 136, Act 124, Imd. Eff. Apr. 15;—Am. 1959, p. 390, Act 253, Eff. Mar. 19, 1960.

308.7 Taking fish for fish culture; commercial fishing, closing.

Sec. 7. The director of conservation may authorize the taking of trout, whitefish and yellow pickerel for the purpose of fish culture at any time during the open or closed seasons herein provided, when it is determined by test nets set under the direction of the director of conservation, that at least 20 per cent of the fish taken are females and at least 40 per cent of these females are ripe and ready to spawn: Provided, That when all spawn needed for state and federal hatcheries has been secured, the director of conservation may close all commercial fishing during the remainder of the closed season. The director of conservation is hereby authorized to close all commercial fishing during the closed season on those grounds which are so located as to prevent proper handling of spawn or where it appears that little or no spawn is being taken.

HISTORY: CL 1929, 6313;—CL 1948, 308.7.

308.8 Spawn; handling; violation of act; unlawful taking of trout.

Sec. 8. All persons, firms, copartnerships, associations or corporations engaged in fishing for whitefish, trout, yellow pickerel or perch in the waters named in this act, shall from the beginning of the spawning season for these fish, such time to be determined by test under the direction of the director of conservation, until the beginning of the closed season provided by section 6 of this act, and before and after the said closed season, strip all ripe fish, both male and female, save all of the spawn, properly impregnate it, and deliver it to the director of conservation or to his representatives, at his or its fishing port, and all such persons, firms, copartnerships, associations and corporations shall have a sufficient force of men on each boat and all the equipment needed properly to save, handle, impregnate and deliver such spawn. The saving, handling, impregnating and delivering of spawn shall be done under the direction of the director of conservation and in accordance with such regulations and under such supervision as he may prescribe: Provided, That the director of conservation shall not discriminate against any person, firm, copartnership, association or corporation engaged in such fishing during said closed or open season, having a sufficient force of men and equipment on each boat properly to save, handle, impregnate and deliver such spawn at any port or fishing ground when it has been determined that fish are ripe for spawning, and this determination shall be made by setting test nets on each fishing ground where spawn will be taken. Any person, firm, copartnership, association or corporation engaged in commercial fishing failing to properly save, handle, impregnate and deliver such spawn during any period when spawn are ripe shall be deemed guilty of a violation of this act: Provided, That it shall be unlawful to take from the waters of the great lakes any lake or Mackinaw trout during the closed season

established by this act for said fish, except by the use of gill nets, trap nets and pound nets after tests have been made and the percentage of ripe fish secured as provided for in section 7 of this act.

HISTORY: CL 1929, 6314;—Am. 1933, p. 435, Act 255, Imd. Eff. July 11;—CL 1948, 308.8.

308.9 Spawn; propagation; planting of fry; violation of act.

Sec. 9. The director of conservation shall deliver to designated representatives of the United States bureau of fisheries and to the state fish hatcheries so much of said spawn as may be desired by said bureau and state hatcheries for propagation and planting in the waters of said lakes within the jurisdiction of this state and the remainder of the spawn shall be properly impregnated and planted upon the spawning beds from which it was taken. The persons, firms, copartnerships, associations or corporations so fishing shall plant upon the spawning beds the fry hatched from such proportion of the spawn as may have been taken from the fish caught by said persons, firms, copartnerships, associations or corporations when directed so to do by the director of conservation. Any person, firm, copartnership, association or corporation refusing or failing to comply with the provisions of this section shall be deemed guilty of a violation of the provisions of this act.

HISTORY: CL 1929, 6315;—CL 1948, 308.9.

308.10 Taking fish for fish culture; powers of director of conservation; sale, disposition of proceeds.

Sec. 10. It shall be lawful for the director of conservation to take fish in any manner, in any of the waters mentioned in this act, at any and all seasons of the year, for the purpose of fish culture and scientific investigation; to have and to hold ripe and unripe fish in order to take spawn therefrom; to sell all such ripe and unripe fish; and to devote the proceeds of such sales exclusively toward defraying the expenses incurred taking such fish and fertilizing and planting the spawn therefrom.

HISTORY: CL 1929, 6316;—CL 1948, 308.10.

308.11 Shipments; marketing; seizure as illegal.

Sec. 11. It shall be unlawful for any person, firm, company, partnership, copartnership, association or corporation to ship or transport within this state any fish in packages or containers without plainly and correctly marking each package or container with the name of the consignor and the kinds of fish contained therein. It shall be unlawful for any railroad company, boat line, express company, motor truck company, aerial freight or express company, or other transportation company or common carrier, or any agent of any such company, or the owner of any boat, aeroplane, car, truck or other vehicle operated privately or as a common carrier, or for the agent or representative of such owners to accept for shipment or transport any package or container of fish unless it is properly marked as prescribed in this section. The presence in any package or container of 10 per centum by weight of any fish that is illegal to ship shall make the entire contents of said package or container subject to seizure as an illegal shipment.

HISTORY: CL 1929, 6317;—Am. 1939, p. 885, Act 339, Eff. Sept. 29;—CL 1948, 308.11.

308.12 Possession of shipment; construction.

Sec. 12. The possession of any package or shipment of illegal fish offered to any common carrier as mentioned in section 11 shall be construed to be and remain in the consignor until delivered to the consignee: Provided, That if any common carrier as hereinbefore mentioned is not able, or refuses or neglects to show from whom the con-

shipment of any shipment of fish was received, the shipment is hereby declared to be in possession of the common carrier having same in transit and they may be proceeded against the same as the original owner.

HISTORY: CL 1929, 6318;—CL 1948, 308.12.

308.13 Repacking after opening; detention.

Sec. 13. Any package or car of fish in transit opened by the director of conservation or his deputies, if found to be a lawful shipment under this act, shall be repacked in as good condition as possible: Provided, That no package or car of fish legally shipped shall be detained in transit by or for inspection.

HISTORY: CL 1929, 6319;—CL 1948, 308.13.

308.14 Minimum length and weight requirements; unlawful possession and marketing.

Sec. 14. (1) It shall be unlawful to market, have in possession, transport or offer for sale at any time in this state, whether caught within or without this state, any:

- (a) Whitefish, of a less length than 17 inches.
- (b) Lake trout, of a less weight than 1-½ pounds in the round, and 1-¼ pounds when dressed.
- (c) Ciscowet trout, of a less weight than 1-½ pounds in the round.
- (d) Perch, of a less length than 8-½ inches in the round and filleted perch of a less weight than 1-¾ ounces; perch with heads and tails off of a less length than 5-½ inches.
- (e) Suckers, of a less length than 14 inches.
- (f) Northern pike, of a less length than 20 inches.
- (g) Catfish, of a less length than 17 inches. Catfish of not less than 15 inches in length may be taken from the waters of lake Erie.
- (h) Pike-perch (yellow pickerel), of a less length than 15-½ inches in the round and filleted pike-perch (yellow pickerel) of a less weight than 9 ounces. Pike-perch (yellow pickerel) not less than 13 inches in length may be taken from lake Erie. Pike-perch (yellow pickerel) not less than 13 inches in length taken from the waters of lake Erie may be sold or offered for sale at a dock or docks along lake Erie. Any such pike-perch (yellow pickerel) of a length less than 15-½ inches shall not be otherwise offered for sale, bartered or sold within the limits of the state.
- (i) Blue pike, of a less length than 11 inches.
- (j) White bass, of a less length than 9 inches.
- (k) Sturgeon, of a less length than 42 inches.
- (l) Black crappie, of a less length than 7 inches.

Imported commercial and game fish.

(2) Imported commercial fish species and game fish when of a size or weight or species not prohibited by the laws of the state or country where caught may be possessed, transported, offered for sale and marketed in this state, if:

- (a) Such fish are processed outside the state, sold to consumers in the same package as imported, and each package is labeled as a product of the state or country where the fish were caught; or
- (b) A chain of satisfactory evidence of importation is maintained through to the retailer who sells to the consumer, in a manner prescribed by the director of natural resources.

Measurement; mutilation; unlawful possession.

(3) The measurement of the length of a fish within the meaning of this act shall be taken in a straight line from the tip of the snout to the utmost end of the tail fin. For the purpose of this act a "fish in the round" shall be deemed to be a fish that is entirely

intact as it was taken out of the water with no part removed by dressing. A "dressed fish" shall be deemed a fish with the head attached but with the gills and the entire gut or viscera (stomach, liver, intestine, gonads) removed, and a "filleted fish" shall be deemed to be a fish with the entire head, gut or viscera, gills, bones, scales and all fins removed. The measurements of length and weight as prescribed in this act shall apply without any allowance made for the shrinkage of the fish.

The possession on any boat, or on any other conveyance used to reach the nets from shore, of any meat grinders or similar devices by the use of which the identification of the species or measurement of the individual fish is impossible, is hereby prohibited. It shall be unlawful for any fisherman to bring ashore any fish which is so mutilated that identification and measurement is impossible.

It shall be unlawful to market, have in possession, or offer for sale any fish illegally taken from the waters defined by this act.

HISTORY: CL 1929, 6320;—Am. 1933, p. 435, Act 255, Imd. Eff. Jul. 11;—Am. 1935, p. 397, Act 235, Imd. Eff. Jun. 8;—Am. 1937, p. 563, Act 348, Imd. Eff. Aug. 5;—Am. 1939, p. 885, Act 339, Eff. Jan. 10, 1942;—Am. 1943, p. 35, Act 39, Imd. Eff. Mar. 24;—Am. 1945, p. 569, Act 323, Eff. Sep. 6;—Am. 1947, p. 545, Act 324, Imd. Eff. Jul. 2;—CL 1948, 308.14;—Am. 1951, p. 245, Act 194, Imd. Eff. Jun. 8;—Am. 1953, p. 264, Act 195, Eff. Oct. 2;—Am. 1957, p. 378, Act 277, Eff. Sep. 27;—Am. 1970, p. 144, Act 53, Imd. Eff. Jul. 10.

308.15 Undersized fish; return to waters; definition.

Sec. 15. It shall be unlawful for any person or persons engaged in lifting pound nets, trap nets or seines in the waters of this state, to take from the said waters any undersized fish, and all undersized fish found in such nets fished in said waters shall be returned to said waters with as little injury as possible by the person or persons lifting the net or nets. For the purpose of this act undersized fish shall be construed to mean fish of a smaller size than established by this act.

HISTORY: CL 1929, 6321;—Am. 1933, p. 436, Act 255, Imd. Eff. July 11;—CL 1948, 308.15.

SPORTSMEN FISHING LAW: Protection of fish, see Act 165 of 1929, being Compilers' § 301.1 et seq.

308.16 Fish unlawful to take by commercial fishing devices; return to water.

Sec. 16. It shall be unlawful for any person to take or catch with any kind of a net or other device used in commercial fishing in any of the waters mentioned in this act, any:

- (a) Largemouth black bass, *Huro salmoides*;
- (b) Smallmouth black bass, *Micropterus dolomieu*;
- (c) White crappie, also known as strawberry bass, *Pomoxis annularis*;
- (d) Bluegill, *Lepomis macrochirus*;
- (e) Common sunfish, *Lepomis gibbosus*;
- (f) Brook or speckled trout, *Salvelinus fontinalis*;
- (g) Rainbow and steelhead trout, *Salmo gairdnerii*;
- (h) Brown and Loch Leven trout, *Salmo trutta*;
- (i) Muskellunge, *Esox masquinongy*;

Or to sell or offer for sale or to have in possession at any time any of the said fish unless otherwise provided by law. Any such fish whether dead or alive shall at once be returned to the waters from which taken by the person or persons taking same.

HISTORY: CL 1929, 6322;—Am. 1933, p. 436, Act 255, Imd. Eff. Jul. 11;—Am. 1939, p. 886, Act 339, Eff. Sep. 29;—Am. 1947, p. 546, Act 324, Imd. Eff. Jul. 2;—CL 1948, 308.16;—Am. 1951, p. 246, Act 194, Imd. Eff. Jun. 8;—Am. 1957, p. 379, Act 277, Eff. Sep. 27.

308.17 Marking of location of nets and devices; when set under ice.

Sec. 17. It shall be unlawful for any person, firm, copartnership, association or corporation to set or use nets, set hook lines, or any other continuous device in any of the waters mentioned in this act without marking its location by buoys and identifying said nets, or other devices by showing the license number in plain figures upon the bows of said buoys of the person, firm, copartnership, association or corporation using the nets, set lines or other devices; the license number to be attached to all gill net

buoys; to the stakes at the heart or pot of pound nets; to the lifting buoy of trap nets, where the heart and pot are set below the surface of the water; to a buoy at the point of heart or pot of fyke nets where the cover of the hearts or pots comes to the surface of the water: Provided, That when any of said nets, set hook lines or other devices are set under the ice, their location shall be marked by a stake extending not less than 4 feet above the ice at each end of such net or nets, set hook lines or other continuous device and the license number, in legible figures, shall be attached to each such stake or to the ends of the net or nets, set hook line or other device.

HISTORY: CL 1929, 6323;—Am. 1933, p. 436, Act 255, Imd. Eff. Jul. 11;—Am. 1937, p. 863, Act 348, Imd. Eff. Aug. 5;—CL 1948, 306.17;—Am. 1951, p. 459, Act 369, Eff. Sep. 28.

308.18 Inspection before shipment.

Sec. 18. Every person, firm, copartnership, association or corporation taking fish for market in any of the waters mentioned in this act shall bring them to some port or place in Michigan where they may be inspected before shipping: Provided, That the director of conservation may grant permission to take fish to ports or places in other states when the commercial fishing laws of said other states substantially conform to the commercial fishing laws of the state of Michigan.

HISTORY: CL 1929, 6324;—Am. 1933, p. 436, Act 255, Imd. Eff. July 11;—CL 1948, 306.18.

308.19 Director of conservation; power to take fish for cultural purposes; price.

Sec. 19. The director of conservation may take for fish cultural purposes only, fish taken by any person, firm, copartnership, association or corporation fishing in Michigan waters and when so taken the fish shall be weighed and shall be paid for, the price to be based on the Chicago, Detroit and New York markets, or at such other price as may be agreed upon by the person or persons taking the fish and the director of conservation, plus the cost of transportation, if any.

HISTORY: CL 1929, 6325;—CL 1948, 306.19.

308.20 Daily report of catch; failure to file, penalty; monthly report.

Sec. 20. Every person, firm, copartnership, association or corporation taking fish for the market in any of the waters mentioned in this act shall keep an accurate report of each day's catch upon blanks furnished by the director of conservation of the number of pounds of each kind of fish taken, of the locality fished, of the kind and amount of fishing gear employed, of the length of time (number of nights) each unit of gear employed fished without being lifted, of the kind and amount of spawn taken, of the kind and amount of caviar taken and of such other data as the biologists may require in following the trend of the fisheries and shall each month report (under oath when requested so to do) the above data to the director of conservation. Any person, firm, copartnership, association or corporation whose report for the last preceding month is not received by the director of conservation at his office in Lansing, Michigan, on or before the fifteenth day of the month following, shall be considered delinquent and notice to that effect shall be mailed such delinquent person, firm, copartnership, association or corporation by the director. Failure to submit a report within 30 days after the close of the month for which a report is required shall be considered as intent to violate the provisions of this section. The license of any person, firm, copartnership, association or corporation who fails to submit reports for 2 or more months, and who has been duly notified by the director of conservation each following month as provided herein, may be suspended by the director of conservation until such time as the delinquent reports are submitted to him. The boat and nets for which a license is suspended shall not be used for commercial fishing by any person, firm, copartnership, association or corporation until the suspension has been lifted and the license restored: Provided, That any person, firm, copartnership, association or corporation failing to

make the report or reports as above described shall be denied a new license or a renewal of his or their license until the provisions of this section of this act have been complied with. Any person, firm, copartnership, association or corporation engaged in fishing operations shall submit a monthly blank to the department regardless of whether fishing was discontinued for 1 or more months, noting the facts.

HISTORY: CL 1929, 6326;—Am. 1937, p. 864, Act 348, Imd. Eff. Aug. 5;—CL 1948, 308.20.

308.20a Report of fish in possession by commercial fishermen; contents; inspection; unlawful possession.

Sec. 20a. Every person, firm, company, partnership, copartnership, association or corporation licensed to take fish under the provisions of this act shall, at the close of the 24-hour period immediately following the close of the respective open seasons provided for by this act, report to the director of conservation or his authorized representative, on forms provided by him, the kinds of such fish and number or weight thereof in possession at the close of said 24-hour period. Any subsequent shipment and/or sale of such fish shall be reported immediately to the director of conservation or his authorized representative, on forms furnished by him, showing the amount and kinds of fish shipped or sold, the date thereof, and the name and address of the person or persons to whom shipped or sold. All fish in possession upon which the season is closed shall be made available for inspection at any reasonable time upon the demand of the director of conservation or his authorized representative. It shall be unlawful to have in possession or to ship, transport or sell any fish upon which the season is closed and which have not been reported as herein provided.

HISTORY: Add. 1949, p. 285, Act 235, Eff. Sep. 23.

308.21 Violation of act; penalty.

Sec. 21. Any person violating any of the provisions of sections 1 to 20, both inclusive, of this act shall, upon conviction, for the first offense be punished by a fine of not less than 25 dollars nor more than 100 dollars and costs of prosecution or imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment in the discretion of the court; and for the second or any subsequent offense, charged as such in the complaint, shall be punished by a fine of not less than 50 dollars nor more than 100 dollars and costs of prosecution, or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or by both such fine and imprisonment in the discretion of the court. When a fine with costs is imposed under the provisions of this act, the court shall sentence the offender to be confined in the county jail until such fine and costs are paid, but for a period not exceeding the maximum penalty for the offense.

HISTORY: CL 1929, 6327;—Am. 1937, p. 864, Act 348, Imd. Eff. Aug. 5;—CL 1948, 308.21.

COMMERCIAL FISHING LICENSES.

308.22 License to use fishing devices; sport trolling; licensing boats for hire; Lake St. Clair.

Sec. 22. It shall be unlawful for any person, firm, company, copartnership, partnership, association or corporation to make use of any kind of a boat, tug or launch, (except when used in hook and line fishing), net or nets, set hook lines, or commercial trolling rigs for the purpose of taking, catching, killing or transporting fish in any of the waters bordering on this state, regardless of whether for commercial purposes or for personal use, without first having applied for and been issued a license for same, in accordance with the provisions of this act: Provided, That no license, except as otherwise provided by law, shall be required of persons engaged in sport trolling in these waters, except that the owners of boats operated with either an inboard or outboard motor and offered for hire in sport trolling for lake trout shall be required to obtain a

license for each said boat: Provided further, That no license, except as otherwise provided by law, shall be required of persons engaged in taking fish with set lines in lake St. Clair as provided in section 2 of this act.

HISTORY. CL 1929, 6328;—Am. 1933, p. 437, Act 255, Imd. Eff. Jul. 11;—Am. 1937, p. 865, Act 348, Imd. Eff. Aug. 5;—Am. 1947, p. 547, Act 324, Imd. Eff. Jul. 2;—CL 1948, 306.22;—Am. 1951, p. 459, Act 269, Eff. Sep. 28.

308.23 Commercial fishing licenses; application, contents; fee based on over-all length of boat.

Sec. 23. Any person, firm, company, copartnership, partnership, association or corporation desiring a license under the provisions of this act shall make application therefor to the director of conservation on oath when required on a blank provided for that purpose by the director of conservation, accompanied by the fee hereinafter provided. Such application shall state the name and residence of the applicant, the manner in which he proposes to fish, name or number of the tug, launch, boat, scow or skiff, the over-all length and the gross tonnage thereof, the value of the boat, the name of the port from which the boat will operate, and the number and kind of net or nets and hooks or other gear which he intends to use, the value of the buildings and grounds and such other information as may be required for statistical purposes. "Over-all length" shall mean the minimum distance between the extreme outside end of the bow and of the stern considering the nearest whole number of feet. The amount of the license fee to be paid shall be based on the over-all length of the boat or boats, if a boat is used.

HISTORY. CL 1929, 6329;—Am. 1933, p. 437, Act 255, Imd. Eff. July 11;—Am. 1939, p. 758, Act 312, Eff. Sept. 29;—CL 1948, 306.23.

308.23a Repealed. 1959, p. 391, Act 253, Eff. Mar. 19, 1960.

Section limited to radius of 50 miles from port designated in license, areas in which licensed, commercial fishermen could fish in Lakes Erie, Superior, and Michigan.

308.24 License to use fishing devices; issuance fees; nonresident.

Sec. 24. (1) The director of conservation when application is made by any person, firm, company, copartnership, partnership, association or corporation in accordance with section 23 shall issue the license provided for in this act upon payment by the applicant, if a resident of this state, of the following fees:

a) For fishing with set hook lines or nets, with or without a boat not exceeding 16 feet in overall length, or a boat used in sport trolling for lake trout for hire, \$16.00 per year. Any person, firm, company, copartnership, partnership, association or corporation using more than a single crew consisting of not to exceed 4 men in fishing nets or hooks under the ice shall secure a license for each crew. The director of conservation, upon proper application therefor, shall issue with each license to fish nets or set hook lines under the ice 4 identification cards bearing the number of the license and the year for which issued. Each member of a single crew engaged in the setting, lifting or pulling of nets, set hook lines or other devices, set under the ice under authority of the license, shall carry such card on his person at all times while so engaged and upon demand of any conservation officer shall exhibit such card. Minnow seines and dip nets are exempt from the provisions of this section.

b. For each rowboat, sailboat, powerboat, motorboat, steamboat or scow used in catching, killing, taking or transporting fish caught with nets, set hook lines, or trolling nets, \$3.00 per foot overall length, and \$1.00 per ton additional for each ton over 10 gross tons. No license shall be required for a scow used only in transporting nets. Each license for a boat propelled by sail, steam, gas or other mechanical power shall entitle the licensee to operate a rowboat not exceeding 16 feet in overall length. Each such rowboat shall bear the same identification as the boat for which the license is issued and shall be used only while attending said boat. No resident person, firm, company, copartnership, partnership, association or corporation shall pay less than \$50.00 or more than \$200.00 on any 1 boat in any 1 license year.

Nonresident's license, fee; ban on issuance, for Lake Erie and Lake Huron.

(2) If a nonresident of this state, the fee shall be 5 times the fee required of a resident in accordance with the schedule prescribed in this section. Beginning in the year 1966, there will be a ban on the issuance of licenses under section 23 to nonresidents for fishing in Lake Erie and Lake Huron except at the discretion of the conservation director.

Nonresident, defined.

(3) For the purpose of this act, a nonresident shall be deemed to be any person who has not actually resided in this state for 3 years immediately prior to the date of application for a license, or, any person applying for a license for use of nets or a boat registered or of record at a port outside of the state, or, any firm, company, copartnership, partnership, association or corporation in which any of their stock, boats, nets and fishing equipment has been owned by nonresident persons at any time during the 3 years immediately prior to the date of application for a license.

HISTORY: CL 1929, 6330;—Am. 1933, p. 437, Act 255, Imd. Eff. Jul. 11;—Am. 1935, p. 398, Act 235, Imd. Eff. Jun. 8;—Am. 1937, p. 495, Act 274, Imd. Eff. Jul. 22;—Am. 1937, p. 865, Act 348, Imd. Eff. Aug. 5;—Am. 1939, p. 886, Act 339, Eff. Sep. 29;—Am. 1945, p. 570, Act 323, Eff. Sep. 6;—Am. 1947, p. 547, Act 324, Imd. Eff. Jul. 2;—CL 1948, 308.24;—Am. 1951, p. 460, Act 269, Eff. Sep. 28;—Am. 1957, p. 379, Act 277, Eff. Sep. 27;—Am. 1966, p. 21, Act 9, Imd. Eff. Mar. 23.

308.25 Commercial fishing licenses; form; tag attached to boat; transfer, procedure.

Sec. 25. Upon the payment of the fee provided for in section 24, the director of conservation shall have prepared and shall issue to persons, firms or corporations entitled to the same, a printed or written license signed by him, setting forth the date of issuing the same, to whom issued, the date on which it will expire, the name or number, and the kind of boat, tug, launch (number of and kind of) net or nets for which said license was issued: Provided, That the director of conservation shall also issue, with the license, a suitable tag bearing the license number and the year for which issued which must be attached to the boat to facilitate identification: And provided, That the director of conservation upon application therefor and the payment of a fee of \$1.00, may:

(a) Permit the transfer of said license to a larger or a smaller boat or to any boat, tug or launch during such period of time as such licensed boat, tug or launch shall be disabled and undergoing repairs.

(b) In case of the sale or the transfer of the title of any licensed boat, transfer the license to the new owner or owners: Provided, That if such sale or transfer shall be to a non-resident as determined by the preceding sections, then the difference between the fee for a resident license and a non-resident license must also be paid.

(c) In case of the loss of a vessel by fire, collision or otherwise, for which a license has been issued, transfer the license to any similar boat to which the licensee may acquire title.

Whenever a license is transferred to a larger boat the difference between the fee paid for the license and the fee required by this act for such boat shall also be paid. No refund shall be made when license is transferred to a smaller boat: Provided, That any boat to which a license has been transferred as herein provided shall be used in taking, catching or killing of fish or in the setting or pulling of nets, set hook lines or other commercial fishing devices, only within a radius of 50 miles of the port designated in the license as originally issued, and not more than 1 license shall be issued for any 1 boat in any 1 calendar year: Provided, however, That the owner of any licensed boat acquired from the estate of a deceased licensee or as a result of bankruptcy proceedings may, in addition to having the license transferred in his name, have a port of his choice designated in such license.

HISTORY: CL 1929, 6331;—Am. 1933, p. 438, Act 255, Imd. Eff. Jul. 11;—Am. 1937, p. 866, Act 348, Imd. Eff. Aug. 5;—Am. 1945, p. 570, Act 323, Eff. Sep. 6;—CL 1948, 308.25;—Am. 1951, p. 460, Act 269, Eff. Sep. 28.

308.26 Commercial fishing licenses; expiration date; record of applications and licenses; disposition of fees.

Sec. 26. All licenses in effect after July first, 1946 shall expire on the thirty-first day of December in the calendar year for which issued: Provided, That any license which expires December thirty-first, 1946, shall be issued for 1/2 the fee prescribed in section 24 of this act.

The director of conservation shall keep a record of all applications and licenses. On the first day of each month, the director of conservation shall pay over to the auditor general all moneys received by him under the provisions of this act, and said moneys shall be credited to the game and fish protection fund and shall be disbursed by the auditor general for services of the director of conservation and his deputies and their expenses in enforcing the commercial fishing laws, for the protection and propagation of fish, and for the purchase of patrol boats and other apparatus to be used for that purpose, and as otherwise provided by law.

HISTORY: CL 1929, 6332;—Am. 1933, p. 438, Act 255, Imd. Eff. July 11;—Am. 1945, p. 571, Act 323, Eff. Sept. 6;—CL 1948, 308.26.

308.26a Wholesale fish house or market; license, fee; label on containers; record.

Sec. 26a. Every person, firm, company, copartnership, partnership, association or corporation who deals in fish by operating a wholesale fish market or fish house, or who solicits the purchase of or who buys fish for wholesale distribution, shall secure a license from the director of conservation. Every such license shall expire on the thirty-first day of December and the fee for such license shall be 5 dollars.

No person, firm, company, copartnership, partnership, association or corporation holding a license under the provisions of this section shall transport or cause to be transported, or deliver or receive for transportation, any package or parcel containing any fish or carcass or part thereof unless the same is labeled in plain English on the address side of such package or parcel so as to disclose the name and address of the consignor, the name and address of the consignee, and the number of pounds of each kind of fish contained in such package or parcel.

Any person, firm, company, copartnership, partnership, association or corporation licensed under the provisions of this section may, at any time, sell, purchase or barter, or have in his possession, or under his control, for the purpose of sale or barter, any commercial fish: Provided, That the provisions of section 14 of this act shall at all times be observed. Each person, firm, company, copartnership, partnership, association or corporation shall keep a separate record of the purchase of such fish in such form as shall be required by the director of conservation, and such record shall at all times be open to inspection by the director of conservation or his representatives.

HISTORY: Add. 1937, p. 866, Act 348, Imd. Eff. Aug. 5;—CL 1948, 308.26a.

308.27 Violation of sections; penalty.

Sec. 27. Any person, persons, firm, company, copartnership, partnership, association or corporation violating any of the provisions of sections 22 to 26-a, both inclusive, of this act shall be deemed guilty of a misdemeanor and upon conviction thereof for the first offense shall be punished by a fine of not less than 25 dollars, nor more than 100 dollars, together with costs of prosecution, or by imprisonment in the county jail for a period not exceeding 60 days or by both such fine and imprisonment in the discretion of the court: Provided, however, That each violation shall be deemed a separate and distinct offense. In addition to the penalties herein provided the license of any person, firm, company, copartnership, partnership, association or corporation convicted of violating section 26-a of this act may be revoked by the director of conservation.

HISTORY: CL 1929, 6333;—Am. 1937, p. 867, Act 348, Eff. Aug. 5;—CL 1948, 308.27.

SPECIAL PROVISIONS REGULATING FISHING IN BAYS AND HARBORS.

Sec. 28.

HISTORY: CL 1929, 6334;—Rep. 1931, p. 290, Act 180, Imd. Eff. May 28.

This section restricted fishing in Northport harbor. For present law, see Compilers' § 306.151.

308.29 Nets and seines; unlawful use in certain waters of Lake Superior.

Sec. 29. It shall be unlawful for any person or persons to take or catch fish of any kind with gill nets, pound nets, trap nets, seines or other device of any kind except with hook and line and spear in the waters of lake Superior within a radius of 1/2 mile from the mouth of the Two Hearted river located in T 50 N, R 9 W, Luce county.

HISTORY: Add. 1949, p. 208, Act 194, Eff. Sep. 23.

Original section 29 of Act 84 of 1929, p. 201, which restricted fishing in Suttons bay, was repealed by Act 323 of 1945.

308.30 Grand Traverse bay.

Sec. 30. Grand Traverse bay. It shall be unlawful to take or attempt to take fish with seines or nets of any kind in all that part of Grand Traverse bay lying southerly of a line drawn due east and west through Mission Point light, Grand Traverse county, said waters being further described as the east arm and the west arm of Grand Traverse bay: Provided, That it shall be lawful to take chubs with gill nets in any part of Grand Traverse bay where the depth of water exceeds 300 feet.

HISTORY: CL 1929, 6336;—Am. 1945, p. 571, Act 323, Eff. Sept. 6;—CL 1948, 306.30.

308.30a Charlevoix bay.

Sec. 30a. It shall be unlawful to take or catch, or attempt to take or catch, any species of fish with gill nets, pound nets, trap nets, seines, set hook lines, or any other device whatsoever, except a hook and line and spear as permitted by law, or to set any such nets, seines, set hook lines, or devices, in the waters of Lake Michigan within a radius or distance of 2 miles from Charlevoix south pierhead light, located at the mouth of the Pine river in Charlevoix county.

HISTORY: Add. 1939, p. 133, Act 75, Eff. Sep. 29;—CL 1948, 306.30a;—Am. 1949, p. 286, Act 235, Eff. Sep. 23.

308.31 Setting or using nets near public docks or piers prohibited; exceptions.

Sec. 31. It shall be unlawful to set, or use any kind of a net mentioned in this act, except seines in the taking of noxious fish, within a radius of 1/2 mile of any public dock or pier from which the public is not excluded from fishing with hook and line: Provided, That it shall be lawful to set nets under the ice for the purpose of taking all fish, except perch, within the 1/2 mile radius of any such dock or pier. Public docks for the purpose of this act shall be held to include all docks except docks owned by individuals and used exclusively for their own boats: Provided, That the provisions of this section shall not apply to St. James Harbor, Beaver Island, Charlevoix county.

HISTORY: CL 1929, 6337;—Am. 1947, p. 548, Act 324, Imd. Eff. Jul. 2;—CL 1948, 308.31;—Am. 1949, p. 209, Act 196, Eff. Sep. 23.

308.32 Saginaw bay.

Sec. 32. Saginaw bay, for the purpose of this act, shall be defined as all those waters lying inside of a line drawn from Tawas point lighthouse in Iosco county to a monument which shall be erected by the director of conservation on Oak point in Huron county including the waters of Tawas bay, wherein nets may be set and used as provided by law, except that no nets shall be set or used:

(a) Within that area between the shoreline and a line drawn from a monument which shall be erected by the director of conservation on Fish point in Tuscola county to a monument which shall be erected by said director on the westerly point of Stony island, thence to a monument which shall be erected by said director on the westerly point of North island, thence to a monument which shall be erected by said director on the westerly end of Sand point in Huron county: Provided, That nets may be used in that part of this area lying southerly of the south line of section 21, town 16 north of

range 9 east, extending due west: Provided further, That seines not exceeding 5 feet in depth and 100 rods in length may be used in that part of this area lying northerly of the south line of section 21, town 16 north, range 9 east, extending due west, for the taking of noxious fish;

(b) Within that area enclosed within and bounded by the following lines: beginning at the monument on Sand point herein described, thence for a distance of 1 mile along a line drawn from said monument to a monument to be erected by the director of conservation on the easterly point of Little Charity island, thence 218 degrees along a line to a point where it would intersect a line drawn from the Gravelly point shoal lighthouse to the monument on North island herein described, thence southeasterly along the latter line to the said monument on North island, thence northeasterly to the point of beginning; the object being to provide a channel approximately 1 mile in width for the free passage of fish.

(c) Within that area of Tawas bay bounded on the south by a line extending from the U.S. fog signal building on Tawas point due west to the mainland.

HISTORY: CL 1929, 6338;—Am. 1935, p. 100, Act 105, Imd. Eff. May 28;—Am. 1945, p. 339, Act 243, Eff. Sep. 6;—CL 1948, 308.32;—Am. 1949, p. 286, Act 235, Eff. Sep. 23;—Am. 1957, p. 380, Act 277, Eff. Sep. 27;—Am. 1959, p. 44, Act 40, Eff. Mar. 19, 1960.

Sec. 33.

HISTORY: CL 1929, 6339;—Am. 1937, p. 665, Act 338, Imd. Eff. July 27;—Am. 1939, p. 396, Act 209, Imd. Eff. June 14;—Rep. 1945, p. 339, Act 243, Eff. Sept. 6.

This section defined waters in Saginaw Bay.

308.33a Marquette bay.

Sec. 33a. No person shall drive any stakes for fishing purposes, nor set, place or extend any pound, trap, stake, or set net of any kind, or any other device, except hook and line and spear as permitted by law, for the purpose of taking or catching fish in the waters of Marquette Bay, beginning with a line from the Presque Isle breakwater on the S.S.E. period line to east side of section 8 opposite the mouth of the Chocolay river.

HISTORY: Add. 1935, p. 330, Act 203, Imd. Eff. Jun. 6;—CL 1948, 308.33a;—Am. 1949, p. 286, Act 235, Eff. Sep. 23.

308.33b Grand Marais bay.

Sec. 33b. Commencing June 15, 1962 it shall be unlawful to place or set any kind of net or set hook lines or take or attempt to take any kind of fish with a net or set hook line in the waters of east bay and west bay, Grand Marais harbor, and in the waters of Lake Superior within 2 miles on either side of the range lights at the entrance to Grand Marais harbor, extending out to 30 fathoms of water, all in Alger county, Michigan.

HISTORY: Add. 1962, p. 50, Act 61, Eff. Mar. 28, 1963.

308.34 False Presque Isle bay.

Sec. 34. False Presque Isle bay, Lake Huron. It shall be unlawful to set nets or seines of any kind or description west of a certain line commencing at the 1/4 post between sections 13 and 24 in town 33 north, range 8 east; thence north across the bay of False Presque Isle to 1/4 post between sections 12 and 13 in said town 33 north, range 8 east, in Presque Isle county, at any time from and after the passage of this act.

HISTORY: CL 1929, 6340;—CL 1948, 308.34.

308.34a Presque Isle harbor.

Sec. 34a. It shall be unlawful to take or attempt to take fish with seines, set hook lines or nets of any kind in the waters of Presque Isle harbor and that portion of lake Huron within a line drawn between Presque Isle light in section 8, town 34 north, range 8 east, and South Albany Point in section 22, town 34 north, range 8 east, Presque Isle county.

HISTORY: Add. 1957, p. 127, Act 109, Eff. Sep. 27.

308.35 Thunder bay.

Sec. 35. It shall be unlawful for any person to catch or take fish of any kind with net, or other device of any kind except hook and line and spear as permitted by law, from that part of Thunder Bay in Lake Huron, lying inside, or south and west of a straight line extending from the mouth of Thunder Bay river to the center of Surplur Island; thence south and east to the north and south line between sections 20 and 21 in township 29 north, of range 9 east, in the state of Michigan, where said line intersects the waters of the said lake, excepting therefrom that part of said Thunder Bay in front of sections 2, 11 and 12 in township 29 north, of range 8 east, and sections 34 and 35 in township 30 north, of range 8 east: Provided, That no net or other device of any kind, except hook and line and spear as permitted by law, shall be used by any person to take or catch fish in that part of the waters of said Thunder Bay within 1/2 mile of the mouth in any direction of any stream that discharges its waters into that portion of said Thunder Bay.

HISTORY: CL 1929, 6341;—Am. 1933, p. 439, Act 255, Imd. Eff. Jul. 11;—CL 1948, 308.35;—Am. 1949, p. 286, Act 235, Eff. Sep. 23.

308.36 Whitney bay.

Sec. 36. Whitney bay. No person or persons shall fish with, use or set any seines, gill nets, or any form of pound, trap, sweep or set nets, or any like device for taking fish in Whitney bay or any waters tributary thereto in the township of Drummond, county of Chippewa.

HISTORY: CL 1929, 6342;—CL 1948, 308.36.

CITED IN OTHER SECTIONS: The above section is cited in § 303.1a.

308.36a Pike bay and Island harbor.

Sec. 36a. It shall be unlawful for any person or persons to take or catch fish of any kind, with gill nets, trap nets, pound nets, seines or other device of any kind, except hook and line, in that part of upper Lake Huron known as Pike Bay and Island Harbor within a line drawn from the most southerly point of section 17, town 41 north, range 5 east, on Drummond Island to the most westerly point of Espanore Island; thence southerly and easterly along the shore to the most southerly point of said Espanore Island; thence due east to the mainland of Drummond Island: Provided, That it shall be lawful to use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish and garpike.

HISTORY: Add. 1939, p. 793, Act 321, Imd. Eff. Jun. 22;—CL 1948, 308.36a;—Am. 1949, p. 287, Act 235, Eff. Sep. 23;—Am. 1951, p. 246, Act 194, Imd. Eff. Jun. 8.

CITED IN OTHER SECTIONS: The above section is cited in § 303.1a.

308.37 Straits of Mackinac.

Sec. 37. It shall be unlawful for any person or persons to take or catch fish of any kind, with gill nets, trap nets, seines, or other device of any kind, except hook and line and spear as permitted by law, in that part of the Straits of Mackinac, within 1 mile from the shore line, from a point where the section line between sections 22 and 23, town 40 north, of range 4 west intersects the Straits of Mackinac, and running from there easterly to where the west line of the city limits of the city of St. Ignace intersects the Straits of Mackinac, and within 1/2 mile from there easterly and northerly to where the north line of the city of St. Ignace intersects Lake Huron or the Straits of Mackinac.

HISTORY: CL 1929, 6343;—CL 1948, 308.37;—Am. 1949, p. 287, Act 235, Eff. Sep. 23.

308.38 Les Cheneaux channels.

Sec. 38. It shall be unlawful hereafter to fish with seines, gill nets, or any form of trap nets, or in any manner, except by hook and line, the channels known as the Les Cheneaux channels, in Mackinac county, or in the entrances thereto, or in the waters

adjacent thereto, within a line drawn as follows: Beginning at the southerly extremity of the point of land on the easterly side of Dudley bay; running thence southwesterly in a straight line to the southeasterly extremity of Beaver Tail Point; thence westerly in a straight line to the southeasterly point of Crow island; thence southwesterly in a straight line to the extreme southeasterly point of Boot island; thence southwesterly in a straight line to Point Fuyards; thence northwesterly in a straight line to the extreme southerly part of St. Martin's Point: Provided, That pound nets of legal mesh and size, for the taking of whitefish and lake trout, may be set and used in any place in said protected waters, except in that portion of Prentice bay lying north of a line drawn from the south end of Scotty's Point to the south end of Whitefish Point and in the channels known as the Les Cheneaux channels, in Mackinac county, or in the entrances thereto, lying west of the east line of section 34, in town 42 north, range 1 east, said line running north and south: And provided further, Gill nets of not more than 150 feet in length and of the size mesh established in section 5 of this act for taking herring and menominees, may be legally used and set in said protected waters, at any place or places where nets for the taking of whitefish and lake trout are permitted by this act, during the months of January, February and March of each year, for the purpose of taking herring and menominees for commercial purposes: And provided further, That it shall be lawful to use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish and garpike: And provided further, That if any perch, black bass, northern pike or pike-perch, are taken in any of the aforesaid nets used for the taking of whitefish and lake trout, menominee or herring, as permitted by this act, they shall be immediately released and placed back in the water.

Day's limit on perch; sales prohibited.

It shall be unlawful for any one person to take more than 50 perch by hook and line and spear from said protected waters, in any one day and the sale of any perch, black bass, northern pike, or pike-perch caught or taken from said protected waters, by hook and line and spear, is hereby prohibited and made unlawful.

HISTORY: CL 1929, 6344;—Am. 1931, p. 241, Act 159, Imd. Eff. May 27;—Am. 1935, p. 115, Act 74, Imd. Eff. May 22;—Am. 1939, p. 75, Act 312, Eff. Sep. 29;—CL 1948, 308.38;—Am. 1949, p. 287, Act 235, Eff. Sep. 23;—Am. 1951, p. 27, Act 24, Imd. Eff. Apr. 10;—Am. 1957, p. 37, Act 31, Imd. Eff. May 7.

CITED IN OTHER SECTIONS: The above section is cited in § 303.1a.

308.38a Fishing in certain water of upper Lake Huron with fishing devices; unlawful; exceptions; spearing through ice for certain fish, open season.

Sec. 38a. It shall be unlawful for any person or persons to take or catch fish of any kind, with gill nets, pound nets, trap nets, seines or other device of any kind, except a hook and line, in those waters of upper Lake Huron within the following boundaries: Beginning at a point where the north line of town 41 north intersects the shore of the mainland south of the village of Detour, in Chippewa county; thence due east to Drummond Island; thence northerly and easterly along the shore of Drummond Island to a point where the section line between sections 23 and 24, town 43 north, range 6 east, on Poe Point, meets the waters edge; thence northwesterly to a point on the international boundary line where it intersects a line drawn due north from the most westerly end of Chippewa Point; thence due north to the international boundary line; thence westerly along said international boundary line to a point where it intersects a line drawn due east through the most southerly point of Little Lime Island; thence due west from said point to the mainland; thence following the shore of the mainland southeasterly to the point of beginning: Provided, That nets with meshes not less than 4 ½ inches and set hook lines may be used from December 15th to April 1st, inclusive, each year in these waters except in that portion of Potagannissing Bay lying southerly

of a line drawn from the most northerly part of Dix Point on section 19, town 42 north, range 5 east, to Chippewa Point on section 30, town 43 north, range 6 east, on Drummond Island, Chippewa county, where no device for taking fish other than a hook and line shall be used at any time: Provided further, That it shall be unlawful for any person or persons to take or catch fish of any kind, with gill nets, pound nets, trap nets, seines or other device of any kind, except a hook and line in the waters on the south side of Drummond Island lying north of a line beginning at the most southerly part of Cream City Point on section 22, town 41 north, range 5 east, thence easterly to Traverse Point, thence easterly to Scammon Point, thence southeasterly to the most southerly part of Long Point on section 29, town 41 north, range 7 east: And provided further, That it shall be lawful to use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish and garpike.

HISTORY: Add. 1838, p. 262, Act 140, Eff. Sep. 29;—CL 1948, 306.38a;—Am. 1949, p. 268, Act 235, Eff. Sep. 23;—Am. 1851, p. 579, Act 273, Eff. Sep. 28.

CITED IN OTHER SECTIONS: The above section is cited in § 303.1a.

308.39 Little Traverse bay.

Sec. 39. It shall be unlawful for any person or persons to take or catch fish of any kind, with gill nets, trap nets, seines or other device of any kind, except hook and line and spear as permitted by law, and except the dipping of minnows, as defined by section 1 of chapter 4 of Act No. 165 of the Public Acts of 1929, as amended, being section 304.1 of the Compiled Laws of 1948, by hand net and the taking of minnows by glass trap, in that part of Little Traverse bay on lake Michigan, lying east of the line common to sections 9 and 10, township 34 north, of range 6 west, extended northerly across the bay to meet the line common to sections 9 and 10, township 35 north, of range 6 west, all in Emmet county. Minnows as defined by section 1 of chapter 4 of Act No. 165 of the Public Acts of 1929, as amended, being section 304.1 of the Compiled Laws of 1948, may be taken or caught from the waters above-described by use of a seine, hand net or glass trap except seines may not be used within 100 feet of any public dock from which the public is not excluded from fishing with hook and line.

HISTORY: CL 1929, 6345;—Am. 1945, p. 348, Act 248, Imd. Eff. May 25;—CL 1948, 308.39;—Am. 1949, p. 268, Act 235, Eff. Sep. 23;—Am. 1964, p. 130, Act 135, Eff. Aug. 28;—Am. 1967, p. 106, Act 86, Imd. Eff. Jun. 21.

308.40 Little Bay de Noquette.

Sec. 40. No person or persons shall fish with, use or set any seines, gill nets, or any form of pound, trap, sweep or set nets, or any like device, or use any spear, night line or set line for taking fish in any of the waters of this state known as Little Bay de Noquette, which within the meaning of this act shall be defined as those waters of Little Bay de Noquette, and tributaries north from a line drawn from the extreme end of Saunders' Point on the west shore to the extreme end of Squaw Point on the east shore: Provided, however, It shall hereafter be lawful from the 15th day of December to the 1st day of April, inclusive, of each year, to take suckers in any of the waters above described by means of pound nets, provided that such pound nets shall be lifted only under the supervision of representatives of the department of conservation: Provided further, That it shall be lawful to use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish and garpike.

HISTORY: CL 1929, 6346;—Am. 1945, p. 571, Act 323, Eff. Sep. 6;—CL 1948, 306.40;—Am. 1949, p. 268, Act 235, Eff. Sep. 23;—Am. 1951, p. 246, Act 194, Imd. Eff. Jun. 8.

308.40a Garden bay.

Sec. 40a. It shall be unlawful for any person or persons to take or catch fish of any kind with gill nets, pound nets, trap nets, seines, or other device of any kind, except hook and line and spear as permitted by law, in the waters of Garden Bay on Lake Michigan within a radius of 1 ¼ miles from the mouth of Garden Creek, Delta county: Provided, That nets as used in Big Bay De Noc for taking smelt may be used also in Garden Bay to take smelt when and where they do not take or injure any other species of fish.

HISTORY: Add. 1939, p. 887, Act 339, Eff. Sep. 29;—CL 1948, 308.40a;—Am. 1949, p. 289, Act 235, Eff. Sep. 23.

308.40b Little Bay de Noquette, Big Bay de Noquette and Green Bay.

Sec. 40b. It shall be unlawful in the waters of this state, known as Little Bay de Noquette and Big Bay de Noquette, and that part of Green Bay lying north of a line drawn from the point where the south boundary of Delta county (being the south line of township 37 north) meets the west shore of Green Bay, thence easterly to the most southerly point of St. Martin Island, thence northeasterly through the most southeasterly point of Poverty Island to the most southeasterly point of Summer Island (also called Big Summer Island), thence northerly along the shore of Summer Island to the most easterly point thereof, thence northerly to the navigation buoy off the south end of Point Detour:

(a) To fish, set, use or maintain in the water any pound net designed for the impounding of fish, unless it be held in place solely by 10 or more stakes driven firmly into the ground beneath the water;

(b) To fish, set, use or maintain any pound net in water having a depth greater than 50 feet;

(c) To fish, set or have in the water any trap net, hoop net, fyke net, drop net or gobbler net at any time from April 15 to May 20, both dates inclusive;

(d) To fish, set, use, maintain or permit to remain in the water any net of any description, except minnow seines, between July 1 and September 10, both dates inclusive, in whole or in part within any of the areas described as follows:

(1) In Big Bay de Noquette north of a line from the southernmost tip of Porcupine Point to the westernmost tip of Valentine Point;

(2) In Little Bay de Noquette between the westerly shore and a line drawn from the extreme end of Saunders Point to the extreme end of Squaw Point and thence to the mouth of the channel into the Gladstone yacht harbor;

(3) In Little Bay de Noquette and Green Bay between the westerly shore and a line drawn from the most easterly point on Portage Point 1 and 1/2 miles south, thence in a general southerly direction parallel to the westerly shore line and 1 and 1/2 miles out from shore to a point where the township line between town 37 n and 38 n, r 23 w intersect, thence west to the shore.

(e) The provisions of paragraphs (a) and (b) of this section shall not apply to or restrict the fishing, setting, use or maintenance of pound nets otherwise lawfully used for the taking of smelt or herring during the winter months under the ice.

HISTORY: Add. 1952, p. 90, Act 80, Eff. Sep. 18.

308.41 Keweenaw bay.

Sec. 41. It shall be unlawful to take, catch or attempt to take or catch any fish with seines, gill nets, or any form of pound or trap nets or in any manner except by the use of hook and line and spear as permitted by law in the waters of L'Anse bay, which within the meaning of this act are defined as follows: South of an east and west line beginning at the meander corner between sections 25 and 36, township 51 north, range 33 west, and extending west to the meander corner between section 27 and sec-

tion 34, township 51 north, range 33 west. In the remaining waters of lake Superior inside of a line extending from Manitou light on Manitou island, Keweenaw county, to the Huron island light on west Huron island and thence to the mouth of the Huron river in township 52 north, range 29 west, Marquette county, excluding Huron bay as defined in section 42 of this act, it shall be unlawful from January 1 to October 31 in each year to set or use in waters between 120 feet in depth and 300 feet in depth any gill net with meshes less than 4 ½ inches, except for taking herring when the net is floated so that the lower line thereof is not more than 42 feet below the surface of the water, and for the taking of bait for set hook lines in accordance with section 5 of this act.

HISTORY: CL 1929, 6347;—Am. 1935, p. 386, Act 230, Imd. Eff. Jun. 8;—Am. 1937, p. 177, Act 111, Imd. Eff. Jun. 24;—CL 1948, 308.41;—Am. 1949, p. 289, Act 235, Eff. Sep. 23;—Am. 1959, p. 391, Act 253, Eff. Mar. 19, 1960.

308.41a Portage lake ship canal.

Sec. 41a. It shall be unlawful to take, catch or attempt to take or catch any fish with seines, gill nets, or any form of pound nets or trap nets or in any manner except by the use of hook and line in those waters of Houghton county, commencing at the northerly entrance to Portage Lake and extending through Portage Lake ship canal and within 1/2 mile in all directions from the canal entrance inside of the breakwaters: Provided, That it shall be lawful to use spears through the ice of such waters during the months of January and February for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish and garpike.

HISTORY: Add. 1933, p. 439, Act 255, Imd. Eff. Jul. 11;—CL 1948, 308.41a;—Am. 1949, p. 289, Act 235, Eff. Sep. 23;—Am. 1951, p. 247, Act 194, Imd. Eff. Jun. 8.

308.42 Huron bay.

Sec. 42. It shall be unlawful to take, catch or attempt to take or catch any fish with seines, gill nets or any form of pound or trap nets or in any manner except by the use of hook and line in the waters of Huron bay, which within the meaning of this act are defined as follows: South of an east and west line beginning at the meander corner between sections 14 and 23, township 52 north, range 31 west, and running west to the meander corner between sections 15 and 22, township 52 north, range 31 west, Baraga county. It shall be lawful to use spears through the ice of such waters during the months of January, February and March for taking carp, suckers, mullet, redhorse, sheepshead, lake trout, smelt, northern pike, muskellunge, sturgeon, whitefish, ciscoes, pilot fish or menominee whitefish, catfish, bullheads, herring, perch, pike-perch, shad, dogfish and garpike.

HISTORY: CL 1929, 6348;—CL 1948, 308.42;—Am. 1949, p. 289, Act 235, Eff. Sep. 23;—Am. 1951, p. 247, Act 194, Imd. Eff. Jun. 8;—Am. 1962, p. 45, Act 54, Eff. Mar. 28, 1963.

Sec. 43.

HISTORY: CL 1929, 6349;—Rep. 1945, p. 340, Act 243, Eff. Sept. 6.

This section regulated fishing in Tawas Bay.

308.44 Duncan bay.

Sec. 44. Duncan Bay. It shall be unlawful for any person to make use of any kind of a net, set hook line or other device for the purpose of taking or catching fish in the waters of Duncan Bay, Lake Huron, which within the meaning of this act shall be defined as all those waters of said Duncan Bay, Lake Huron, lying south of a line drawn west from Cheboygan Point lighthouse on Lighthouse Point to a point where the easterly boundary line of Beaugrand township meets the westerly boundary line of the

corporate limits of the city of Cheboygan extended due north would intersect the waters of Lake Huron: Provided, however, That it shall be lawful to take or catch fish in these closed waters with hook and line or spears in accordance with the laws of the state of Michigan.

HISTORY: CL 1929, 6350;—Am. 1933, p. 439, Act 255, Imd. Eff. July 11;—CL 1948, 308.44.

308.45 Munising and Murray bays.

Sec. 45. It shall be unlawful for any person or persons to take or catch fish of any kind in any manner except with hook and line and spear as permitted by law in any of the waters of Munising and Murray bays of Lake Superior which within the meaning of this act shall be defined as all of those waters of said Munising and Murray bays of Lake Superior lying westerly of a line drawn from Sand Point in section number 19, town 47 north, range 18 west, to the eastern end of the eighth line dividing lots 1 and 2 in the northeast quarter of section number 24, town 47 north, range 19 west, and easterly of a line drawn from the southern end of the quarter line between lots 2 and 3 of section number 22, town 47 north, range 19 west, to the northern end of the quarter line between lots number 2 and 3 in section number 27, town 47 north, range 19 west: Provided, That fish so taken shall not be bought or sold.

HISTORY: CL 1929, p. 6351;—CL 1948, 308.45;—Am. 1949, p. 289, Act 235, Eff. Sep. 23.

308.46 Bait; taking with nets.

Sec. 46. The taking of minnows, as defined by section 1 of chapter 4 of Act No. 165 of the Public Acts of 1929, as amended, and other small fish for bait with nets not otherwise prohibited by law shall not be considered a violation of this act.

HISTORY: CL 1929, p. 6352;—CL 1948, 308.46;—Am. 1967, p. 107, Act 86, Imd. Eff. Jun. 21.

308.47 Construction of act.

Sec. 47. Nothing contained in this act shall be deemed as authorizing the taking, selling or transporting of fish, or the use of illegal nets, or the setting of nets at a place, or places, or times, or otherwise forbidden by law.

HISTORY: CL 1929, 6353;—CL 1948, 308.47.

308.48 Violation of act; penalty.

Sec. 48. Any person violating any of the provisions of sections 28 to 47 of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10.00 nor more than \$100.00 and costs of prosecution, or imprisonment in the county jail not to exceed 30 days, or both such fine and imprisonment. The license of any person or persons, firm, company, copartnership, partnership, association or corporation convicted of 3 violations of this act or other acts regulating commercial fishing in any 1 license year, shall be automatically revoked and canceled for the balance of the license year for which issued, and revocation shall prohibit the use of boats, nets or other gear by any person, firm, copartnership, association or corporation during the balance of the year for which license was issued.

HISTORY: CL 1929, 6354;—Am. 1933, p. 439, Act 255, Imd. Eff. Jul. 11;—Am. 1937, p. 867, Act 348, Imd. Eff. Aug. 5;—CL 1948, 308.48;—Am. 1970, p. 145, Act 53, Imd. Eff. Jul. 10.

Sec. 48a.

HISTORY: Add. 1941, p. 294, Act 195, Eff. Jan. 10, 1942;—Rep. 1947, p. 546, Act 324, Imd. Eff. July 2.

SAVING CLAUSES AND REPEALS.

Sec. 49. (This was a repeal section.)

HISTORY: CL 1929, 6355;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACTS REPEALED:

Public Act Number	Year of Act	Public Act Number	Year of Act
70	1889	314	1905
277	1897	324	1905
13	1903	102	1907
35	1903	114	1907
115	1903	153	1907

Public Act Number	Year of Act	Public Act Number	Year of Act
121	1913	275	1925
262	1915	276	1925
141	1919	277	1925
159	1919	278	1925
279	1921	279	1925
182	1923	85	1927
95	1925		

308.50 Act not repealed.

Sec. 50. Nothing in this act shall be construed to repeal Act No. 350 of the Public Acts of 1865.

HISTORY: CL 1929, 6356;—CL 1948, 308.50.

NOTE: Act 350 of 1865, above referred to, is Compilers' § 307.21 et seq.

308.51 Saving clause.

Sec. 51. All suits, actions or proceedings for the violation of any law now in force, which may be started before this act takes effect, shall not be thereby abated, and may be prosecuted in the same manner and with like effect as though this act had not been passed.

HISTORY: CL 1929, 6357;—CL 1948, 308.51.

Sec. 52. (This was a severing clause section.)

HISTORY: CL 1929, 6358;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

308.101-308.106 Repealed. 1957, p. 247, Act 196, Eff. Jan. 1, 1958.

Sections regulated possession, use, transportation and sale of brook, brown and rainbow trout by persons propagating and rearing such fish and purchasers of such fish.

Act 196, 1957, p. 246; Eff. Jan. 1, 1958.

AN ACT to authorize and regulate the propagation and possession of game fish in private waters, or when lawfully procured from without this state; to regulate the use, transportation and sale of such game fish; to provide for the issuance of licenses and permits pertaining thereto and the disposition of the moneys derived therefrom; and to provide penalties for violations of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

308.111 Game fish; definition.

Sec. 1. The term "game fish" shall include all species of fish in the families of salmonidae (trout and salmon), thymallidae (grayling), esocidae (northern pike and muskellunge), serranidae (white bass and striped bass), centrarchidae (bass, bluegill and crappie), percidae (perch and walleye), acipenseridae (sturgeon), ictaluridae (catfish) and coregonidae (whitefish).

HISTORY: New 1957, p. 246, Act 196, Eff. Jan. 1, 1958;—Am. 1964, p. 17, Act 10, Imd. Eff. Mar. 25;—Am. 1968, p. 255, Act 166, Eff. Nov. 15.

CITED IN OTHER SECTIONS: Sections 308.111 to 308.119 are cited in § 305.9.

308.112 Game fish; license for propagation for sale.

Sec. 2. No person shall propagate, rear or have in possession for the purpose of offering for sale or selling any kind of game fish unless he has applied for and has been issued a license as provided in this act. All such licenses shall be nontransferable and shall expire on December 31 of the year for which issued. A separate license shall be required for each place of business where game fish are propagated, reared or possessed for the purpose of sale or offering for sale. The provisions of this act shall not apply to the sale, offering for sale or possession of dead, fresh or frozen brook trout.

brown trout or rainbow trout lawfully taken in, and exported from, another state or country or which have been procured from a licensed dealer within the state.

HISTORY: New 1957, p. 246, Act 196, EF. Jan. 1, 1958.

308.113 Game fish; license, application, contents, fees.

Sec. 3. Any person owning or having control of private waters in this state desiring a license under the provisions of this act shall make application therefor to the director of conservation, on a form provided by the director, accompanied by a fee of \$5.00. The application shall state the name and address of the applicant, the description of the premises where game fish are to be propagated, reared, possessed or offered for sale, together with such additional information as may be required. Upon receipt of the application and fee, the director of conservation, if satisfied that the provisions of this act and the rules and regulations promulgated hereunder have been complied with, shall issue a license to the applicant.

HISTORY: New 1957, p. 246, Act 196, EF. Jan. 1, 1958.

308.114 Game fish; sale, posting of license.

Sec. 4. No person shall propagate, rear or have in possession, for the purpose of offering for sale or selling any game fish as herein described except at the location described in his license. The license shall be conspicuously posted at such place of business at all times.

HISTORY: New 1957, p. 246, Act 196, EF. Jan. 1, 1958.

308.115 Director of conservation; rules and regulations.

Sec. 5. The director of conservation may adopt and enforce such rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as may be necessary to carry out the intent of this act and to protect the public interest.

HISTORY: New 1957, p. 246, Act 196, EF. Jan. 1, 1958.

308.115a Importation of game fish or viable eggs; prohibition or restriction.

Sec. 5a. It is unlawful for a person to import into the state any live game fish or viable eggs of any game fish without a license as provided for in this act. The director may adopt rules under the provisions of this act to prohibit or restrict the importation of game fish or any other species of fish when the importation of such species would endanger the public fishery resources of this state.

HISTORY: Add. 1968, p. 255, Act 166, EF. Nov. 15.

308.116 License fees; game and fish protection fund.

Sec. 6. All moneys received from the sale of licenses provided for in this act shall be paid over to the state treasurer and by him credited to the game and fish protection fund.

HISTORY: New 1957, p. 246, Act 196, EF. Jan. 1, 1958.

308.117 Violation of act; penalty, revocation of license.

Sec. 7. Any person violating any of the provisions of this act or the rules and regulations adopted thereunder shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$100.00 together with costs of prosecution, or imprisonment in the county jail for not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court and, in addition to such penalty, any license issued hereunder may be revoked. Any license issued under this act may be suspended or revoked by the director of conservation after a hearing, upon reasonable notice, when any of the operations under it fail to comply with the requirements of this act or

the rules and regulations adopted thereunder. Whenever any license shall be suspended or revoked, the fish held under such license shall then be disposed of only in a manner approved by the director of conservation.

HISTORY: New 1957, p. 247, Act 196, Eff. Jan. 1, 1958.

308.118 Repeal.

Sec. 8. Act No. 170 of the Public Acts of 1905, as amended, being sections 308.101 to 308.106 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1957, p. 247, Act 196, Eff. Jan. 1, 1958.

308.119 Effective date of act.

Sec. 9. This act shall take effect January 1, 1958.

HISTORY: New 1957, p. 247, Act 196, Eff. Jan. 1, 1958.

308.121, 308.124 Repealed. 1949, p. 54, Act 58, Eff. Sep. 23.

Sections regulated taking of fish from Lakes Superior, Michigan, Huron and Erie.

308.131 Repealed. 1949, p. 56, Act 60, Eff. Sep. 23.

Section regulated use of trap net, pound net or similar net having covered crib or heart, in Lakes Michigan or Superior.

Act 179, 1935, p. 282; Eff. Sep. 21.

AN ACT to prohibit commercial fishing in Lake Huron within 3 miles of the Fort Gratiot light.

The People of the State of Michigan enact:

308.141 Commercial fishing within three miles of Fort Gratiot light; unlawful.

Sec. 1. The provisions of any statute of this state to the contrary notwithstanding, it shall hereafter be unlawful for any person to take any species of fish with gill nets, pound nets, trap nets, seines, set lines or set hooks, or any other device except a hook and line, in the waters of Lake Huron at any point within a radius of 3 miles from the Fort Gratiot light, located near the entrance to the St. Clair River. No nets of any description, seines, set lines or set hooks, or any other device for that purpose, shall be set in said waters.

HISTORY: CL 1948, 308.141.

308.142 Person; definition.

Sec. 2. The word "person" as used in this act, shall be construed to include 1 or more persons, firms, partnerships or associations.

HISTORY: CL 1948, 308.142.

308.143 Violation of act; penalty.

Sec. 3. Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than 250 dollars nor more than 2,000 dollars and cost of prosecution, or imprisonment for not more than 6 months, or both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1948, 308.143.

Act 180, 1931, p. 290; Imd. Eff. May 28.

AN ACT to protect the fish; to regulate the taking and means of taking the same in the waters of Northport harbor; and to prescribe penalties for the violation of this act. Am. 1963, p. 226, Act 163, Eff. Sep. 6.

The People of the State of Michigan enact:

308.151 Northport harbor; unlawful fishing for perch or smelt.

Sec. 1. It shall be unlawful to take any of the species of fish known as perch with gill nets, pound nets, trap nets, seines, setlines, or set hooks, or any other device, except a hook and line, and no nets of any description for the taking of perch shall be set within 200 feet of any dock in the waters of Northport harbor (known as Northport bay), and within a line beginning at the extreme southern end of lot 3, section 36, town 32 north, range 11 west of Northpoint point at the water's edge; thence on a line southerly across Northport bay to Bellows (Gull) island; thence southerly on a line from Bellows (Gull) island to most northerly point of lot 3, section 25, town 31 north, range 11 west; thence due west to the east shore of lot 1, section 25, town 31 north, range 11 west; thence northerly following the bay shore to the place of beginning. It shall be unlawful to set any trap or pound net in that part of Northport harbor north of a line beginning at the extreme southern end of lot 3, section 36, town 32 north, range 11 west of Northport point at the water's edge and extending west to the town line between 31 north and 32 north in the village of Northport.

It shall be lawful to use a bait net in shallow waters along the shores of Northport harbor during the smelt spawning season to obtain smelt for other than commercial purposes.

HISTORY: Am. 1935, p. 421, Act 248, Imd. Eff. Jan. 8;—Am. 1937, p. 357, Act 225, Eff. Oct. 29;—CL 1948, 308.151;—Am. 1963, p. 228, Act 163, Eff. Sep. 6.

308.152 Violation of act; penalty.

Sec. 2. Any person violating the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor and subject to a fine of not more than 100 dollars, or to imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment.

HISTORY: CL 1948, 308.152.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.
ACT REPEALED: Sec. 28, Act 84, 1929, CL 1929, 6334.

Act 92, 1931, p. 149; Imd. Eff. May 11.

AN ACT to protect fish and to preserve the fisheries of this state and to regulate taking of fish in a certain portion of the straits of St. Mary in this state, same being a portion of the connecting waters between Lake Superior and Lake Huron.

The People of the State of Michigan enact:

308.161 Straits of St. Mary; fishing devices unlawful.

Sec. 1. It shall be unlawful to place or set any kind of net or set hook lines or take or attempt to take any kind of fish with a net or set hook lines, except minnow seines, as provided in section 5 of Act No. 84 of the Public Acts of 1929, in the following connecting waters between Lake Superior and Lake Huron, said waters known as the Whaiska Bay, and also including all waters lying southerly to a line drawn from the most southeasterly point of lot 1, section 32, township 47 north, range 2 west, state of Michigan, and extending easterly to the most westerly point of Round Island.

HISTORY: CL 1948, 308.161.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

Act 218, 1955, p. 324; Eff. Oct. 14.

AN ACT to prescribe the powers and duties of the conservation commission with respect to the suspension, abridgment, extension and modification of the provisions of the commercial fishing laws of 1929 and of any other statute regulating commercial fishing; and to prescribe penalties for violations of the provisions of this act. Am. 1959, p. 215, Act 154, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

308.201 Commercial fishing laws; suspension by conservation commission.

Sec. 1. The provisions of any other act to the contrary notwithstanding, the provisions of any statute or law of this state governing commercial fishing may be suspended, abridged, extended or modified by the conservation commission when, in the opinion of said commission, such action is necessary for the better protection, preservation, maintenance and harvesting of such fish. The existing statutes and laws regulating commercial fishing shall remain in full force and effect unless suspended, abridged, extended or modified by order of the conservation commission in the manner herein provided, or by subsequent acts of the legislature.

HISTORY: New 1955, p. 324, Act 218, Eff. Oct. 14;—Am. 1959, p. 215, Act 154, Eff. Mar. 19, 1960.

308.202 Effective date of order; copy to licensees.

Sec. 2. The effective date of any order promulgated by the conservation commission under authority of this act shall be not less than 30 days from and after the date of its adoption. Within 10 days after the date of its adoption, a copy of said order shall be sent by first class mail to all persons of record licensed under the provisions of Act No. 84 of the Public Acts of 1929, as amended, being sections 308.1 to 308.51 of the Compiled Laws of 1948, who will be affected by such order.

HISTORY: New 1955, p. 324, Act 218, Eff. Oct. 14;—Am. 1959, p. 215, Act 154, Eff. Mar. 19, 1960.

308.203 Violation of order; penalty; revocation of license.

Sec. 3. Any person who shall violate any of the provisions of any order promulgated under the authority of this act shall be guilty of a misdemeanor. Each violation shall be deemed a separate and distinct offense and, in addition to the penalties herein provided, any license issued under authority of Act No. 84 of the Public Acts of 1929, as amended, to any person, firm, partnership, co-partnership, association or corporation convicted in any one license year of 3 violations of any order or orders promulgated under authority of this act, or of any act regulating commercial fishing, shall be automatically revoked and cancelled for the remainder of the license year for which issued, and said revocation shall prohibit for the balance of the license year the use of any boats, nets or other gear covered by such license.

HISTORY: New 1955, p. 324, Act 218, Eff. Oct. 14;—Am. 1959, p. 215, Act 154, Eff. Mar. 19, 1960.

308.204 Rules, regulations and orders; promulgation.

Sec. 4. All rules, regulations and orders promulgated under authority of this act shall be adopted and promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1955, p. 324, Act 218, Eff. Oct. 14;—Am. 1959, p. 215, Act 154, Eff. Mar. 19, 1960.

308.205 Construction of act.

Sec. 5. Nothing in this act shall be construed to confer upon the conservation commission the power to alter any provisions of the statutes relating to forfeitures, penalties or license fees.

HISTORY: Add. 1958, p. 216, Act 154, Eff. Mar. 19, 1960.

CHAPTERS 311-315. CONSERVATION—GAME LAW OF 1929

Act 286 of 1929

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Act 286, 1929, p. 722; Eff. Aug. 28.

AN ACT to provide for the protection of wild animals and wild birds; to regulate the taking, possession, use and transportation of same; to prohibit the sale of game animals and birds; to regulate the manner of hunting, pursuing and killing game animals, birds and furbearing animals; to provide for the issuing of licenses and permits for the taking, hunting or killing of all wild animals and birds and the disposition of the monies derived therefrom; to provide for the issuance of a sportsman's license by combining several hunting and fishing licenses; to provide penalties for the violation of any of the provisions of this act and the rules adopted thereunder, and to repeal certain acts relating thereto. Am. 1933, p. 254, Act 168, Imd. Eff. Jun. 28;—Am. 1970, p. 552, Act 159, Imd. Eff. Aug. 6.

The People of the State of Michigan enact:

CHAPTER I.—DEFINITIONS.

311.1	Game law of 1929; short title.	311.6a	Hawks, owls and eagles; acts prohibited, penalty; exception.
311.2	Property of state; sale, transportation, possession; take, definition.	311.7	Game; definition.
311.3	Person; definition.	311.7a	Small game; definition.
311.3a	Non-resident; definition.	311.8	Fur-bearing animals; definition.
311.4	Game animals; definition.	311.9	Open season; definition.
311.5	Game birds; definition.	311.10	Zones; definitions.
311.6	Non-game birds; when and how may be taken.	311.11	Bow; definition.

311.1 Game law of 1929; short title.

Sec. 1. This act shall be known and may be cited as "The game law of 1929."

HISTORY. CL 1929, 6200.—CL 1948, 311.1.

FORMER ACTS: Act 117 of 1921; Act 267 of 1923. For acts superseded and repealed by this act, see note to Sec. 4, Ch. 5.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

CITED IN OTHER SECTIONS: Sections 311.1 to 315.2 are cited in §§ 24.207, 317.307, and 600.8511.

311.2 Property of state; sale, transportation, possession; take, definition.

Sec. 2. All wild animals and wild birds, both resident and migratory (native and introduced), found in this state, are hereby declared to be the property of the state, and shall be taken, transported, sold, offered for sale or possessed only in accordance with the provisions of this act. The term "take" shall include the attempt to take as well as the taking.

Notwithstanding the provisions of this act to the contrary, the conservation commission is hereby authorized, for a period of 3 years from and after the effective date of

this act, to establish rules and regulations governing the time, place and manner of taking deer and the kind and sex of deer which may be taken in the lower peninsula.

HISTORY: CL 1929, 6201;—CL 1948, 311.2;—Am. 1952, p. 409, Act 252, Eff. Sep. 18.

311.3 Person; definition.

Sec. 3. Whenever used in this act, unless a contrary intention is evident from the context, the word "person" shall include individuals, co-partnerships, associations and corporations; the singular shall include the plural; and the masculine gender shall include the feminine and neuter.

HISTORY: CL 1929, 6202;—CL 1948, 311.3.

311.3a Non-resident; definition.

Sec. 3a. For the purpose of this act, any person who has not actually resided in this state for the 6 consecutive months immediately preceding his application for a license shall be deemed to be a nonresident.

HISTORY: Add. 1949, p. 617, Act 305, Imd. Eff. Jun. 16.

311.4 Game animals; definition.

Sec. 4. The term "game animals" as used in this act shall be deemed to include moose, elk, caribou, deer, bear, rabbits, hares, fox squirrels, black and gray squirrels.

HISTORY: CL 1929, 6203;—Am. 1941, p. 718, Act 371, Eff. Jan. 10, 1942;—Am. 1947, p. 556, Act 326, Eff. Oct. 11;—CL 1948, 311.4.

311.5 Game birds; definition.

Sec. 5. The term "game birds" as used in this act shall be deemed to include:

- (a) The anatidae, commonly known as geese, brant and wild ducks.
- (b) The rallidae, commonly known as rails, coots and gallinules.
- (c) The limicolae, commonly known as shore birds, snipe, woodcock, plovers and sandpipers.
- (d) The gallinae, commonly known as pheasant, quail, Hungarian partridge, grouse, prairie chicken, sharp-tailed grouse and wild turkey.

HISTORY: CL 1929, 6204;—Am. 1937, p. 699, Act 333, Eff. Oct. 29;—CL 1948, 311.5;—Am. 1965, p. 582, Act 308, Imd. Eff. Jul. 22.

311.6 Non-game birds; when and how may be taken.

Sec. 6. All other species of wild resident and migratory birds not classed as game birds shall be considered non-game birds, except English sparrows, blackbirds, starlings and crows, which may be taken at any time and in any manner permitted by the provisions of this act.

HISTORY: CL 1929, 6205;—Am. 1937, p. 670, Act 333, Eff. Oct. 29;—CL 1948, 311.6;—Am. 1952, p. 409, Act 252, Eff. Sep. 18;—Am. 1954, p. 32, Act 25, Eff. Aug. 13.

311.6a Hawks, owls and eagles; acts prohibited, penalty; exception.

Sec. 6a. Any person who shall molest or kill any species of hawk or owl or eagle, or who shall remove or destroy the nest, eggs or young of any species of hawk or owl or eagle, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by the laws of this state: Provided, That a farmer or landowner may destroy hawks or owls on the land he owns or occupies which are doing real damage to poultry or other domestic animals.

HISTORY: Add. 1954, p. 33, Act 25, Eff. Aug. 13.

311.7 Game; definition.

Sec. 7. Game. The word "game" as used in this act shall include game animals and game birds.

HISTORY: CL 1929, 6206;—CL 1948, 311.7.

311.7a Small game; definition.

Sec. 7a. The term "small game" as used in this act shall be deemed to include all species of protected game birds and game animals as herein defined, except moose, elk, caribou, deer, and bear.

HISTORY: Add. 1947, p. 557, Act 326, Eff. Oct. 11;—CL 1948, 311.7a.

311.8 Fur-bearing animals; definition.

Sec. 8. Fur-bearing animals. The term "fur-bearing animals" as used in this act shall be deemed to include otter, fisher, marten, mink, weasel, muskrat, beaver, opossum, badger, raccoon, fox, wolf, coyote, bob-cat, skunk and lynx.

HISTORY: CL 1929, 6207;—Am. 1935, p. 165, Act 109, Imd. Eff. May 28;—CL 1948, 311.8.

311.9 Open season; definition.

Sec. 9. Open season. The term "open season" shall mean the time during which game animals, game birds, or fur-bearing animals may be legally taken or killed, and shall include both the first and last day of the season or period designated by this act.

HISTORY: CL 1929, 6206;—CL 1948, 311.9.

311.10 Zones; definitions.

Sec. 10. As used in this act, the terms "zone 1", "zone 2" and "zone 3" shall be deemed to be and include the following areas of this state:

Zone 1—All of the Upper Peninsula.

Zone 2—All of that part of the Lower Peninsula north of a line beginning at and drawn from a point on the Michigan-Wisconsin boundary line due west of the westerly terminus of state of Michigan trunk line highway M-213; thence due east to the westerly terminus of said highway; thence north and east along the center line of said highway to its intersection with highways US-31 and M-20; thence northeasterly and easterly along the center line of highway M-20 to the junction of highway US-10 at the Midland-Bay county line; thence easterly along the center line of the "business route" of highway US-10 to the intersection of Garfield road in Bay county; thence north along the center line of Garfield road to the intersection of the Pinconning road; thence east along the center line of Pinconning road to the intersection of the Seven Mile road; thence north along the center of the Seven Mile road to the Bay-Arenac county line; thence north along the center line of the Lincoln School road (County road 25) in Arenac county to the intersection of highway M-61; thence east along the center line of highway M-61 to the junction of highway US-23; thence northerly and easterly along the center line of highway US-23 to the center line of the Au Gres river; thence southerly along the center line of said river to its junction with Saginaw bay of Lake Huron; thence north 78° east to the international boundary line between the United States and the dominion of Canada.

Zone 3—All that part of the Lower Peninsula south of the line described in zone 2.

HISTORY: Add. 1952, p. 409, Act 252, Eff. Sep. 18;—Am. 1966, p. 329, Act 245, Imd. Eff. Jul. 11.

311.11 Bow; definition.

Sec. 11. As used in this act, the term "bow" shall be deemed to be the "long-bow", a weapon made of a strip of wood or other elastic material, with a cord to connect the 2 ends when bent, and by means of which an arrow is propelled when drawn and released by hand.

HISTORY: Add. 1952, p. 409, Act 252, Eff. Sep. 18.

CHAPTER II.—GENERAL HUNTING REGULATIONS.

312.1	Repealed.		Transportation or possession of bows or loaded firearms.
312.2	Hunting or trapping in state parks or game refuges; designating where permissible.		Firearms to be enclosed or in trunk.
312.2a	Wildlife for public exhibition; permit; rules; fee; exception.		Artificial lights; duty to stop.
312.3	Removal of notices or posting certain notices prohibited.		Deer kept in enclosure.
312.4	Birds or animals; prohibited transportation, exceptions; non-resident licensed hunter.		Swivel or punt guns; number and size of gun.
312.5	Wild non-game birds; unlawful acts, exception.		Gun silencer.
312.6	Foreign animals and birds; possession; exceptions; unlawful sale.		Sink box or battery.
312.7	Unlawful possession, purchase or sale of game animals or birds; sale of plumage, hide, skin or parts, regulations, definitions; taxidermists.	312.10a	Decoys.
312.8	Permit to import; quarantine.		Dogs, using during closed seasons; field trials.
312.9	Unlawful possession of protected animals or birds; exceptions; unlawful cold storage; permit; records.	312.10b	Setting lands afire.
312.10	Unlawful hunting.		Arrests of hunting licensees.
	Prohibited methods; permitted firearms.		Waterfowl hunting blinds; erection and removal, name and address; assessment of costs; hunting rights.
	Molesting nests of protected birds.		Safety zone; persons permitted to shoot or discharge firearm in safety zone; application of law.
	Hunting from conveyances; disabled persons.	312.11	Hunting season.
		312.11a	Quail hunting; extended season, bag limit.
		312.12	Game limits.
		312.12a	Elk, deer, and bear limits.
		312.13	Prima facie violation; persons liable.
		312.14	Violation of chapter; penalties, revocation of license.

312.1 Repealed. 1952, p. 421, Act 252, Eff. Sep. 18.

Section prohibited taking, selling or possessing specified wild animals contrary to provisions of act.

312.2 Hunting or trapping in state parks or game refuges; designating where permissible.

Sec. 2. No person shall trap or hunt with firearms or dogs or in any other manner in any state park, state game refuge or other lands under the control of and dedicated by the department of conservation as game refuges or wild life sanctuaries, excepting under a permit issued by the director of conservation: Provided, That certain state parks, or parts thereof, may be opened to public hunting and trapping when, in the opinion of the conservation commission, such hunting and trapping will best serve the public interest. prevent deterioration of the park resources or improve the general game conditions.

The conservation commission is hereby authorized to designate such state parks, or parts of state parks, in which public hunting and trapping may be allowed, the species of wildlife which may be taken, and the length of time such orders shall be in effect.

HISTORY. CL 1929, 6210;—Am. 1941, p. 718, Act 371, Eff. Jan. 10, 1942;—Am. 1947, p. 557, Act 326, Eff. Oct. 11;—CL 1948, 312.2.

HUNTING. Similar provisions, see Compilers' § 317.161.

312.2a Wildlife for public exhibition; permit; rules; fee; exception.

Sec. 2a. (1) It shall be unlawful for any person to keep any wild animal or wild bird in captivity for public exhibition except under a permit from the director of conservation who is authorized to issue such permits as he may deem advisable, and with the approval of the conservation commission is authorized to promulgate and enforce rules requiring adequate sanitation, medical care, clean water, housing and feed for the animals and to insure provisions for public safety. A fee of \$15.00 shall be collected for each such permit. When the commission deems it necessary to best serve the public interest, the requirement of a permit and such rules as the commission may

designate shall also apply to any wild, nonnative mammal or bird held for public exhibition. Minimum pen specifications for nonnative species shall conform to those established for comparable native species, or as may be required by the director. No provisions of this section shall be construed to apply to the exhibition of any wild animal or wild bird by any pet shop, educational institution, public agency or in a zoological garden or in connection with any theatrical exhibition or circus.

(2) A permit issued under this section may be suspended or revoked after a hearing upon reasonable notice when any operations fail to comply with the requirements of this section. When a permittee is convicted of a violation of this section, his permit may be revoked and any wildlife held thereunder shall be disposed of only in a manner approved by the director.

(3) A person, other than a public exhibition permittee or his employees, shall not provide food or drink to any wildlife held in captivity under a public exhibition permit.

HISTORY: Add. 1937, p. 670, Act 333, Eff. Oct. 29;—CL 1948, 312.2a;—Am. 1970, p. 479, Act 146, Imd. Eff. Aug. 1.

312.3 Removal of notices or posting certain notices prohibited.

Sec. 3. No person shall, unless authorized by the director of conservation, remove, deface or destroy any notice or placards posted by the department of conservation on any state-owned lands or lands otherwise under the control of the department of conservation or when posted, with permission, on privately owned lands. No person shall, unless authorized by the director of conservation, post or maintain any signs containing the words "Game Refuge", "Game Preserve", "Game Reserve", or "Wildlife Sanctuary".

HISTORY: CL 1929, 6211;—Am. 1947, p. 557, Act 326, Eff. Oct. 11;—CL 1948, 312.3.

312.4 Birds or animals; prohibited transportation, exceptions; non-resident licensed hunter.

Sec. 4. No person shall have in possession or under his control any of the birds or animals protected by the laws of this state with intent to ship or carry the same beyond the limits of this state, nor shall he ship or carry, or intentionally allow or aid in such shipment or carrying out of this state, any such birds or animals, except as hereinafter provided. No game birds or game animals, excepting deer and bear, shall be shipped by express, freight, or package, or in any other manner, but shall be carried as open hand baggage in such manner as to be easily seen and inspected: Provided, That it shall be lawful to transport by motor vehicle or to ship, and any corporation acting as a common carrier, its officers, agents or servants, may lawfully ship, carry, take or transport either within or beyond the confines of this state any deer or bear which may be consigned at any station in this state to any consignee in this state, where the nearest railroad route from such shipping point to any such destination within the state, leaves the confines of this state and reenters the same: Provided further, That the director of conservation may issue a permit to any resident of the state of Michigan, residing temporarily outside of the state, to transport deer or bear lawfully taken by him under resident hunting license, to such licensee's temporary address. Said permit shall authorize the holder or any common carrier to transport such animal or animals to the destination designated on such permit: Provided further, That the director of conservation may in his discretion issue permits under the seal of his department to the owner, trustee or custodian of any animals or birds lawfully held in captivity to transport the same out of this state in exchange for animals or birds of other species desired for propagation or exhibition: Provided further, That the director of conservation may issue permits to any duly accredited agents of any state or of the United States government to capture, kill or ship or carry out of this state at any time of the year a specified number of the wild birds and animals of the state to be used for scientific purposes:

Provided further, That it shall be lawful to transport game animals or birds properly identified as having been legally taken outside of this state; and to transport or ship any animals or birds to the department of conservation or state institutions for examination, autopsy or identification: Provided further, That any non-resident licensed hunter may take or ship game animals and game birds from this state as hereinafter provided in this act.

HISTORY: CL 1929, 6212;—Am. 1935, p. 165, Act 109, Imd. Eff. May 28;—Am. 1945, p. 392, Act 206, Eff. Sep. 6;—CL 1948, 312.4;—Am. 1952, p. 410, Act 252, Eff. Sep. 18.

312.5 Wild non-game birds; unlawful acts, exception.

Sec. 5. No person shall kill, catch or have in possession any wild non-game birds, living or dead, or purchase, sell, offer or expose for sale, any such wild non-game bird after it has been killed or caught, except as permitted by this act, and no part of the plumage, skin or body of any non-game bird protected by this act shall be sold, bartered, or exchanged, or had in possession for such purpose whether said bird was captured or killed within or without the state; and no person shall take, or destroy the eggs of any wild bird protected by law, either game or non-game, or have same in possession except as permitted by law. It shall be unlawful for any person while hunting or while with a gun in his possession, to skin or otherwise destroy the identity of any bird: Provided, That this section shall not apply to any person holding a permit giving the right to take birds, their nests or eggs, for scientific purposes, as provided in section 38 of chapter 4 of this act.

HISTORY: CL 1929, 6213;—CL 1948, 312.5.

NOTE: Sec. 38 of Ch. IV, above referred to, is Compilers' § 314.38.

312.6 Foreign animals and birds; possession; exceptions; unlawful sale.

Sec. 6. (1) No person shall at any time have in possession or under control any protected animals or birds of any kind, caught, taken or killed outside of this state, which were caught, taken or killed at a time, in a manner, or for a purpose forbidden by the laws of the state, territory or country where the same were caught, taken or killed, or which were shipped out of said state, territory or country in violation of the laws thereof. No person shall import or cause to be imported into this state any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This section shall not apply to importation of hawks, owls or eagles by any educational institution, public agency, zoological garden or any other theatrical exhibition or circus, nor be construed to prohibit or restrict the importation or use of the plumage, skin, body or any part thereof by American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(2) It shall be unlawful after June 1, 1971 to sell or offer for sale the skin or hide or any product made in whole or in part from the skin or hide of any bird, animal or reptile taken or killed in violation of any law or regulation of any state or foreign country.

HISTORY: CL 1929, 6214;—Am. 1945, p. 392, Act 206, Eff. Sep. 6;—CL 1948, 312.6;—Am. 1969, p. 358, Act 178, Eff. Mar. 20, 1970;—Am. 1970, p. 557, Act 194, Imd. Eff. Aug. 6.

312.7 Unlawful possession, purchase or sale of game animals or birds; sale of plumage, hide, skin or parts, regulations, definitions; taxidermists.

Sec. 7. (1) It shall be unlawful for any person, directly or indirectly, to buy, sell, expose or offer for sale any game animal or game bird, or part thereof, mentioned in this act. However, the plumage, hide, skin or parts thereof of such animal or bird lawfully taken during the open season, raised under authority of a breeder's license, or imported from a lawful source without the state may be bought and sold. The plumage, hide, skin or parts thereof shall be possessed in accordance with section 9 of chapter 2 of this act. The plumage and skins or parts thereof of migratory game and nongame birds may be bought and sold only in accordance with federal law and regulation. The commission may designate the plumage, hide, skin or parts thereof of those birds and

animals which may not be bought or sold whenever it is determined this prohibition will best serve the public interest. Any person, firm or corporation engaged in the business of buying and selling the plumage, hides, skins or parts thereof of any game bird or game animal protected by this act, other than tanned hides or mounted specimens, or any manufactured commodity made of such plumage, hides, skins or parts thereof, for pecuniary consideration or advantage shall first obtain a fur dealer's license as required under Act No. 308 of the Public Acts of 1929, as amended, being sections 317.1 to 317.7 of the Compiled Laws of 1948. Taxidermists licensed by the department of conservation are not required to obtain this license. For the purpose of this act:

(a) Plumage means any part of the feathers, head, wings or tail of any bird.

(b) Mounted specimen means the hide, skin, plumage or parts thereof of any animal or bird which is prepared and stuffed in lifelike form.

(2) A dealer in meats, a hotel, restaurant or club, a licensed shooting preserve operator, or the sponsors of a field dog trial conducted under permit from the director may sell for food the carcasses or parts thereof of such game birds and game animals mentioned in this act which are lawfully imported or raised under authority of a game breeder's license, if the dealer in meats keeps a record of the name, residence and post office address of every person from whom he buys and to whom he sells, and the hotel, restaurant or club keeps a record of every person from whom it buys such game. The person required to keep a record shall furnish, on demand of the director or his representative, invoices and freight or express receipts used in such transactions. This subsection does not require that a record be kept by a dealer in meats of persons to whom such game is sold for personal or home consumption and not for resale.

HISTORY: CL 1929, 6215;—CL 1948, 312.7;—Am. 1967, p. 143, Act 115, Nov. 2;—Am. 1970, p. 479, Act 146, Imd. Eff. Aug. 1.

312.8 Permit to import; quarantine.

Sec. 8. It shall be unlawful for any person to import into this state any live bird or animal mentioned in this act, or any game bird, game animal, or wild fur-bearing animal, regardless of whether it is protected by law, unless he shall first secure from the director of conservation a permit to import such birds or animals. The director may also establish quarantines on shipments into the state, and on the transfer or liberation within the state of any wild animals when such animals are likely to spread serious diseases or parasites, or to otherwise endanger native wild animals, human life, or property.

HISTORY: CL 1929, 6216;—CL 1948, 312.8.

312.9 Unlawful possession of protected animals or birds; exceptions; unlawful cold storage; permit; records.

Sec. 9. Except as otherwise provided in this act, no person shall have in possession the dead body or carcass or skin or any portion thereof of any animal or bird protected by this act unlawfully taken: Provided, That any person may have in his possession for 60 days after the closing of the respective open seasons thereon game animals and game birds lawfully killed during the open season. Any game bird or animal carcasses, or parts thereof, kept beyond the time limit as prescribed in this act shall be kept only under such rules and regulations as the conservation commission shall prescribe and under permit as issued by the above authority, and such game birds and game animals, for which a permit herein provided for has been issued, may be had in possession indefinitely: Provided, however, That it shall be unlawful for the owner, operator, or agent of any refrigerating plant, icehouse, warehouse, frozen food locker plant, or other commercial cold storage establishment to accept for storage, or to store, any game bird or game animal or part thereof more than 60 days after the close of the respective open seasons thereon, unless a permit covering same as herein provided for

has been issued: Provided further, That any owner, operator, or agent of any refrigerating plant, icehouse, warehouse, frozen food locker plant, or other commercial cold storage establishment shall maintain a record of all protected birds or animals accepted for cold storage and such records shall be available to any conservation officer at any reasonable time: Provided further, That game birds and game animals properly identified as having been lawfully taken in and exported from another state may be possessed in this state for 60 days after being brought in. Persons desiring to possess such game for more than 60 days shall procure a permit as herein provided, the same as though such game were taken in this state. It shall be unlawful for any person to transport any game animal or wild bird which has been skinned or its identity otherwise destroyed or evidence of sex removed or to have any such wild bird or game animal in possession while hunting: Provided, further, That any person may possess at any time for trophies or any personal use other than sale, the hides or plumage of game animals and birds legally taken.

HISTORY: CL 1929, 6217;—Am. 1931, p. 552, Act 325, Eff. Sep. 18;—Am. 1935, p. 166, Act 109, Imd. Eff. May 28;—Am. 1941, p. 718, Act 371, Eff. Jan. 10, 1942;—Am. 1947, p. 557, Act 326, Eff. Oct. 11;—CL 1948, 312.9;—Am. 1949, p. 617, Act 305, Imd. Eff. Jun. 16.

312.10 Unlawful hunting.

Sec. 10. It shall be unlawful:

Prohibited methods; permitted firearms.

(a) For any person at any time to make use of any pit, pitfall, deadfall, scaffold, raised platform, tree, cage, snare, trap, net, baited hook, or any similar device, or any drug, poison, salt, chemical, smoke, gas, explosive, weasel, ferret, fitchew, guinea pig or rodent of any kind, artificial light, crossbow, arbalest, or mechanical device, for the purpose of injuring, capturing or killing any wild birds or wild animals in this state. For the purpose of this act a mechanical device shall not be construed to mean a firearm, slingshot or bow and arrow. It shall be unlawful to use in hunting, pursuing or killing any wild birds or wild animals, or to have in possession in any area frequented by wild birds or wild animals, any automatic, semiautomatic or autoloading shotgun or rifle other than .22 caliber rim fire, capable of holding more than 6 shells at 1 time in the magazine and barrel combined or to use cartridges containing tracer bullets or cartridges containing explosive bullets. It shall be unlawful to use a .22 caliber rim fire rifle, .22 caliber rim fire pistol or .22 caliber rim fire revolver in the hunting, pursuing or killing of deer. It shall be unlawful to use in hunting, pursuing, or killing any wild birds or wild animals, any firearm except a shotgun or flintlock or percussion cap muzzle loading rifle .44 caliber or larger loaded with black powder and patched round ball only during any season open to the taking of deer with firearms in the area south of a line beginning at a point on the Wisconsin-Michigan boundary line directly west of the west end of highway M-46; thence east to M-46 and east along M-46 to its junction with M-37; thence east and south along M-37 to Kent City; thence east along M-57 to its intersection with M-47; thence north along M-47 to its junction with U.S.-10; thence east along U.S.-10 to its junction with I-75; thence north along I-75 and U.S.-23 to its junction with Beaver road, Kawkawlin township, Bay county; thence east along Beaver road to Saginaw bay; thence north 50° east to the international boundary with Canada. The provisions of this subdivision shall not prohibit the trapping of furbearing animals as hereinafter provided. The conservation commission is authorized to establish rules governing the taking, and the manner of taking, migratory game birds, wild turkeys and crows; and to establish areas and quotas for taking wild turkeys. Nothing herein shall be deemed to prohibit the carrying and using of .22 caliber rim fire rifle or .22 caliber rim fire pistol to kill raccoon while hunting with dogs only between the hours of 7 p.m., E.S.T. and 6 a.m., E.S.T., during said firearm deer season;

Molesting nests of protected birds.

(b) For any person to injure, destroy or rob the eggs of any birds protected by the laws of this state, or to molest, harass or annoy such birds upon their nests;

Hunting from conveyances; disabled persons.

(c) For any person to hunt, pursue, worry or kill any wild waterfowl or other birds or animals by any means whatever during such time as said person is upon any kind of aircraft, automobile, any floating device or other contrivance propelled by or using as motive power, steam, gas, naphtha, oil, gasoline or electricity, or when upon any sailboat. The conservation commission, in establishing rules and regulations governing the taking and the manner of taking migratory waterfowl, may permit the use of a motorboat in such manner as will correspond with the rules and regulations of the United States fish and wildlife service governing the use of motorboats in the taking of migratory game birds. The department of conservation may issue, without fee, a special permit to a licensed hunter, who after investigation is found to be a paraplegic or an amputee who is unable to walk or a permanently disabled person who is otherwise unable to walk, authorizing him to hunt upland game from a standing vehicle. Such permittee is subject to all other laws and rules for the taking of game;

Transportation or possession of bows or loaded firearms.

(d) For any person to transport, or to have in possession in or upon an automobile, aircraft, motorboat, sailboat or any other vehicle propelled by mechanical means, a gun or other firearm except a pistol or revolver unless the same be unloaded in both the barrel and magazine, or a bow unless same be unstrung. A paraplegic or other disabled person, issued a special permit under subsection (c), may possess a loaded firearm or strung bow in a motor vehicle when the vehicle is motionless and the permittee is hunting in compliance with all other provisions of law. The conservation commission, in establishing rules and regulations governing the taking of migratory waterfowl, may permit the possession of a loaded firearm in or upon a motorboat or sailboat in such manner as will correspond with the rules and regulations of the United States fish and wildlife service governing the taking of migratory game birds;

Firearms to be enclosed or in trunk.

(d-1) For any person, except as may be otherwise permitted by law, to transport, or have in possession in or upon an automobile any firearm except a pistol or revolver unless the same be taken down or enclosed in a case or carried in the trunk of such automobile;

Artificial lights; duty to stop.

(e) For any person to make use of any artificial light in hunting, pursuing or killing any deer, or in attempting to hunt, pursue, capture or kill any deer, and the wearing or having such light on the head or in possession in the woods, or the throwing or casting of the rays of a spotlight, headlight or other artificial light on any highway or in any field, woodland or forest in an apparent attempt or intent to locate game by the use thereof, shall be prima facie evidence of its unlawful use; a complaint for warrant may be entertained against any person making such use of an artificial light if found carrying or transporting a bow, or a firearm not locked in the trunk of a motor vehicle, or otherwise inaccessible to the occupants from the interior of the vehicle. The operator of any motor vehicle from which the rays of an artificial light have been cast in an apparent attempt to locate game shall immediately stop such vehicle upon the request of any uniformed peace officer, or when signaled by such peace officer with a flashing signal light or siren from an official patrol vehicle. Failure to stop shall be deemed to be a violation of section 7 of Act No. 192 of the Public Acts of 1929, as amended, being section 300.17 of the Compiled Laws of 1948. Any licensed deer hunter may use

an artificial light while in possession of an unloaded firearm in traveling afoot to and from his hunting stand or location;

Deer kept in enclosure.

(f) For any person to knowingly injure, kill or destroy or attempt to injure, kill or destroy, by any means any deer which are legally kept within or which have escaped from any licensed enclosure;

Swivel or punt guns; number and size of gun.

(g) For any person to make use of a swivel or punt gun, or use or possess while hunting, pursuing or killing any wild waterfowl, more than 1 gun for each person or use any firearm other than a shotgun which shall not be of a greater size than 10 gauge;

Gun silencer.

(h) For any person to have in possession or use an apparatus known as a silencer on any gun while hunting in this state;

Sink box or battery.

(i) For any person to make use of a sink box or battery as these devices are defined by the United States fish and wildlife service;

Decoys.

(j) To leave decoys set out over night in any waters under state control and open to public hunting;

Dogs, using during closed seasons; field trials.

(k) Except as otherwise provided by law, for any person to break, train or practice any dog upon or permit any dog to molest, harass or annoy any game birds or animals during their respective closed seasons. It shall be lawful between the hours of sunrise and sunset to train or practice dogs upon game birds and such animals as may be lawfully hunted with dogs under the provisions of this act, during the period from July 15 in each year to April 15 in the next succeeding year, both dates inclusive. Except that it shall be lawful to hunt and to train dogs for the hunting of fox at any time of the day or night at any time of the year. It shall be lawful between the hours of sunset and sunrise to train dogs during the period from August 15 to the date of the opening of the raccoon season. It shall be unlawful for any person to have in his possession any firearms other than a pistol or revolver and ammunition other than blank cartridges while so engaged in training or practicing dogs. The provisions of section 243 of Act No. 328 of the Public Acts of 1931, as amended, being section 750.243 of the Compiled Laws of 1948, shall not be deemed to apply to the sale, purchase or use of blank cartridges in the training or practicing of dogs as herein provided for. Field dog trials may be held at any time at the discretion of the director of conservation and under such rules and regulations as he may prescribe;

Setting lands afire.

(l) For any person to set afire or assist in setting afire any marshland or other lands for the purpose of driving out wild birds or wild animals, or to take or attempt to take any wild birds or wild animals so driven out of any marshland or other lands;

Arrests of hunting licensees.

(m) It shall be the duty of any conservation officer charged with the enforcement of laws relating to hunting to make arrests for violations of other laws when such violations are committed by any person licensed as a hunter under this act and while such person is exercising any of his privileges under such license.

HISTORY: CL 1929, 6218;—Am. 1931, p. 552, Act 325, Eff. Sep. 18;—Am. 1935, p. 166, Act 109, Imd. Eff. May 28;—Am. 1937, p. 670, Act 333, Eff. Oct. 29;—Am. 1939, p. 857, Act 335, Eff. Sep. 29;—Am. 1941, p. 719, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 393, Act 266, Eff. Sep. 6;—Am. 1947, p. 558, Act 326, Eff. Oct. 11;—CL 1948, 312.10;—Am. 1949, p. 618, Act 305, Imd. Eff. Jun. 16;—Am. 1951, 2nd Ex. Ses., p. 4, Act 2, Imd. Eff. Oct. 25;—Am. 1952, p. 410, Act 252, Eff. Sep. 18;—Am. 1957, p. 259, Act 207, Eff. Sep. 27;—Am. 1962, p. 395, Act 185, Eff. Mar. 26, 1963;—Am. 1965, p. 582, Act 308, Imd. Eff. Jul. 22;—Am. 1967, p. 134, Act 110, Imd. Eff. Jun. 27;—Am. 1969, p. 728, Act 320, Eff. Mar. 30, 1970.

312.10a Waterfowl hunting blinds; erection and removal, name and address; assessment of costs; hunting rights.

Sec. 10a. (1) No person shall erect on, anchor or attach to the bottomlands of the Great Lakes, lake St. Clair and the bays thereof or the connecting waters between the lakes, or any public inland lake or river, or in any lake which is not wholly owned by himself, his lessor or licensor, a blind or any other structure used or to be used in the hunting of migratory waterfowl, unless there shall first be affixed permanently to the exterior thereof the name and address of such person in legible letters of water insoluble material not less than 3 inches in height. No person shall affix a fictitious name or address or both to said blind or structure or remove or cause to be removed his name and address prior to the date prescribed in this section for removal of the blind or structure from the water.

(2) Any person who shall erect, anchor or attach such blind or structure to the bottomlands hereinbefore described shall remove the entire blind including submerged supporting members within 15 days after the close of the waterfowl hunting season in each year. If not removed within that time the director of conservation may cause its removal or destruction and assess the costs of removal and storage, or destruction, against the person whose name is affixed to the blind or other structure, in addition to any other penalty provided by law.

(3) Nothing contained in this section shall be construed to deprive a riparian owner or his lessee or permittee on inland waters of his exclusive right to hunt over his subaqueous lands, nor shall the posting of the name and address of the person erecting a blind or other structure attached to the bottomlands of the Great Lakes and lake St. Clair, used or to be used in the hunting of waterfowl, be deemed to constitute the exclusive privilege of hunting therefrom, or to reserve or preempt a shooting location for such person. An unoccupied blind attached to the bottomlands of the Great Lakes or lake St. Clair may be used for hunting by the first person to occupy the same.

HISTORY: Add. 1957, p. 281, Act 207, Eff. Sep. 27;—Am. 1959, p. 57, Act 56, Eff. Mar. 19, 1960;—Am. 1967, p. 30, Act 20, Eff. Nov. 2.

312.10b Safety zone; persons permitted to shoot or discharge firearm in safety zone; application of law.

Sec. 10b. (1) For the purpose of this section, "safety zone" means any area within 150 yards of any occupied dwelling house, residence, or any other building, cabin, camp or cottage when occupied by human beings or any barn or other building used in connection therewith.

(2) No person, other than the owner, tenant or occupant, shall shoot or discharge any firearm or other dangerous weapon, or hunt for or shoot any wild bird or wild animal while it is within such safety zone, without the specific permission of the owner, tenant or occupant thereof.

(3) The provisions of this section shall not apply to any landowner, tenant or occupant thereof or their invited guest while hunting on their own property, or to any riparian owner or their tenant or guest while shooting waterfowl lakeward over water from their upland or lakeward from a boat or blind over their submerged soil.

HISTORY: Add. 1968, p. 19, Act 61, Imd. Eff. May 28.

312.11 Hunting season.

Sec. 11. Except as otherwise provided in this act it shall be unlawful for any person to take, trap, hunt, shoot, kill, molest, or have in possession or attempt to take, trap, hunt, shoot, kill or molest any of the following animals or birds at any time other than the following open seasons which are established. American Indians living on reservations may enjoy the privileges bestowed upon them by federal law or treaties regardless of the provisions of this act. When the opening date of October 20 for any season falls on a Sunday, the season shall not open until October 21. The conservation com

mission is authorized to establish the hours during which wild birds and wild animals may be hunted:

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312.11 Hunting seasons. [M.S.A. 13.1340]

Sec. 11. Except as otherwise provided in this act it shall be unlawful for any person to take, trap, hunt, shoot, kill, molest, or have in possession or attempt to take, trap, hunt, shoot, kill, or molest any of the following animals or birds at any time other than the following open seasons which are established. American Indians living on reservations may enjoy the privileges bestowed upon them by federal law or treaties regardless of the provisions of this act. When the opening date of October 20 for any season falls on a Sunday, the season shall not open until October 21. The conservation commission is authorized to establish the hours during which wild birds and wild animals may be hunted:

Open Season

Moose, caribou and timber wolf Unlawful to kill at any time.

Elk The conservation commission is authorized to establish open seasons for the taking of elk in specific areas where field investigation and surveys by technically trained personnel of the game division of the department of conservation show there is a shortage of food or that elk are doing damage to horticultural or farm crops, under such rules and regulations as shall by it be deemed expedient. Such rules and regulations shall, in addition to season dates, establish area boundaries, the manner and method of taking elk, including the cartridge and caliber or gauge of firearms which may be used, the kind, sex and number of elk to be taken, and may include such other provisions as are deemed necessary to carry out the intent or to implement this section of this act. Such rules and regulations pertaining to elk adopted under the authority granted by this section shall in each year be submitted to the joint committee on administrative rules provided for by Act No. 88 of the Public Acts of 1943, being sections 24.71 to 24.80 of the Compiled Laws of 1948. as amended, and shall be effective unless suspended by that committee within 14 days thereafter.

Deer (either sex), with bow and arrow only Oct. 1 to Dec. 31, except that the season shall be closed during any season open to the taking of deer by firearms.

Deer (male with antlers extending not less than 3 inches above the skull) For 1967, Nov. 18 - Dec. 3. For 1968 and thereafter, Nov. 15-30.

Deer, either sex The conservation commission is authorized to establish open seasons for the taking of deer in specific areas where field investigations and surveys by technically trained personnel of the game division of the department of conservation show there is a shortage of winter food or that deer are doing damage to horticultural or farm crops, or that there is serious danger of collisions between motor vehicles and deer, under such rules and regulations as shall by it be deemed expedient. Such rules and regulations shall, in addition to season dates, establish area boundaries, the manner and method of taking deer, the kind, sex, and number of deer to be taken, and may include such other provisions as are deemed necessary to carry out the intent or to implement the administration of this section of this act. Such rules and regulations pertaining to deer adopted under the authority granted by this section shall in each year be submitted to the joint committee on administrative rules provided for by Act No. 88 of the Public Acts of 1943, being sections 24.71 through 24.80 of the Compiled Laws of 1948, as amended, and shall be effective unless suspended by that committee within 14 days thereafter.

Skunk May be taken any time under such rules and regulations as the conservation commission may establish.

Bear (except cub bear of the current calendar year) The conservation commission may establish open or closed seasons thereon in any county or counties or parts thereof and shall prescribe a special permit system for the number to be taken.

Cottontail rabbits	}	Upper Peninsula	Lower Peninsula
Varying hare (snowshoe jack		Oct. 1 to March 31	Zone 2 — Oct. 1 to
rabbit)			March 1.
			Zone 3—Oct. 20 to
			March 1.

Woodchucks	Oct. 1 to March 31	Zone 2 — Oct. 1 to Jan. 31. Zone 3—Oct. 20 to Jan. 31.
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Woodchucks may be taken at any time by land owners or occupants, while upon lands on which they are regularly domiciled, and by their families and their invited guests upon such lands. Woodchucks may be taken in the Upper Peninsula at any time.

Fox, black and gray squirrels Sept. 15 to Nov. 10

Ducks	} To be established by the conservation commission.
Geese and brant	
Coots	
Wilson snipe (jack snipe)	
Florida gallinules and rails	
Wild turkey	
Woodcock	

Hungarian partridge Oct. 1 to Oct. 20 Oct. 20 to Nov. 10.

Ring-necked pheasants (male)	The conservation commission may open any county or portion of any county to the taking of pheasants, except that any season so established shall not begin before October 1 nor continue after October 20 in any 1 year.	The conservation commission may open any county or portion of any county to the taking of pheasants, except that any season so established shall not begin before October 20 nor continue after November 10 in any 1 year.
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Ruffed grouse (partridge)	Sept. 15 to last day preceding opening date of season for taking deer with firearms in Upper Peninsula.	Zone 2—Sept. 15 to Dec. 31, except that the season shall be closed during any season open to the taking of deer with firearms in this zone. Zone 3—Oct. 20 to Dec. 31, except that the season shall be closed during any season open to the taking of deer with firearms in this zone.
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Prairie chicken	Oct. 1 to Nov. 10	Zone 2 — Oct. 1 to Nov. 10. Zone 3 — No open season.
Sharptailed grouse	Oct. 1 to Nov. 10	Zone 2 — Oct. 1 to Nov. 10. Zone 3 — No open season.

Killdeer	} Unlawful to kill at any time.
Eider ducks	
Swans	
Black-bellied and golden plover	
Spruce hens	
Yellowlegs and sandpipers	
Eagle, osprey	

HISTORY: CL 1929, 6219;—Am. 1931, p. 554, Act 325, Eff. Sep. 18;—Am. 1935, p. 168, Act 109, Imd. Eff. May 26;—Am. 1937, p. 138, Act 97, Imd. Eff. Jun. 21;—Am. 1937, p. 672, Act 333, Eff. Oct. 29;—Am. 1939, p. 859, Act 335, Eff. Sep. 29;—Am. 1941, p. 683, Act 367, Eff. Jan. 10, 1942;—Am. 1941, p. 721, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 395, Act 266, Eff. Sep. 6;—Am. 1947, p. 224, Act 158, Eff. Oct. 11;—Am. 1947, p. 559, Act 326, Eff. Oct. 11;—CL 1948, 312.11;—Am. 1949, p. 619, Act 305, Imd. Eff. Jun. 16;—Am. 1951, p. 339, Act 230, Eff. Sep. 28;—Am. 1952, p. 412, Act 252, Eff. Sep. 18;—Am. 1956, p. 677, Act 220, Imd. Eff. May 17;—Am. 1957, p. 27, Act 25, Eff. Sep. 27;—Am. 1962, p. 113, Act 125, Imd. Eff. Apr. 30;—Am. 1964, p. 385, Act 254, Eff. Aug. 28;—Am. 1965, p. 584, Act 308, Imd. Eff. Jul. 22;—Am. 1967, p. 621, Act 293, Imd. Eff. Aug. 1;—Am. 1968, p. 204, Act 144, Imd. Eff. Jun. 12;—Am. 1969, p. 606, Act 313, Imd. Eff. Aug. 14.

312.11a Quail hunting; extended season, bag limit.

Sec. 11a. Notwithstanding the provisions of this act, quail may be hunted in areas designated by the conservation commission during the last 10 days of the annual pheasant season and 10 days after as established by the conservation commission. No person shall take more than 4 quail in any one day, have in possession more than 8 at any one time, or take more than 12 in any one season.

HISTORY: Add. 1965, p. 413, Act 241, Imd. Eff. Jul. 21;—Am. 1967, p. 125, Act 100, Imd. Eff. Jun. 21.

312.12 Game limits.

Sec. 12. It shall be unlawful for any person to kill in any 1 day, or have in possession at any 1 time, or to kill in any 1 season, more game animals or game birds than herein-after enumerated, or to have in possession on the first day of the open season more than 1 day's possession limit.

312.12 Bag limit. [M.S.A. 13.1341]

Sec. 12. It shall be unlawful for any person to kill in any 1 day, or have in possession at any 1 time, or to kill in any 1 season, more game animals or game birds than hereinafter enumerated, or to have in possession on the first day of the open season more than 1 day's possession limit.

Kind of Game	In 1 day	In possession at any 1 time	In 1 season
Deer—male	1	1	1
Deer—male, with antlers extending not less than 3 inches above the skull—(by camping party of not less than 4) during regular season (November 15-30)	1	1	1
Deer—male with antlers extending not less than 3 inches above the skull—(by camping party of not less than 4) during bow			

and arrow season (October 1-November 5)	1	1	1
Rabbits and hares (combined)	5	10	50
Squirrels	5	10	25
Deer—either sex—during special bow and arrow season in Gogebic, Cheboygan, Roscommon, Montmorency, Crawford, Newaygo, Alpena, Benzie, Leelanau, Iosco, Montcalm, Ionia, Oscoda, Ontonagon, Iron, Schoolcraft, Mackinac, Lake, Mason, Alger, Delta, Wexford, Grand Traverse, Baraga, Alcona, Manistee, Presque Isle, Marquette, Kalkaska, Missaukee, Ogemaw, Arenac, Gladwin, Osceola, Clare, Otsego, Dickinson, Houghton, Keweenaw, Luce, Chippewa, Emmet and Menominee counties (Oct. 1 to Nov. 5)	1	1	1
Ring-necked pheasants	2	4	8
Ruffed grouse (partridge)	5	10	25
Prairie chicken and sharptailed grouse (combined) (Zone 3—No open season)	5	10	25
Ducks	}	To be established by conservation commission.	
Geese and brant (combined)			
Coots			
Florida gallinules and rails (combined)			
Wild turkey			
Woodcock	}		
Wilson snipe			

HISTORY: CL 1929, §220;—Am. 1935, p. 169, Act 109, Imd. Eff. May 28;—Am. 1937, p. 673, Act 333, Eff. Oct. 29;—Am. 1939, p. 860, Act 135, Eff. Sep. 29;—Am. 1941, p. 722, Act 371, Eff. Jan. 10, 1942;—Am. 1942, 2nd Ex. Ses., p. 51, Act 12, Eff. May 29;—Am. 1943, p. 169, Act 132, Eff. Jul. 30;—Am. 1945, p. 397, Act 266, Eff. Sep. 6;—Am. 1947, p. 226, Act 158, Eff. Oct. 11;—Am. 1947, p. 561, Act 326, Eff. Oct. 11;—CL 1948, §312.12;—Am. 1951, p. 341, Act 230, Eff. Sep. 28;—Am. 1952, p. 414, Act 252, Eff. Sep. 18;—Am. 1965, p. 587, Act 308, Imd. Eff. Jul. 22.

312.12a Elk, deer, and bear limits.

Sec. 12a. No person shall kill more than 1 elk, 1 deer or 1 bear during any one calendar year except as may otherwise be provided by law.

HISTORY: Add. 1967, p. 624, Act 293, Imd. Eff. Aug. 1.

312.13 Prima facie violation; persons liable.

Sec. 13. In all prosecutions for violations of any of the provisions of this act, proof of the possession of the dead body or carcass or skin or any portion thereof, of any animal or bird protected by this act, except as herein provided at a time when the killing thereof is unlawful, shall be prima facie evidence that such animal or bird was killed at a time when the killing thereof was prohibited by law. All persons violating any of the provisions of this act whether as principal, agent, servant, or employee, shall be equally liable as principal and any person or principal shall be liable for any violation of any of the provisions of this act by his agent, servant, or employee acting by or under his direction or with his express or implied consent or permission.

HISTORY: CL 1929, §221;—CL 1948, §312.13.

312.14 Violation of chapter; penalties, revocation of license.

Sec. 14. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished, except as

hereinafter provided, by a fine of not less than \$10.00 and not exceeding \$100.00, together with costs of prosecution, or by imprisonment in the county jail or Detroit house of correction not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court; and in all cases when a fine and costs are imposed, the court shall sentence the offender to be confined in the county jail or Detroit house of correction until such fine and costs are paid, for any period not exceeding the maximum jail penalty provided for such offense, and any license to hunt may be revoked by the justice before whom the conviction was had and sent in to the department of conservation: Provided, That any person violating any of the provisions of this chapter relative to deer or bear, shall be punished in accordance with the penalty provided in section 28 of chapter 4 of this act: Provided, however, That any person convicted of the wilful illegal killing or illegal possession of a deer shall be punished by a fine of not less than \$50.00 nor more than \$100.00, and costs of prosecution, and imprisonment in the county jail for a period of not less than 5 days nor more than 90 days, and any such person so convicted shall not be eligible to secure and shall not secure a deer hunting license for a period of 3 years from and after the date of such conviction: Provided further, That any person violating any provisions of this chapter relative to moose, elk or caribou shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail not less than 90 days nor more than 1 year, or both, plus costs of prosecution.

HISTORY: CL 1929, 6222;—Am. 1935, p. 160, Act 109, Imd. Eff. May 28;—Am. 1937, p. 673, Act 333, Eff. Oct. 29;—Am. 1941, p. 723, Act 371, Eff. Jan. 10, 1942;—CL 1948, 312.14;—Am. 1949, p. 621, Act 305, Imd. Eff. Jun. 16.

CHAPTER III.—FUR-BEARING ANIMALS.

313.1	Fur-bearing animals; open seasons; unprotected animals; trapping bear, bobcats or lynx.		Traps for fur-bearing animals, closed seasons.
313.3	Unlawful acts.		Mink and muskrat traps.
	Prohibited devices and evictions.	313.4	Bait for wild animals.
	Possession of live, protected fur-bearing animals.	313.5	Report of hides; possession, permit.
	Molestation of habitation of protected animals.	313.6	Transporting legally secured hides or pelts.
	Traps, name tags, location.		Violation of chapter; penalty; reimbursement of state.

313.1 Fur-bearing animals; open seasons; unprotected animals; trapping bear, bobcats or lynx.

Sec. 1. Except as otherwise provided it shall be unlawful for any person to take, trap, hunt, shoot, kill, possess or molest, or attempt to take, trap, hunt, shoot, kill or molest any of the following furbearing animals except during the open seasons which are hereby established for taking such animals. All seasons provided for by this section shall open at 8 a.m., eastern standard time:

Kind of Animal	Open Season
Fisher, Marten	Unlawful to take at any time.
Raccoon	May be hunted Oct. 1 to Jan. 31 inclusive. May be trapped only during the season for taking muskrats.
Opossum	Lawful to take at any time.
Muskrat	(Season to be established by conservation commission.)
Otter	(Season to be established by conservation commission.)
Beaver	(Season to be established by conservation commission.)
Badger	Nov. 1 to Jan. 31.
Mink	May be hunted and trapped only during the season for taking muskrats.
Bobcat, Lynx	Dec. 15 to March 15 in the lower peninsula. Lawful to take in the upper peninsula at any time.

The conservation commission is authorized to establish rules governing the taking and possession of beaver and otter in this state.

The following animals are not protected by this act and may be taken at any time, in accordance with the provisions of this act: coyotes, foxes, weasels, porcupine, ground squirrels, red squirrels and house cats. The owner or lessee of land or his employees may take or kill bear on the premises or within a reasonable distance thereof at any time without a permit, when such bear has done damage or is liable to do damage on the property. It shall be unlawful to take or attempt to take any such bear by means of a trap except under a permit issued by the director of conservation. The provisions of this or any other act to the contrary it shall be unlawful, except in the Upper Penin-

sula, to take or attempt to take any bobcat or lynx by means of a trap except under a permit issued by the director of conservation.

HISTORY: CL 1929, 6223;—Am. 1931, p. 555, Act 325, Eff. Sep. 18;—Am. 1935, p. 170, Act 109, Imd. Eff. May 28;—Am. 1937, p. 674, Act 333, Eff. Oct. 29;—Am. 1939, p. 860, Act 335, Eff. Sep. 29;—Am. 1941, p. 684, Act 367, Eff. Jan. 10, 1942;—Am. 1941, p. 723, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 397, Act 266, Eff. Sep. 6;—Am. 1947, p. 562, Act 326, Eff. Oct. 11;—CL 1948, 313.1;—Am. 1949, p. 621, Act 305, Imd. Eff. Jun. 16;—Am. 1952, p. 415, Act 252, Eff. Sep. 18;—Am. 1955, p. 181, Act 116, Eff. Oct. 14;—Am. 1965, p. 588, Act 306, Imd. Eff. Jul. 22;—Am. 1967, p. 624, Act 293, Imd. Eff. Aug. 1;—Am. 1969, p. 381, Act 199, Imd. Eff. Aug. 6.

Sec. 2.

HISTORY: CL 1929, 6224;—Rep. 1947, p. 569, Act 326, Eff. Oct. 11.

313.3 Unlawful acts.

Sec. 3. It shall be unlawful for any person:

Prohibited devices and evictions.

(a) To use firearms, spears, baited hooks, explosives, chemicals, mechanical devices other than traps, or to use pitfalls, poison or smokers of any kind to kill, take or capture muskrats, or to drive muskrats or other protected animals out of their holes or homes;

Possession of live, protected fur-bearing animals.

(b) To have in possession any live fur-bearing animals protected by this act except during the open season for taking such animals or under a permit issued by the director of conservation as otherwise provided in this act;

Molestation of habitation of protected animals.

(c) To destroy, disturb or molest at any time any beaver, muskrat, raccoon, squirrel, mink, badger, or rabbit house, hole, burrow, nest, dam or den which may be used by such game or protected fur-bearing animals;

Traps, name tags, location.

(d) To use or have in possession in areas frequented by wild animals traps of any kind for the taking of wild animals unless there shall be securely fastened to each trap a metallic plate or tag bearing, in legible English, the name and address of the user or possessor thereof, and at no time shall such traps be placed or set within 6 feet of a mink or muskrat house, hole or home or within 50 feet of a beaver lodge, home or hole, except when said animals are being lawfully taken under permit for scientific purposes or on account of damage;

Traps for fur-bearing animals, closed seasons.

(e) To stake, put out or set traps for the taking of fur-bearing animals protected by this act at any time preceding 12:00 noon, eastern standard time, of the day on which the open season for the taking of such fur-bearing animals begins;

Mink and muskrat traps.

(f) To use any kind of a trap other than a steel trap with a jaw spread not exceeding 5 inches for the taking of mink or muskrat or to use any kind of a trap other than a steel trap for the purpose of taking any other wild animal;

Bait for wild animals.

(g) To use any portion of any animal or bird protected by the laws of this state as bait for the purpose of trapping any wild animal in this state: Provided, That the carcasses of fur-bearing animals, lawfully taken, may be used.

HISTORY: CL 1929, 6225;—Am. 1935, p. 170, Act 109, Imd. Eff. May 28;—Am. 1937, p. 674, Act 333, Eff. Oct. 29;—Am. 1939, p. 861, Act 335, Eff. Sep. 29;—Am. 1941, p. 724, Act 371, Eff. Jan. 10, 1942;—Am. 1947, p. 562, Act 326, Eff. Oct. 11;—CL 1948, 313.3;—Am. 1949, p. 622, Act 305, Imd. Eff. Jun. 16;—Am. 1952, p. 415, Act 252, Eff. Sep. 18;—Am. 1959, p. 11, Act 12, Eff. Mar. 19, 1960.

313.4 Report of hides; possession, permit.

Sec. 4. Within 5 days after the close of the respective open seasons provided in this act for taking fur-bearing animals, it shall be the duty of every person having raw hides of fur-bearing animals protected by this act in his possession at the close of the open season, to make a report to the director of conservation, stating the kinds and number of such hides in his possession. Upon verification of the number of such hides reported,

the director of conservation shall issue a permit to such person authorizing the possession of said raw hides until disposed of. It shall be unlawful to possess hides which have not been reported and for which a permit has not been issued, as required by this act. It shall be the duty of every person selling hides reported as provided in this section to report to the director of conservation the name and address of the person to whom such hides were sold and the kind and number of hides so sold.

HISTORY: CL 1929, 6226;—Am. 1941, p. 724, Act 371, Eff. Jan. 10, 1942;—CL 1948, 313.4;—Am. 1952, p. 416, Act 252, Eff. Sep. 18.

313.5 Transporting legally secured hides or pelts.

Sec. 5. Nothing in this act shall be construed as prohibiting the shipping or transporting in any manner or at any time of hides or pelts of fur-bearing animals which have been legally taken and reported as herein provided.

HISTORY: CL 1929, 6227;—CL 1948, 313.5.

313.6 Violation of chapter; penalty; reimbursement of state.

Sec. 6. Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than 10 dollars nor more than 100 dollars, together with costs of prosecution, or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment in the discretion of the court, and in addition to the penalty herein provided shall reimburse the state for the market value of the animals or hides as of the time illegally taken or disposed of, and the moneys received therefrom shall be turned over to the auditor general to be credited to the game and fish protection fund.

HISTORY: CL 1929, 6228;—Am. 1937, p. 675, Act 333, Eff. Oct. 29;—CL 1948, 313.6.

CHAPTER IV.—LICENSES AND PERMITS.

SMALL GAME HUNTING AND TRAPPING LICENSE

- 314.6 Small game hunting license; firearms, bow and arrow, exceptions and restrictions.
- 314.6a Small game hunting license; resident serviceman on furlough.
- 314.6b Indians; exempt from certain game laws.
- 314.7 Small game hunting license; application, contents; ineligible.
- Resident, fee.
- Nonresident, fee.
- Minor under 17, application, company of parent or guardian.
- 314.7a Bear hunting license; application, fee; minors; tags, seals.
- 314.8 Small game hunting license; duplicates.
- 314.9 Small game hunting license; periods of use; void period; non-residents; blanks, seals.
- 314.9a Sportsman's license; issuance, fee; rights and privileges; date of issuance.
- 314.10 Small game hunting license; button or insignia, display.
- 314.11 Small game hunting license; forms, buttons, seals, receipts; report.
- 314.12 Small game hunting license; sellers; compensation; game and fish protection fund, use.
- 314.13 Small game hunting license; possession, exhibition, penalties.
- 314.14 Small game hunting license; offenses relating to issuance and use, penalty; seller's bonds.
- 314.14a Game birds and animals; hawks, owls, and eagles; illegal killing or possession, reimbursement in addition to penalties.
- 314.15 Violation of sections; penalty, revocation of bear hunting license.

DEER HUNTER'S LICENSE

- 314.16 Deer hunting license.
- 314.16a Deer hunting license; resident serviceman on furlough.
- 314.17 Deer hunting license; application, contents, fee; duplicate license fee.
- Minor under 17; application by parent or guardian.
- 314.18 Deer hunting license; non-resident; application, fee.
- Minor under 17; application by parent or guardian.
- 314.19 Deer hunting license; authorized deer or bear hunting; lights; dogs; possession of guns.
- 314.19a Bow and arrow hunter's license; fee, use; possession of firearms, dogs.

- 314.19b Elk hunting license; fee, minors, duplicates; prohibited firearms.
- 314.20 Deer hunting license; persons authorized to issue, signature of applicant.
- 314.20a Persons under 17; prerequisites for license; certificates of competency and achievement; courses of instruction; persons under 12.
- 314.21 License sellers; compensation; game and fish protection fund.
- 314.22 Hunter's licenses; tags; seals, buttons; return of unused supplies.
- 314.24 Tagging of animal; removal of evidence of sex; unlawful to transport without seal; non-residents.
- 314.25 Unlawful acts; penalty.
- 314.26 Unlawful acts; offenses relating to issuance and use, penalty.
- 314.27 Deer, elk or bear; sale prohibited; sale or transportation of head or skins.
- 314.27a Repealed.
- 314.28 Violation of sections; penalty.

LICENSE TO TAKE DEER BY CAMPING PARTY

- 314.29 Permits for deer-hunting parties.
- 314.30 Permits for deer-hunting parties; fee.
- 314.31 Violation of sections; penalty.

LICENSE TO TRAP

- 314.32 License to trap; offenses relating to issuance and use, exception; non-residents.
- 314.34 License to trap; fees for residents; sealing fee for beaver or otter.
- 314.35 License to trap; contents.
- 314.35a License to trap; new license, affidavit of loss, fee.
- 314.35b License to trap; button, display.
- 314.36 License to trap; receipts from fees; remittance to director of conservation, date; credited to general game and fish protection fund.
- 314.37 Violation of muskrat provisions; penalty.

PERMITS TO TAKE PROTECTED ANIMALS AND BIRDS

- 314.38 Special permits; purpose; fees; disposition.
- 314.39 Repealed.
- 314.39a Report by licensee of animals and birds taken.
- 314.40 Monthly sales receipts; accounting; forfeiture of selling rights and fees.
- 314.41 Confiscation of property used in violation of law.
- 314.42 Violation of act; penalty.
- 314.43 Construction of act.

Sec. 1.

HISTORY: CL 1929, 6229;—Am. 1931, p. 555, Act 325, Eff. Sept. 18;—Am. 1933, p. 255, Act 168, Imd. Eff. June 28;—Am. 1941, p. 724, Act 171, Eff. Jan. 10, 1942;—Rep. 1947, p. 569, Act 326, Eff. Oct. 11.

Sec. 2.

HISTORY: CL 1929, 6230;—Am. 1933, p. 255, Act 168, Imd. Eff. June 28;—Am. 1937, p. 675, Act 333, Eff. Oct. 29;—Am. 1941, p. 724, Act 171, Eff. Jan. 10, 1942;—Rep. 1947, p. 569, Act 326, Eff. Oct. 11.

Sec. 3.

HISTORY: CL 1929, 6231;—Am. 1941, p. 725, Act 371, Eff. Jan. 10, 1942;—Rep. 1947, p. 569, Act 326, Eff. Oct. 11.

Sec. 4.

HISTORY: CL 1929, 6232;—Am. 1933, p. 255, Act 168, Imd. Eff. June 28;—Am. 1937, p. 675, Act 333, Eff. Oct. 29;—Am. 1941, p. 725, Act 371, Eff. Jan. 10, 1942;—Rep. 1947, p. 569, Act 326, Eff. Oct. 11.

Sec. 5.

HISTORY: CL 1929, 6233;—Am. 1933, p. 255, Act 168, Imd. Eff. June 28;—Am. 1941, p. 725, Act 371, Eff. Jan. 10, 1942;—Rep. 1947, p. 569, Act 326, Eff. Oct. 11.

SMALL GAME HUNTING AND TRAPPING LICENSE.

314.6 Small game hunting license; firearms, bow and arrow, exceptions and restrictions.

Sec. 6. Except as provided in Act No. 134 of the Public Acts of 1957, as amended, being sections 317.301 to 317.313 of the Compiled Laws of 1948, it is unlawful for any person to hunt for, kill, pursue or take in any manner any of the wild animals or wild birds found in this state without having first secured a license to do so in accordance with the provisions of this act. It is unlawful for any person to carry or transport firearms, slingshot or bow and arrow in any area frequented by wild animals or wild birds, unless he has first procured and has in his possession his license to hunt as prescribed in this act or in Act No. 134 of the Public Acts of 1957, as amended. During the 5 days immediately preceding the opening of the season for the taking of deer with firearms it is unlawful to transport or possess in any area frequented by deer a rifle or shotgun with buckshot or slug load or ball load or cut shell. During the open season for the taking of deer with firearms it is unlawful to transport or possess a shotgun with buckshot, slug load, ball load or cut shell, or a rifle other than .22 caliber rim fire, unless the person transporting or possessing such firearm and ammunition has secured and has in his possession his license to hunt deer with firearms. During the closed season on small game, it is unlawful between the hours of sunset and sunrise to carry or transport firearms, slingshot or bow and arrow in any area frequented by wild animals or wild birds. During the open season on small game it is unlawful between the hours of sunset and sunrise, in any area frequented by deer, during the season closed to the taking of deer with firearms, to transport or possess a bow and arrow, a shotgun with buckshot, slug load, ball load, or cut shell, or a rifle larger than .22 caliber rim fire, except that a bow and arrow may be so transported if locked in the trunk of a motor vehicle or in vehicles which do not have trunk compartments a bow and arrow may be so transported inside the vehicle if unstrung and enclosed securely in a case. Nothing herein contained shall be construed as requiring residents of this state and their children and employees to procure a license to hunt small game upon their own enclosed farm lands upon which they are regularly domiciled, nor to require a license of any person carrying, transporting or possessing firearms or bow and arrow while at or in going to or from a rifle or target range or trap or skeet shooting ground, recognized and used as such, so long as such firearm or bow and arrow, while being so carried or transported, is enclosed and securely fastened in a case or locked in the trunk of an automobile, nor to prohibit the transportation of a rifle or shotgun with buckshot or slug load or ball load or cut shell to or from hunting camps during the 5 days immediately preceding the opening of the season for taking deer, when such firearms are unloaded and locked in the trunk of an automobile or are otherwise inaccessible to the occupants from the interior of the vehicle.

HISTORY: CL 1929, 6234;—Am. 1935, p. 171, Act 109, Imd. Eff. May 28;—Am. 1937, p. 675, Act 333, Eff. Oct. 29;—Am. 1939, p. 861, Act 335, Eff. Sep. 29;—Am. 1945, p. 398, Act 266, Eff. Sep. 6;—Am. 1947, p. 563, Act 326, Eff. Oct. 11;—CL 1948, 314.6;—Am. 1949, p. 622, Act 305, Imd. Eff. Jun. 16;—Am. 1952, p. 416, Act 252, Eff. Sep. 18;—Am. 1957, p. 261, Act 207, Eff. Sep. 27;—Am. 1959, p. 75, Act 74, Imd. Eff. Jun. 15;—Am. 1964, p. 410, Act 263, Eff. Aug. 28;—Am. 1967, p. 158, Act 128, Imd. Eff. Jun. 27;—Am. 1970, p. 509, Act 165, Imd. Eff. Aug. 3.

314.6a Small game hunting license; resident serviceman on furlough.

Sec. 6a. Any resident of this state in the military service of the United States while on furlough may obtain a small game hunting license from any department of conservation headquarters without cost or fee upon presentation of valid furlough papers and may exercise all of the privileges of that license while he is on authorized furlough. The furlough papers shall be in his possession at all times while hunting.

HISTORY: Add. 1967, p. 35, Act 25, Imd. Eff. Jun. 2.

314.6b Indians; exempt from certain game laws.

Sec. 6b. Any person having Indian status and being a legal resident of the state is exempt from the game laws and rules of this state when such laws and rules are in conflict with federal treaty rights. The term "Indian status" is presumed to refer to those persons of Indian ancestry and enrolled as members of an Indian community.

HISTORY: Add. 1970, p. 418, Act 131, Imd. Eff. Jul. 29.

314.7 Small game hunting license; application, contents; ineligible.

Sec. 7. Any person who has passed his seventeenth birthday, and who is not ineligible to secure a small game license by reason of any court order, may procure a license by filing his application with the director of conservation or any other person appointed by him to sell licenses, stating his name, age, height, weight, post office address, color of his hair and eyes, and paying to the person to whom such application is made the following fee. Any person convicted of a violation of any of the provisions of this act relating to small game hunting shall not, if so ordered by the court, be eligible to secure and shall not secure a small game hunting license during the remainder of the license year in which such person shall be so convicted, and if so ordered by the court shall not secure a small game hunting license during the next succeeding license year:

Resident, fee.

(a) If he is a resident of the state of Michigan, the sum of \$3.00;

Nonresident, fee.

(b) If he is a nonresident of the state of Michigan, the sum of \$20.00. Such application in the case of nonresidents may be made by mail if the party so desires to any person authorized to issue licenses, who shall forward the license so issued to the party so applying to any address the applicant shall direct;

Minor under 17, application, company of parent or guardian.

(c) If he is a minor child who has not reached his seventeenth birthday, a license may be issued by the director of conservation or any person authorized by him to issue licenses, on application of a parent or legal guardian and payment of the resident fee, or nonresident fee on condition that the minor when hunting on lands upon which his parents are not regularly domiciled shall be accompanied by a parent or legal guardian or some person authorized by him who has reached his seventeenth birthday. No parent or legal guardian of such minor child shall permit or allow him to hunt under the authority of the license provided for in this section on lands upon which the parent or guardian is not regularly domiciled without being accompanied by the parent or guardian or some person authorized by him who has reached his seventeenth birthday.

HISTORY: CL 1929, 6235;—Am. 1931, p. 555, Act 325, Eff. Sep. 18;—Am. 1933, p. 255, Act 168, Imd. Eff. Jun. 28;—Am. 1935, p. 171, Act 109, Imd. Eff. May 28;—Am. 1937, p. 11, Act 8, Eff. Oct. 29;—Am. 1937, p. 676, Act 333, Eff. Oct. 29;—Am. 1939, p. 862, Act 335, Eff. Sep. 29;—Am. 1941, p. 725, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 398, Act 266, Eff. Sep. 6;—Am. 1947, p. 563, Act 326, Eff. Oct. 11;—CL 1946, 314.7;—Am. 1949, p. 623, Act 305, Imd. Eff. June 16;—Am. 1952, p. 417, Act 252, Eff. Sep. 18;—Am. 1957, p. 430, Act 295, Eff. Sep. 27;—Am. 1958, p. 13, Act 13, Eff. Sep. 13;—Am. 1959, p. 76, Act 74, Imd. Eff. Jun. 15;—Am. 1964, p. 410, Act 263, Eff. Aug. 28.

314.7a Bear hunting license; application, fee; minors; tags, seals.

Sec. 7a. (1) Any person who has passed his seventeenth birthday, and who is not ineligible to secure a bear hunting license by reason of any court order, may procure a license and seal by making application therefor to the director of conservation or any

person appointed by him to issue licenses, and paying to the person to whom the application is made, a fee of \$5.00 if the applicant is a resident of this state, \$25.00 if he is a nonresident. If the applicant is a minor child who has passed his fourteenth birthday, but has not reached his seventeenth birthday, a license may be issued only upon the certification of a parent or legal guardian that the minor while hunting shall be accompanied by him or some other person authorized by him who has reached his seventeenth birthday. No parent or legal guardian of a minor child shall permit or allow him to hunt under authority of the license provided for in this section without being accompanied by the parent or guardian or some person authorized by him who has reached his seventeenth birthday.

(2) There may be issued with each bear hunting license a tag or seal bearing the same number as the license and, when issued, any person killing a bear under authority of the license shall immediately after killing same attach the tag or seal through the lower jaw of the bear and it shall remain so attached until the carcass is disposed of. No person shall have in possession or transport any bear or part thereof unless the tag or seal is attached.

(3) Each bear hunting license shall have the date of issue affixed thereto and shall authorize the person named therein to hunt bear in accordance with the law during any season in any 1 calendar year open to the hunting of bear.

HISTORY: Add. 1964, p. 411, Act 263, Eff. Aug. 28.

314.8 Small game hunting license; duplicates.

Sec. 8. In case a person lose his license he may procure a new license by filing an affidavit of loss and paying an additional fee of 50 cents for same.

HISTORY: CL 1929, 6236;—CL 1948, 314.8.

314.9 Small game hunting license; periods of use; void period; non-residents; blanks, seals.

Sec. 9. Each small game hunting license shall have the date of issue affixed thereto and shall authorize the person named therein, during the period from September 1 in one year to August 31 in the next succeeding year, both dates inclusive, to hunt for and kill in the manner and at the time provided by law any of the wild birds or wild animals found in this state, except deer, beaver, otter and such other animals or birds for the taking of which special licenses may be prescribed. In the respective zones during the closed season on small game, such small game hunting license shall be void between the hours of sunset and sunrise. Any nonresident hunter who legally possesses a nonresident hunting license may take from this state as open hand baggage the number of such birds and animals as are permitted to be had in possession by him at any one time. License blanks and seals which meet the requirements of this act shall be provided by the director of conservation and furnished to persons authorized by him to issue licenses.

HISTORY: CL 1929, 6237;—Am. 1935, p. 171, Act 109, Imd. Eff. May 28;—Am. 1937, p. 676, Act 333, Eff. Oct. 29;—Am. 1939, p. 862, Act 335, Eff. Sep. 29;—Am. 1947, p. 564, Act 326, Eff. Oct. 11;—CL 1948, 314.9;—Am. 1949, p. 623, Act 305, Imd. Eff. Jun. 16;—Am. 1952, p. 417, Act 252, Eff. Sep. 18;—Am. 1959, p. 77, Act 74, Imd. Eff. Jun. 15;—Am. 1964, p. 411, Act 263, Eff. Aug. 28;—Am. 1967, p. 625, Act 293, Imd. Eff. Aug. 1.

314.9a Sportsman's license; issuance, fee; rights and privileges; date of issuance.

Sec. 9a. (1) A resident of this state who has passed his seventeenth birthday, and who is not ineligible to secure any hunting license by reason of a court order, may obtain a sportsman's license by making application to the director or any other person appointed by him to sell licenses. Every applicant shall state his name, age, height, weight, color of hair and eyes, post office address and provide such proof of residency as the director may require. The fee for the license shall be \$18.00.

(2) The sportsman's license shall be in lieu of and confer upon the licensee all the combined rights and privileges conferred by a resident firearm deer hunting license, resident bow and arrow deer hunting license, resident bear license, resident small game hunting license, pheasant stamp, general trapping license, except for beaver and otter, resident annual fishing license and special trout and salmon license or stamp. Only 1 validating tag or seal for deer shall be issued with each license.

(3) Each sportsman's license shall have the date of issue affixed thereto and shall be valid from September 1 through the following August 31, except the fishing license authority shall be valid through the following September 30.

(4) The license shall be carried on the person of the licensee at all times when he is engaged in hunting or fishing and shall be exhibited upon demand to any conservation officer, other peace officer or the owner or occupant of lands upon which he is hunting or fishing. A licensee shall be subject to all the duties, conditions, limitations, restrictions and provisions of all laws and of all rules adopted by the commission and director governing hunting and fishing which are applicable to persons having individual licenses.

(5) If a sportsman's license or insignia is lost or destroyed a licensee may obtain a duplicate by surrendering the remaining parts of the license, including the self-locking seal or validating tag, filing an affidavit of loss and paying a fee of 50 cents. If the self-locking seal or validating tag issued for deer or bear, or both, is lost, a licensee may obtain a duplicate by surrendering the remaining parts of the license, filing an affidavit of loss and paying a fee equivalent to the fee charged for the individual duplicate licenses for deer or bear, or both.

(6) Persons authorized by the director to issue licenses, except conservation officers and persons who receive a regular salary from any political subdivision of the state, shall add 50 cents to the basic license fee as a service charge which they shall retain as compensation for each sportsman's license issued and for taking the affidavit for licenses lost or destroyed.

(7) The effective date of the sportsman's license shall be September 1, 1970.

HISTORY: Add. 1970, p. 552, Act 180, Imd. Eff. Aug. 6.

314.10 Small game hunting license; button or insignia, display.

Sec. 10. There may be issued with each small game or bear hunting license a license button or insignia bearing the license number, and no person shall hunt for, kill, pursue or take in any manner any of the wild animals or wild birds, permitted to be taken under this license, in this state unless the button or insignia, if issued, is at such time continually displayed on the outer garment of such person in such a manner that the license figures are plainly visible and legible.

HISTORY: CL 1929, 6236;—Am. 1935, p. 172, Act 100, Imd. Eff. May 28;—Am. 1937, p. 677, Act 333, Eff. Oct. 29;—CL 1948, 314.10;—Am. 1964, p. 412, Act 263, Eff. Aug. 28.

314.11 Small game hunting license; forms, buttons, seals, receipts; report.

Sec. 11. The director of conservation on or before September 1 shall furnish to persons authorized by him to issue licenses, a supply of blank licenses, license buttons and seals. The director of conservation shall take a receipt of each of such persons authorized to issue licenses for blank licenses, seals and license buttons or insignia so furnished by him. On or before March 1 each person authorized to issue licenses shall return to the director of conservation all unused licenses and seals and stubs of licenses issued and license buttons or insignia, with a report of the number of resident and non-resident licenses and seals issued by him together with the unpaid amount of money received from the sale of such licenses and seals.

HISTORY: CL 1929, 6236;—Am. 1931, p. 556, Act 325, Eff. Sep. 18;—Am. 1935, p. 172, Act 100, Imd. Eff. May 28;—CL 1948, 314.11;—Am. 1957, p. 262, Act 207, Eff. Sep. 27;—Am. 1959, p. 77, Act 74, Imd. Eff. Jun. 15;—Am. 1964, p. 412, Act 263, Eff. Aug. 28.

314.12 Small game hunting license; sellers; compensation; game and fish protection fund, use.

Sec. 12. All persons authorized to sell licenses, except conservation officers who receive a regular salary from the state and except persons who receive a regular salary from any political subdivision of this state, shall as a service charge add 10 cents to the basic license fee and retain as compensation for taking the affidavit herein provided for and issuing of the license 25 cents for each license issued, and on or before the tenth day of each month shall remit to the director of conservation the balance of all moneys received by him during the preceding month from the sale of licenses and seals under the provisions of this act. As soon as practicable the director of conservation shall send all moneys received by him from the sale of small game hunting and trapping licenses and seals to the state treasurer, together with a statement as to the amount of money received and the source from which it came. The state treasurer shall credit all moneys received by him from the director of conservation from the sale of such licenses and seals to the game and fish protection fund. All moneys credited to the game and fish protection fund shall be paid out by the state treasurer upon warrants issued in accordance with the accounting laws of the state:

(a) For services rendered by the director of conservation and his assistants, together with the expenses incurred in the enforcement and administration of the game, fish and fur laws of the state, including the necessary equipment and apparatus incident to the operation and enforcement thereof, and the protection, propagation, distribution and control of game, fish, fur-bearing animals and other wildlife forms.

(b) For the purpose of propagation of any game or fur-bearing animals or birds and the liberation of the same or their increase at such times, places, and in such manner as the director of conservation may deem advisable.

(c) For the purchase and lease of lands, together with the necessary equipment for the purpose of propagating and rearing game or fur-bearing animals or birds, and for the purpose of establishing and maintaining game refuges, wildlife sanctuaries, public shooting and fishing grounds.

(d) For the purpose of conducting investigations of and for the purpose of compiling and publishing information pertaining to the propagation, protection and conservation of wildlife.

(e) For the purpose of delivering lectures, developing cooperation and carrying on appropriate education activities relating to the conservation of the wildlife of this state.

HISTORY: CL 1929, 6240;—Am. 1931, p. 556, Act 325, Eff. Sep. 18;—Am. 1939, p. 187, Act 103, Imd. Eff. May 16;—Am. 1941, p. 121, Act 99, Eff. Jan. 10, 1942;—Am. 1947, p. 564, Act 326, Eff. Oct. 11;—CL 1948, 314.12;—Am. 1949, p. 624, Act 305, Imd. Eff. Jun. 16;—Am. 1951, p. 170, Act 140, Eff. Sep. 28;—Am. 1952, p. 418, Act 252, Eff. Sep. 18;—Am. 1954, p. 103, Act 85, Eff. Aug. 13;—Am. 1957, p. 431, Act 295, Eff. Sep. 27;—Am. 1959, p. 77, Act 74, Imd. Eff. Jun. 15;—Am. 1964, p. 412, Act 263, Eff. Aug. 28;—Am. 1965, p. 425, Act 248, Imd. Eff. Jul. 21;—Am. 1968, p. 353, Act 231, Imd. Eff. Jun. 26.

314.13 Small game hunting license; possession, exhibition, penalties.

Sec. 13. Any person of whom a small game hunting license is required, when in possession of firearms or other hunting appliances, in any area frequented by wild birds and animals, shall carry his hunting license on his person and shall exhibit same upon demand to any conservation officer, other peace officer or the owner or occupant of lands upon which he is hunting. Any person violating any of the provisions of this section shall be subject to the penalties provided for by section 15 of this chapter.

HISTORY: CL 1929, 6241;—Am. 1935, p. 172, Act 109, Imd. Eff. May 28;—Am. 1937, p. 677, Act 333, Eff. Oct. 29;—Am. 1947, p. 565, Act 326, Eff. Oct. 11;—CL 1948, 314.13;—Am. 1957, p. 262, Act 207, Eff. Sep. 27;—Am. 1964, p. 413, Act 263, Eff. Aug. 28.

314.14 Small game hunting license; offenses relating to issuance and use, penalty; seller's bonds.

Sec. 14. Any person who shall procure a small game or bear hunting license under this act by false swearing or by fraud or false statement of any kind, or who shall use or

attempt to use any such license so procured, or any person who shall use or attempt to use the license or seal of another, or any person who shall loan or permit any person to use his license or seal, or any person who shall alter any small game or bear hunting license, in any way, or any person who shall charge more than the fee provided by law for issuing a resident small game or bear hunting license or for issuing a nonresident small game or bear hunting license, or who shall issue such licenses without receiving the amount of money herein provided for, or who shall accept the fee without issuing the license, or any person who affixes to any license a date other than the date upon which it was issued, shall be guilty of a misdemeanor, and shall be fined not exceeding \$100.00 and costs of prosecution, or imprisoned in the county jail for a period not exceeding 90 days or both, and in addition thereto he and his bondsmen shall be personally liable for the amount of money he should have collected and paid to the director of conservation for such licenses. The director of conservation shall require bonds from persons authorized to sell licenses and in such amounts as he may deem sufficient.

HISTORY: CL 1929, 6242;—Am. 1931, p. 557, Act 325, Eff. Sep. 18;—Am. 1933, p. 256, Act 166, Imd. Eff. Jun. 28;—Am. 1937, p. 677, Act 333, Eff. Oct. 29;—Am. 1939, p. 863, Act 335, Eff. Sep. 29;—Am. 1941, p. 726, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 399, Act 266, Eff. Sep. 6;—CL 1948, 314.14;—Am. 1957, p. 262, Act 207, Sep. 27;—Am. 1959, p. 79, Act 74, Imd. Eff. Jun. 15;—Am. 1964, p. 414, Act 263, Eff. Aug. 25.

314.14a Game birds and animals; hawks, owls, and eagles; illegal killing or possession, reimbursement in addition to penalties.

Sec. 14a. In addition to the penalties herein provided for violating provisions of this act, any person convicted of the illegal killing or the illegal possession of game birds and game animals or any hawk, owl or eagle shall reimburse the state for the value of each bird and animal as follows:

- (a) Elk and moose, not less than \$200.00 nor more than \$300.00 per animal killed or possessed.
- (b) Deer, bear, wild turkey, hawk, owl and eagle, not less than \$100.00 nor more than \$200.00 per animal or bird killed or possessed.
- (c) All other game animals, upland game birds and waterfowl, not less than \$5.00 nor more than \$10.00 for each game animal, upland game bird or waterfowl.

All moneys received shall be turned over to the state treasurer and credited to the game and fish protection fund. In every case of conviction for any of said offenses, it is made the duty of the court or magistrate before whom such conviction is obtained to further enter judgment in favor of the state of Michigan and against the defendant for liquidated damages in a sum as hereinbefore set forth, and it shall be the duty of the department of conservation, with the assistance of the prosecuting attorney as may be required, to collect the same by execution or otherwise. In the event that 2 or more defendants are convicted of the illegal killing or the illegal possession of the same game bird or game animal or hawk, owl or eagle, the penalty above prescribed shall be entered against them jointly. Any person who refuses or neglects to satisfy any judgment within 90 days following rendering of the judgment shall not be eligible to obtain and shall not, until such judgment has been satisfied, obtain any small or big game hunting license, but the period of ineligibility shall not exceed the 3 next succeeding license years. All district judges or magistrates receiving such damages shall forthwith remit them to the county treasurer who shall forthwith deposit them with the state treasurer, who shall place them in the game and fish protection fund.

HISTORY: Add. 1967, p. 137, Act 110, Imd. Eff. Jun. 27;—Am. 1968, p. 99, Act 62, Imd. Eff. May 28;—Am. 1969, p. 734, Act 325, Eff. Mar. 30, 1970.

314.15 Violation of sections; penalty, revocation of bear hunting license.

Sec. 15. Any person violating any of the provisions of sections 6 to 13 of this chapter, shall be fined not less than \$10.00 nor more than \$100.00 and costs of prosecution, or imprisoned in the county jail for a period not exceeding 90 days, or both. In addi-

tion to the fine or imprisonment, the bear hunting license of any person convicted of a violation of any of the provisions of this act relating to hunting under authority of a bear hunting license may be revoked and, if so ordered by the court, the person shall not be eligible to secure and shall not secure a bear hunting license for a period not exceeding 3 years from and after the date of the conviction.

HISTORY: CL 1929, 6243;—Am. 1939, p. 863, Act 335, Eff. Sep. 29;—Am. 1947, p. 166, Act 125, Eff. Oct. 11;—CL 1948, 314.15;—Am. 1949, p. 625, Act 305, Imd. Eff. Jun. 16;—Am. 1964, p. 414, Act 263, Eff. Aug. 28.

DEER HUNTER'S LICENSE.

314.16 Deer hunting license.

Sec. 16. It shall not be lawful for any person to hunt for or kill deer in this state without first obtaining a license permitting him to do so.

HISTORY: CL 1929, 6244;—Am. 1939, p. 863, Act 335, Eff. Sept. 29;—CL 1948, 314.16.

FORMER ACTS: Act 93 of 1921; Act 306 of 1925 repealed by this act.

314.16a Deer hunting license; resident serviceman on furlough.

Sec. 16a. Any resident of this state in the military service of the United States while on furlough may obtain a deer hunting license from any department of conservation headquarters without cost or fee upon presentation of valid furlough papers and may exercise all of the privileges of that license while he is on authorized furlough. The furlough papers shall be in his possession at all times while hunting.

HISTORY: Add. 1967, p. 35, Act 25, Imd. Eff. Jun. 2.

314.17 Deer hunting license; application, contents, fee; duplicate license fee.

Sec. 17. Any resident of this state who has passed his seventeenth birthday, and who is not ineligible to procure a deer hunting license by reason of court order, and who has not killed a deer under the bow and arrow deer hunter's license during the same calendar year, may procure a deer hunter's license for himself by filing his application with the director of conservation, or by filing such application with any person authorized by the director to issue such licenses. The application stating his name, age, place of residence, post office address, the color of his hair and eyes, whether he can or cannot write his own name, and upon payment to the person to whom he has applied for such license the sum of \$5.00. The applicant shall provide such evidence of residency as may be required by the director of conservation. If a license or a license insignia is lost, any licensee may procure a duplicate license by surrendering the seal or tag or coupon and remaining part of the license, filing an affidavit of loss and paying a fee of 50 cents. If the seal or tag or coupon is lost, any licensee may procure a duplicate license by surrendering the remaining part of the lost license or filing an affidavit of loss, and paying a fee of \$2.00.

Minor under 17; application by parent or guardian.

If the applicant is a minor child under 17 years of age, and who has passed his fourteenth birthday, a deer hunting license may be issued by the director of conservation or any person authorized by him to issue licenses, on application of a parent or legal guardian and payment of the resident fee, on condition that the minor while hunting shall be accompanied by a parent or legal guardian or some person authorized by him who has reached his seventeenth birthday. No parent or legal guardian of such minor child shall permit or allow him to hunt under the authority of the license provided for by this section without being accompanied by the parent or guardian or some person authorized by him who has reached his seventeenth birthday.

HISTORY: CL 1929, 6245;—Am. 1931, p. 557, Act 325, Eff. Sep. 18;—Am. 1933, p. 256, Act 166, Imd. Eff. Jun. 28;—Am. 1935, p. 172, Act 109, Imd. Eff. May 28;—Am. 1937, p. 677, Act 333, Eff. Oct. 29;—Am. 1939, p. 863, Act 335, Eff. Sep. 29;—Am. 1941, p. 726, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 399, Act 266, Eff. Sep. 6;—Am. 1947, p. 566, Act 326, Eff. Oct. 11;—CL 1948, 314.17;—Am. 1949, p. 625, Act 305, Imd. Eff. Jun. 16;—Am. 1957, p. 433, Act 295, Eff. Sep. 27;—Am. 1967, p. 625, Act 293, Imd. Eff. Aug. 1.

314.18 Deer hunting license; non-resident; application, fee.

Sec. 18. Any nonresident of this state, who has passed his seventeenth birthday and who within the preceding 3 years has not had his deer hunting license revoked by any court and who has not killed a deer under the bow and arrow deer hunter's license during the same calendar year, may procure a deer hunter's license and seal by filing his application with the director of conservation, or any person authorized by him to issue such licenses, in which application the applicant shall state his name, age, place of residence, post office address, the color of his hair and eyes and the fact of whether he can or cannot write his own name, and upon the payment to said person to whom he has applied for such license and seal the sum of \$35.00.

Minor under 17; application by parent or guardian.

If the applicant be a minor child under 17 years of age, and who has passed his fourteenth birthday, a deer hunting license may be issued by the director of conservation or any person authorized by him to issue licenses, on application of a parent or legal guardian and payment of the nonresident fee, on condition that said minor shall be accompanied while hunting by a parent or legal guardian or some person authorized by him who has reached his seventeenth birthday. No parent or legal guardian of such minor child shall permit or allow him to hunt under the authority of the license provided for in this section without being accompanied by said parent or guardian or some person authorized by him who has reached his seventeenth birthday.

HISTORY: CL 1929, 6246;—Am. 1931, p. 558, Act 325, Eff. Sep. 18;—Am. 1933, p. 257, Act 168, Imd. Eff. Jun. 28;—Am. 1935, p. 173, Act 109, Imd. Eff. May 28;—Am. 1939, p. 863, Act 335, Eff. Sep. 29;—Am. 1941, p. 727, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 400, Act 266, Eff. Sep. 6;—Am. 1947, p. 506, Act 326, Eff. Oct. 11;—CL 1948, 314.18;—Am. 1949, p. 625, Act 305, Imd. Eff. Jun. 16;—Am. 1957, p. 433, Act 295, Eff. Sep. 27.

314.19 Deer hunting license; authorized deer or bear hunting; lights; dogs; possession of guns.

Sec. 19. Such licenses shall be dated when issued and shall authorize the person named therein to use firearms or bow and arrow in hunting for or killing deer in accordance with the law during any season in any 1 calendar year open to the hunting of deer with firearms. Such licenses shall also authorize the holder to kill bears with firearms or bow and arrow during such seasons, provided the holder thereof shall not have killed a bear during any previous season during the same calendar year, but the trapping or poisoning of bears shall be unlawful, and it shall be unlawful for any person to be found in the woods hunting deer without a deer hunter's license. It shall be unlawful for any person at any time to pursue, hunt, kill or capture or attempt to pursue, hunt, kill or capture any deer or bear while it is in the water or make use of an artificial light in pursuing, hunting, killing or capturing deer or bear or attempting to pursue, hunt, kill or capture deer or bear, or make use of a dog in pursuing, hunting, or killing deer. Any dog pursuing, killing or following upon the track of a deer is hereby declared to be a public nuisance and may be killed at any time by any officer without criminal or civil liability: Provided, That it shall be unlawful for any person to be found in the woods during the open deer hunting season with a shotgun with buckshot, slug loads or ball loads, or a rifle other than .22 caliber rim fire, unless he has first procured a deer hunting license and has same in his possession.

HISTORY: CL 1929, 6247;—Am. 1937, p. 678, Act 333, Eff. Oct. 29;—Am. 1939, p. 864, Act 335, Eff. Sep. 29;—Am. 1941, p. 727, Act 371, Eff. Jan. 10, 1942;—CL 1948, 314.19;—Am. 1952, p. 419, Act 252, Eff. Sep. 18;—Am. 1959, p. 79, Act 74, Imd. Eff. Jun. 15.

314.19a Bow and arrow hunter's license; fee, use; possession of firearms, dogs.

Sec. 19a. Any person qualified under this act to obtain a deer hunter's license may, upon filing of the affidavit in such form as may be required by the director of conservation, and in which shall be stated the information required by section 17 of this chapter, and in case of a resident upon the payment of a fee of \$5.00 and in case of a nonresident upon the payment of a fee of \$15.00, obtain a license herein designated "bow

and arrow hunter's license". The age requirements to obtain a deer hunter's license shall not apply to any person applying for or receiving a bow and arrow hunter's license. Such license shall authorize the holder thereof to use bow and arrow in hunting for, or killing, 1 deer of either sex in the special bow and arrow season. This license shall also authorize the holder to kill with bow and arrow bears at any time during the season above stated, provided the holder thereof shall not have killed a bear during any previous season during the same calendar year, but the poisoning of bear shall be unlawful and it shall be unlawful for any person to be found in the woods hunting deer without such license. To each licensee there shall also be issued a seal or tag, as provided in the case of the issuance of a deer hunter's license. Permit may also be issued to a party of not less than 4 persons licensed under this section, as provided in section 30 of this chapter. The provisions of this act relative to deer hunter's license shall be applicable to bow and arrow hunter's license. The holder of any such bow and arrow hunter's license shall be subject to each of the provisions of this act relative to persons licensed as deer hunters, except as modified in this section. It shall be unlawful for any person during any season open to the hunting of deer with bow and arrow to carry, while hunting, or to transport in an automobile or other motor vehicle a bow and arrow and firearm other than a shotgun, or a pistol or revolver when carried or transported in accordance with the statutes of this state pertaining to concealed weapons, or any ammunition consisting of or containing ball load, slug load or cut shell. The presence of a dog in the woods, hunting camp, or clubhouse, during the period provided for the taking or killing of deer by bow and arrow shall not be deemed prima facie evidence of the unlawful use of such dog.

HISTORY: Add. 1937, p. 139, Act 97, Imd. Eff. Jun. 21;—Am. 1939, p. 316, Act 161, Eff. Sep. 29;—Am. 1939, p. 804, Act 335, Eff. Sep. 29;—Am. 1941, p. 573, Act 331, Eff. Jan. 10, 1942;—Am. 1945, p. 400, Act 208, Eff. Sep. 6;—Am. 1947, p. 227, Act 158, Eff. Oct. 11;—Am. 1947, p. 567, Act 326, Eff. Oct. 11;—CL 1948, 314.19a;—Am. 1952, p. 419, Act 252, Eff. Sep. 18;—Am. 1954, p. 54, Act 48, Eff. Aug. 13;—Am. 1957, p. 433, Act 285, Eff. Sep. 27;—Am. 1959, p. 79, Act 74, Imd. Eff. Jun. 15;—Am. 1967, p. 625, Act 293, Imd. Eff. Aug. 1.

314.19b Elk hunting license; fee, minors, duplicates; prohibited firearms.

Sec. 19b. Any resident of Michigan who has reached his seventeenth birthday and who is entitled to procure an elk hunting license in accordance with the rules and regulations for the hunting of elk as established by the conservation commission may make application therefor to the director of conservation, accompanied by a fee of \$25.00. If applicant is a minor child who has attained his fourteenth birthday but has not reached his seventeenth birthday, a license may be issued to him only upon certification of a parent or legal guardian that the minor, while hunting, shall be accompanied by a parent or legal guardian or some person authorized by him who has reached his seventeenth birthday. No parent or legal guardian of a minor child shall permit or allow him to hunt under authority of the license without being accompanied by a parent or guardian or some person authorized by him who has reached his seventeenth birthday. If a license is lost, a licensee may procure a duplicate by filing an affidavit of loss and paying a fee of 50 cents.

The licenses shall have the date of issue affixed thereto and shall authorize the person named therein to hunt for and kill elk in accordance with the law and the rules and regulations promulgated thereunder. Except as may be otherwise provided by law, it is unlawful to hunt for or take elk except under authority of the license provided for in this section. It is unlawful, except during the open season for taking deer with firearms, for any person to carry or transport a rifle other than .22 caliber rim fire or a shotgun and ammunition containing buckshot, ball load, slug load, or cut shell, in any area open to the hunting of elk during the open season thereon, unless the person has on his person his license to hunt elk.

HISTORY: Add. 1964, p. 389, Act 254, Eff. Aug. 28.

314.20 Deer hunting license; persons authorized to issue, signature of applicant.

Sec. 20. The director of conservation, or any person authorized by him, shall issue licenses to hunt deer under the seal of their office and shall sign the same and each coupon attached thereto and shall require the person to whom the license is issued to sign his name in the margin thereof, and if such applicant shall not be able to write he shall certify such fact in the margin and have him sign by his mark and shall fill out correctly and preserve the blank stubs attached thereto.

HISTORY: CL 1929, 6248;—Am. 1931, p. 558, Act 325, Eff. Sept. 18;—Am. 1937, p. 678, Act 333, Eff. Oct. 29;—CL 1948, 314.20.

314.20a Persons under 17; prerequisites for license; certificates of competency and achievement; courses of instruction; persons under 12.

Sec. 20a. (1) Beginning September 1, 1971, a license to hunt shall not be issued to a person under the age of 17 years unless the applicant presents any of the following:

(a) Proof of previous hunting experience in the form of a prior hunting license issued to him by this or another state or a province of Canada.

(b) A certificate of competency in hunting safety issued to him under authority of this section or the laws of another state or a province of Canada.

(c) A certificate of achievement issued to him by a hunting safety examiner as a result of passing a hunting safety examination.

(2) Upon the effective date of this act the director shall provide for a course of instruction in the safe handling of firearms and designate persons to serve, without compensation, as instructors and to award certifications.

Any person desiring to take the course of instruction shall register with an instructor and pay a fee of \$2.00. Upon successful completion of the course, the person shall be issued a certificate of competency.

(3) In any community where a course of instruction is not available, or where available courses are deemed by the department as not adequate to permit registration of all applicants, any person may submit to a hunting safety examination as prescribed by the director.

A person receiving a passing score shall be issued a certificate of achievement upon payment of a fee of \$1.00 to the examiner.

(4) On or before the tenth day of every month, each instructor and examiner shall remit to the director all fees received by them during the preceding month. All moneys received shall be deposited in the state treasury.

(5) A person authorized to sell hunting licenses shall not issue a hunting license to any person under the age of 17 years unless the person presents a certificate of competency or other form of proof as required in subsection (1). The issuing agent shall record on the license the form of proof presented by the applicant in compliance with subsection (1), as well as the license number and year of issue, and the state of issue if other than this state, of any license previously issued which is presented by the applicant.

(6) A license to hunt shall not be issued to a person under 12 years of age.

HISTORY: Add. 1969, p. 89, Act 43, Eff. Mar. 20, 1970.

314.21 License sellers; compensation; game and fish protection fund.

Sec. 21. Such persons as shall be authorized by the director of conservation to issue licenses to hunt deer or elk, except conservation officers who receive a regular salary from the state and except persons who receive a regular salary from any political subdivision of this state, shall as a service charge add 10 cents to the basic license fee and retain 25 cents as compensation for taking the affidavit herein provided and for issuing of the license for each license so issued, and shall remit to the director of conservation

the balance of all moneys received from the sale of such licenses to hunt deer or elk on or before December 15 of each year, specifying separately the amount thereof received for licenses issued to residents and non-residents, and all such moneys shall be turned over by the director of conservation as soon as practicable to the auditor general who shall credit the same to the game and fish protection fund.

HISTORY: CL 1929, 6249;—Am. 1931, p. 558, Act 325, Eff. Sep. 18;—Am. 1941, p. 122, Act 96, Eff. Jan. 10, 1942;—CL 1948, 314.21;—Am. 1957, p. 434, Act 295, Eff. Sep. 27;—Am. 1964, p. 389, Act 254, Eff. Aug. 28;—Am. 1968, p. 354, Act 231, Imd. Eff. Jun. 28.

314.22 Hunter's licenses; tags; seals, buttons; return of unused supplies.

Sec. 22. Licenses, tags or seals to meet the requirements of this act for hunting deer, elk or bear shall be provided by the director of conservation and furnished to the persons authorized to issue licenses to hunt deer, elk or bear. There may be issued with each deer or elk hunter's license a license button or insignia bearing the license number, and no person shall hunt for, kill, pursue or take in any manner any deer, elk or bear in this state unless the button or insignia be at such time continually displayed on the outer garment of such person in such manner that the license figures are plainly visible and legible. On or before December 15 of each year each person authorized to issue licenses to hunt deer or elk shall return to the director of conservation all unused licenses and used stubs and unused tags or seals with a report of the number of each kind of deer or elk hunter's licenses issued, together with the unpaid amount of money received from the sale of such licenses.

HISTORY: CL 1929, 6250;—Am. 1931, p. 558, Act 325, Eff. Sep. 18;—Am. 1935, p. 173, Act 109, Imd. Eff. May 28;—Am. 1937, p. 678, Act 333, Eff. Oct. 29;—Am. 1939, p. 865, Act 335, Eff. Sep. 29;—CL 1948, 314.22;—Am. 1957, p. 262, Act 207, Eff. Sep. 27;—Am. 1964, p. 389, Act 254, Eff. Aug. 28.

Sec. 23.

HISTORY: CL 1929, 6251;—Am. 1931, p. 559, Act 325, Eff. Sep. 18;—Rep. 1935, p. 175, Act 109, Imd. Eff. May 28.

This section provided for form of licenses, coupons and stubs.

314.24 Tagging of animal; removal of evidence of sex; unlawful to transport without seal; non-residents.

Sec. 24. Any person killing any deer or elk shall immediately after killing same, attach the tag or seal, which contains the number of license held by such person, to the antler, through the lower jaw or the gambrel of such deer or elk in a secure and permanent manner and no deer or elk shall be offered for shipment, shipped or received for shipment by transportation companies unless this license tag or seal shall be attached to such deer or elk when presented for shipment. This tag or seal must remain attached to the deer or elk until the carcass is disposed of. No person, corporation or transportation company shall receive for transportation or have in possession at the initial billing station, the carcass or dead body of a deer or elk after 48 hours immediately following the closing of the time when the killing of deer or elk is authorized by law. It shall be unlawful for any transportation company to accept for shipment any deer or elk from which the evidence of the sex has been removed. It shall be unlawful for any person to have in possession or to transport any deer or elk or part thereof in any motor vehicle or other conveyance unless the tag or seal as herein provided shall be attached to such deer or elk or part thereof. It shall be lawful for any nonresident to have in possession or to transport any deer outside of this state when such tag or seal is attached to such deer or part of a deer as herein provided.

HISTORY: CL 1929, 6252;—Am. 1931, p. 560, Act 325, Eff. Sep. 18;—Am. 1935, p. 173, Act 109, Imd. Eff. May 28;—Am. 1939, p. 865, Act 335, Eff. Sep. 29;—Am. 1945, p. 401, Act 266, Sep. 6;—CL 1948, 314.24;—Am. 1952, p. 420, Act 252, Eff. Sep. 18;—Am. 1957, p. 263, Act 207, Eff. Sep. 27;—Am. 1964, p. 389, Act 254, Eff. Aug. 28.

314.25 Unlawful acts; penalty.

Sec. 25. Any person carrying or transporting a shotgun with buckshot, ball load, slug load or cut shell or a rifle other than .22 caliber rim fire during any season open to the taking of deer or elk with firearms or a bow and arrow during any season open to the taking of deer with bow and arrow, who shall refuse to show his license herein pro-

vided for, to any sheriff, deputy sheriff, constable or conservation officer on demand, or any person who shall sell, loan, give or in any manner transfer said license, tag or seal to another person, or any person who shall attempt to use the license, tag or seal of another, or attach or allow to be attached the tag or seal of his license to any deer or elk or part thereof, except such as he may have lawfully killed himself, or any person who shall alter any deer or elk hunting license in any way, or any person who shall affix to any deer or elk hunting license a date other than the date upon which it was issued, or any person who shall purchase more than 1 deer or elk hunting license for any 1 deer or elk hunting season, except duplicates, shall be deemed and held to be guilty of violating the provisions of this section in addition to violating any of the other provisions under this license, and may be fined upon conviction as provided in section 28 of this chapter.

HISTORY: CL 1929, 6253;—Am. 1939, p. 866, Act 335, Eff. Sep. 29;—Am. 1941, p. 727, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 401, Act 266, Eff. Sep. 6;—CL 1948, 314.25;—Am. 1952, p. 420, Act 252, Eff. Sep. 18;—Am. 1957, p. 263, Act 207, Eff. Sep. 27;—Am. 1964, p. 390, Act 254, Eff. Aug. 28.

314.26 Unlawful acts; offenses relating to issuance and use, penalty.

Sec. 26. Any person who shall procure a deer or elk hunter's license or a bow and arrow hunter's license under the provisions of this act by fraud or false statements of any kind, or who shall use or attempt to use any such license so procured, or any person who shall use any coupon more than once or who shall remove or wilfully destroy any coupon while attached to a deer or part thereof until after it has reached its destination shall be guilty of a misdemeanor and punished as provided in section 28 of this chapter. Any person authorized by the director of conservation to issue licenses to hunt deer or elk, who shall issue a deer or elk hunter's license or a bow and arrow hunter's license under the provisions of this act without receiving the amount of money herein provided for, or who shall accept the fee without issuing the license as provided for in this act, or any person who shall charge more than the fee provided by law for issuing such licenses, shall be guilty of a misdemeanor and in addition to the penalty provided in section 28 of this chapter shall be personally liable for the amount of money collected for such licenses.

HISTORY: CL 1929, 6254;—Am. 1931, p. 561, Act 325, Eff. Sep. 18;—Am. 1935, p. 174, Act 108, Imd. Eff. May 28;—Am. 1937, p. 139, Act 97, Imd. Eff. Jun. 21;—Am. 1941, p. 728, Act 371, Eff. Jan. 10, 1942;—CL 1948, 314.26;—Am. 1957, p. 263, Act 207, Eff. Sep. 27;—Am. 1964, p. 390, Act 254, Eff. Aug. 28.

314.27 Deer, elk or bear; sale prohibited; sale or transportation of head or skins.

Sec. 27. Deer, elk, or bear killed under the provisions of this act may not be bought or sold. The heads and skins of deer, elk and bear, lawfully taken, green or mounted, may be transported or sold either within or without the state.

HISTORY: CL 1929, 6255;—Am. 1947, p. 567, Act 326, Eff. Oct. 11;—CL 1948, 314.27;—Am. 1964, p. 390, Act 254, Eff. Aug. 28.

314.27a Repealed. 1952, p. 48, Act 48, Eff. Sep. 18.

Section provided for camp registration card, made it unlawful to leave unburied rubbish on camp premises and provided a penalty.

314.28 Violation of sections; penalty.

Sec. 28. Any person violating any of the provisions of sections 16 to 27, both inclusive, of this chapter, shall upon conviction be punished by a fine of not more than \$100.00 and costs of prosecution or by imprisonment in the county jail not exceeding 90 days or by both such fine and imprisonment in the discretion of the court. In addition to the penalty already prescribed for a conviction of a violation of sections 16 to 27, both inclusive, of this chapter, any person so convicted shall not, if so ordered by the court, be eligible to secure and shall not secure a deer or elk hunting license during the remainder of the year in which such person shall be so convicted, and for a period not to exceed the 3 next succeeding license years.

HISTORY: CL 1929, 6256;—Am. 1937, p. 679, Act 333, Eff. Oct. 29;—Am. 1941, p. 728, Act 371, Eff. Jan. 10, 1942;—CL 1948, 314.28;—Am. 1964, p. 390, Act 254, Eff. Aug. 28.

LICENSE TO TAKE DEER BY CAMPING PARTY.

314.29 Permits for deer-hunting parties.

Sec. 29. The director of conservation is hereby authorized to issue permits to deer hunting parties of not less than 4 persons to take and kill 1 deer for each said party, during the open season for the hunting thereof, to be used for camp purposes as hereinafter provided.

HISTORY: CL 1929, 6257;—Am. 1939, p. 866, Act 335, Eff. Sept. 29;—Am. 1941, p. 728, Act 371, Eff. Jan. 10, 1942;—CL 1948, 314.29.

314.30 Permits for deer-hunting parties; fee.

Sec. 30. Any party composed of not less than 4 persons, each of whom has secured a license to hunt deer during the open season of any year, who propose to camp together, may make application to the director of conservation for that purpose. The application shall be signed by each of the persons comprising the party and it must be presented to the director, or any of his authorized agents, together with a fee of \$10.00 for each permit so issued. All moneys received from the sale of camp deer permits shall be credited to the game and fish protection fund. The permit shall authorize any of the persons whose names appear on the application to kill 1 deer for each such party, during the open season therefor, to be used by the said party for camp purposes as above mentioned. Such person shall have such permit in his possession at the time of killing such deer. The director shall furnish with each permit a seal or tag which must be immediately attached in a secure manner to the head, jaw or leg of the deer and the permit and seal or tag shall remain so attached until the deer shall have been consumed.

HISTORY: CL 1929, 6258;—Am. 1935, p. 174, Act 109, Imd. Eff. May 28;—Am. 1937, p. 679, Act 333, Eff. Oct. 29;—Am. 1941, p. 728, Act 371, Eff. Jan. 10, 1942;—Am. 1947, p. 567, Act 326, Eff. Oct. 11;—CL 1948, 314.30;—Am. 1957, p. 433, Act 295, Eff. Sep. 27;—Am. 1967, p. 626, Act 293, Imd. Eff. Aug. 1.

314.31 Violation of sections; penalty.

Sec. 31. Any person who secures a permit as herein provided by false swearing, or who kills more than 1 deer as herein provided, or who loans or authorizes another to use said permit, coupon or self-locking seal, or who attaches said permit or self-locking seal to more than 1 deer, or who buys or sells or attaches such permit or seal to any deer or any part thereof not killed by a member of his party organized as required by this act, or who shall violate any of the provisions of sections 29 and 30 of this chapter, shall be deemed to have committed a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than 50 dollars nor more than 100 dollars and costs of prosecution, or by imprisonment in the county jail for a period of not less than 30 days or more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6259;—CL 1948, 314.31.

LICENSE TO TRAP.

314.32 License to trap; offenses relating to issuance and use, exception; non-residents.

Sec. 32. It shall be unlawful for any person:

(a) To make use of any kind of a trap for the purpose of trapping any of the wild animals in this state without first having procured a license therefor in accordance with the provisions of this act;

(b) To obtain a trapping license by fraud or false statement, or use or attempt to use any such license so procured, or to loan or permit another to use his license or to use the trapping license of another or to alter any trapping license in any way, or to affix to any trapping license a date other than the date upon which it was issued, or to purchase more than 1 trapping license for any 1 trapping season, except as otherwise provided for in this act: Provided, however, That, except for the trapping of beaver and

otter, the owner or lessee or his minor children shall not be required to obtain a license to trap on enclosed farm lands on which he is regularly domiciled;

(c) Who is not a resident of this state to procure a license to trap.

HISTORY: CL 1929, 6260;—Am. 1937, p. 679, Act 333, Eff. Oct. 29;—Am. 1941, p. 739, Act 371, Eff. Jan. 10, 1942;—Am. 1945, p. 402, Act 266, Eff. Sep. 6;—Am. 1947, p. 566, Act 326, Eff. Oct. 11;—CL 1948, 314.32;—Am. 1949, p. 626, Act 305, Imd. Eff. Jun. 16;—Am. 1957, p. 263, Act 207, Eff. Sep. 27.

Sec. 33.

HISTORY: CL 1929, 6261;—Rep. 1937, p. 680, Act 333, Eff. Oct. 29.

This section provided contents and fee for application for license to trap muskrats.

314.34 License to trap; fees for residents; sealing fee for beaver or otter.

Sec. 34. It shall be the duty of any person authorized to issue licenses, when application is made by any person for a license to trap, to issue such license to a resident of this state only upon payment by the applicant of the following fees: To trap fur-bearing animals, except beaver and/or otter, \$3.00; to trap beaver and/or otter \$2.00, plus a fee of \$1.00 for sealing each beaver and otter pelt taken under such license.

HISTORY: CL 1929, 6262;—Am. 1931, p. 561, Act 325, Eff. Sep. 18;—Am. 1935, p. 175, Act 109, Imd. Eff. May 28;—Am. 1937, p. 679, Act 333, Eff. Oct. 29;—Am. 1945, p. 402, Act 266, Eff. Sep. 6;—Am. 1947, p. 566, Act 326, Eff. Oct. 11;—CL 1948, 314.34;—Am. 1952, p. 421, Act 252, Eff. Sep. 18;—Am. 1957, p. 435, Act 295, Eff. Sep. 27.

314.35 License to trap; contents.

Sec. 35. The director of conservation shall have prepared a printed or written license setting forth the date of issuing the same, the name and residence of the person to whom issued, and the date on which it will expire.

HISTORY: CL 1929, 6263;—Am. 1937, p. 680, Act 333, Eff. Oct. 29;—Am. 1947, p. 566, Act 326, Eff. Oct. 11;—CL 1948, 314.35.

314.35a License to trap; new license, affidavit of loss, fee.

Sec. 35a. In case a person lose his license he may procure a new license by filing an affidavit of loss and paying an additional fee of 50 cents for same.

HISTORY: Add. 1937, p. 680, Act 333, Eff. Oct. 29;—CL 1948, 314.35a.

314.35b License to trap; button, display.

Sec. 35b. There may be issued with each license a license button or insignia bearing the license number, and no person shall trap any of the wild animals or wild birds permitted to be taken under this license in this state unless the button or insignia, if issued, be at such time continually displayed on the outer garment of such person in such a manner that the license figures are plainly visible and legible. Any person of whom a trapping license is required, while trapping, or while in possession of traps in any area frequented by wild birds and wild animals, shall carry the license on his person and shall exhibit it forthwith upon demand of any conservation officer or other peace officer of this state.

HISTORY: Add. 1937, p. 680, Act 333, Eff. Oct. 29;—CL 1948, 314.35b;—Am. 1957, p. 264, Act 207, Eff. Sep. 27.

314.36 License to trap; receipts from fees; remittance to director of conservation, date; credited to general game and fish protection fund.

Sec. 36. All persons authorized to sell licenses to trap as herein provided, shall remit to the director of conservation on the fifteenth day of February all moneys received from the sale of trapping licenses together with all unused licenses and used stubs, with a report of the number issued, and amount of money received. As soon as practicable after the receipts of such moneys the director of conservation shall pay over to the auditor general all moneys received from the sale of such licenses to be by him credited to the game and fish protection fund.

HISTORY: CL 1929, 6264;—Am. 1931, p. 561, Act 325, Eff. Sept. 18;—Am. 1937, p. 680, Act 333, Eff. Oct. 29;—CL 1948, 314.36.

314.37 Violation of muskrat provisions; penalty.

Sec. 37. Any person violating any of the provisions of sections 32 to 36, both inclusive, of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00 and costs of prosecution,

or by imprisonment in the county jail for a period not exceeding 90 days or both such fine and imprisonment in the discretion of the court, and the license granted hereunder may be revoked and surrendered.

HISTORY: CL 1929, 6265;—Am. 1939, p. 808, Act 335, Eff. Sept. 29;—CL 1948, 314.37.

PERMITS TO TAKE PROTECTED ANIMALS AND BIRDS.

314.38 Special permits; purpose; fees; disposition.

Sec. 38. (1) The director of conservation is authorized to issue, under such rules as the conservation commission may approve, the following special permits to cover the taking and possession of birds and animals otherwise protected by this act:

(a) To prevent or control, by shooting, trapping or otherwise, the depredations of birds and animals. In emergency cases carnivorous animals may be killed or taken by the owner of property or his authorized agent, without a permit, when his property is being damaged by any such animal; but such killing or capture shall be considered unlawful unless all animals killed or taken under this provision are disposed of only as directed by the director of conservation. Nothing herein contained shall be construed as authorizing the taking or attempted taking of bear by traps except under permit issued by the said director of conservation. Permits to take destructive animals shall be issued without charge. Nurserymen and fruit growers may own and use ferrets in the protection of their property against rabbits.

(b) To authorize the collection, possession, transportation and disposition of wild animals and birds, or parts thereof, for scientific purposes. A fee of \$1.00 shall be collected for such permits, but the fee may be waived in the case of persons regularly affiliated with educational or research institutions.

(c) To authorize commercial taxidermists to have in possession during the closed seasons thereon, protected birds and animals or parts thereof, when those specimens have been legally taken. No taxidermist shall mount or have in possession for such purpose any bird or animal or part thereof, protected by this act, which was not lawfully killed during the open season, raised under authority of a breeder's license, or lawfully imported from without the state, unless the owner thereof presents a permit from the director of conservation. It is unlawful for any person to solicit for any taxidermist business or conduct a taxidermist business by preparing or mounting any skins or dead bodies of any birds or animals, or any part thereof, for a fee, without first obtaining a taxidermy license. Such business shall be conducted only at the location described in the taxidermy license. A fee of \$15.00 shall be collected for this license which shall expire on June 30 of the year following the year of issue.

(d) To authorize the possession of protected birds and animals for pets, decoys or other noncommercial purposes. A fee of \$7.50 shall be collected for each such permit.

(e) To permit the importation of live wild birds and animals into the state. A fee of \$5.00 shall be collected for each such permit.

(f) To authorize the taking of wild waterfowl or their eggs for propagating purposes. A fee of \$5.00 shall be collected for each such permit.

(2) All moneys received from the sale of permits and licenses as herein provided shall be turned over to the state treasurer and credited to the game and fish protection fund.

HISTORY: CL 1929, 6266;—Am. 1947, p. 568, Act 326, Eff. Oct. 11;—CL 1948, 314.38;—Am. 1952, p. 421, Act 252, Eff. Sep. 18;—Am. 1967, p. 144, Act 115, Eff. Nov. 2;—Am. 1970, p. 480, Act 146, Imd. Eff. Aug. 1.

314.39 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section provided for filing with director of conservation of applications for licenses by persons previously convicted of violation of state game laws.

314.39a Report by licensee of animals and birds taken.

Sec. 39a. The conservation commission, in its discretion, may require each licensed hunter and trapper in this state to make a report to the director of conservation of the number and kinds of game animals, game birds and fur-bearing animals taken during their respective open seasons by the licensee.

HISTORY: Add. 1937, p. 680, Act 333, Eff. Oct. 29;—CL 1948, 314.39a;—Am. 1957, p. 264, Act 207, Eff. Sep. 27.

314.40 Monthly sales receipts; accounting; forfeiture of selling rights and fees.

Sec. 40. On or before the tenth day of every month all persons authorized to sell licenses as herein provided, shall pay over to the director of conservation all moneys received from the sale of said licenses, for the preceding month, and all persons who shall refuse or neglect to pay over the said moneys as herein provided, shall, in addition to other penalties provided by law, forfeit their right to sell licenses and shall forfeit their right to retain any fees from the sale of such licenses since the date of last settlement.

HISTORY: CL 1929, 6268;—CL 1948, 314.40.

314.41 Confiscation of property used in violation of law.

Sec. 41. Upon the conviction of any person of the violation of the provisions of this act, all guns, traps, headlights or hunting appliances or apparatus or motor vehicles of any kind, which may have been used in connection with such violation in taking or transporting animals or birds in violation of law, and any loaded gun found in any motor vehicle in violation of this act, which has been seized shall be returned to the defendant or turned over to the director of conservation upon the recommendation of the prosecuting attorney and the order of the court, to be disposed of by him as provided by law for the confiscation of property found in use or possession in violation of the game and fish laws of this state: Provided, That all wild animals or birds or parts thereof may be transported when properly identified by an official confiscation tag which shall be designated by the director of conservation. Any person who shall fraudulently use an official confiscation tag shall be guilty of a misdemeanor and shall be punished as provided in section 42 of this act.

HISTORY: CL 1929, 6269;—Am. 1941, p. 729, Act 371, Eff. Jan. 10, 1942;—Am. 1947, p. 569, Act 326, Eff. Oct. 11;—CL 1948, 314.41.

314.42 Violation of act; penalty.

Sec. 42. Any person violating any of the provisions of this act for which no penalty is otherwise provided shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than 100 dollars and costs of prosecution, or by imprisonment in the county jail for a period of not exceeding 60 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6270;—CL 1948, 314.42.

314.43 Construction of act.

Sec. 43. Nothing in this act shall be construed as prohibiting any person legally possessing a permit to take protected animals or birds, or a license to take and breed game or fur-bearing animals in captivity as provided by law, from exercising all the rights and privileges therein contained.

HISTORY: CL 1929, 6271;—CL 1948, 314.43.

CHAPTER V.—SAVING CLAUSES AND REPEALS.

- 315.1 SAVING CLAUSES AND REPEALS
 Conservation commission; rules and reg-
 ulations.
 315.2 Saving clause.

315.1 Conservation commission; rules and regulations.

Sec. 1. The conservation commission may adopt and enforce such rules and regulations, not inconsistent with law, governing the administration of this act as they may deem expedient.

HISTORY: CL 1929, 6272;—CL 1948, 315.1.

315.2 Saving clause.

Sec. 2. All suits, actions or proceedings for the violation of any law now in force, which may be started before this act takes effect, shall not be thereby abated, but may be prosecuted in the same manner and with like effect as though this act had not been passed.

HISTORY: CL 1929, 6273;—CL 1948, 315.2.

Sec. 3. (This was a severing clause section.)

HISTORY: CL 1929, 6274;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1929, 6275;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACTS REPEALED:

Public Act Number	Year of Act	Public Act Number	Year of Act
38	1895	351	1917
268	1897	82	1919
167	1909	14	1921
183	1909	63	1925
190	1911	87	1925
208	1911	306	1925
275	1911	366	1925
106	1913	324	1927
207	1915		

The following acts listed in the above repeals also appear in Act 309 of 1929, being CL 1929, 121: Act 38 of 1895, Act 268 of 1897, Act 190 of 1911, Act 275 of 1911 and Act 207 of 1915.

Act 366 of 1925, above repealed, superseded Acts 117 of 1921 and 267 of 1923.

CHAPTER 317. CONSERVATION—GAME, MISCELLANEOUS

FURS, HIDES AND PELTS

Act 308 of 1929

- 317.1 Dealers in furs, hides, plumage or pelts; licenses, fees; beaver trapping; conservation commission, designation of nonsaleable plumage and skin.
- 317.2 Fur dealer's license; forms and blanks; term; revocation; re-licensing.
- 317.3 Shipping permits; contents; label, confiscation.
- 317.4 Report of pelts on hand on last day of season.
- 317.5 Monthly reports.
- 317.6 Receipts; disposition.
- 317.7 Violation of act; penalty.

FOXES IN CAPTIVITY

Act 103 of 1941

- 317.21 Foxes in captivity considered domestic animals; protection, exceptions.
- 317.22 Brand; registration by owner; prima facie evidence of ownership.
- 317.23 Acts prohibited; trespass on premises; trapping, injuring or disturbing fox.
- 317.24 Violation of act; penalty.
- 317.25 Repeal; saving clause.

MINK FARMS

Act 192 of 1941

- 317.41-317.50 Repealed.
- Act 189 of 1955
- 317.51 Repeal; domestic mink farm act.
- 317.52 Construction of repeal.

PRIVATE BREEDING GROUNDS

Act 85 of 1915

- 317.61 Private breeding grounds of fur-bearing animals; approach or entry.
- 317.62 Breeding grounds; forcible entry.
- 317.63 Dogs; permissible killing.
- 317.64 Violation of act; penalty.

BREEDERS AND DEALERS

Act 191 of 1929

- 317.71 Game breeders; license; requirements; expiration.
- 317.72 Game breeders license; requirement; exemptions.
- 317.73 Game breeders license; fees.
- 317.74 Licensee; privileges.
- 317.75 Enclosures; housing arrangements.
- 317.76 Purchase from state of animals on licensed lands.
- 317.77 Game covered by license; manner of taking or killing.
- 317.78 Game; removal from premises, marking; exception.
- 317.79 Repealed.
- 317.80 Director of conservation; reports, rules and regulations.
- 317.81 Protected game; property of state.
- 317.82 Receipts; disposition.
- 317.83 License; suspension or revocation.
- 317.84 Violation of act; penalty.
- 317.85 Repealed.

UPLAND GAME BIRDS

Act 249 of 1929

- 317.101-317.109 Repealed.

PROTECTION IN VICINITY OF CITY PARK

Act 408 of 1919

- 317.121 City parks; hunting certain animals and birds in vicinity prohibited.
- 317.122 Violation of act; penalty.

SNOWY HERON AND AMERICAN EGRET

Act 22 of 1913

- 317.131 Heron and egret; protection.
- 317.132 Violation of act; penalty.
- 317.133 Prosecutions; time limit.

HOMING PIGEONS

Act 269 of 1925

- 317.141 Homing pigeons; acts prohibited.
- 317.142 Homing pigeons; devices used against, prohibition.
- 317.143 Violation of act; penalty.

FERRETS AND FITCHEWS

Act 277 of 1927

- 317.151 Unlawful use of ferrets or fitchew; exceptions; rabbits; catching, transporting; rat catcher's permit.
- 317.152 Violation of act; penalty.

HUNTING, CONSENT OF OWNER

Act 285 of 1927

- 317.161 Farm lands and wood lots; hunting or fishing club lands; private waters; fishing, hunting, posting or enclosing without consent, prohibited; public highway, definition; possession or discharge of loaded firearm prohibited.
- 317.161a Wrongful posting of restrictions; penalty.
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317.403a Dog training areas; establishment.
 317.404 Dog training areas; boundary fence or poster, wilful mutilation, injury or destruction prohibited.

317.405 Violation of act, and rules and regulations; penalty.

Act 308, 1929, p. 818; Eff. Aug. 28.

AN ACT to license and regulate the business of buying and selling certain furs, hides and pelts; to provide a penalty for the violation of the provisions of this act, and to repeal Act No. 185 of the Public Acts of 1927.

The People of the State of Michigan enact:

317.1 Dealers in furs, hides, plumage or pelts; licenses, fees; beaver trapping; conservation commission, designation of nonsaleable plumage and skin.

Sec. 1. (1) No person, firm or corporation either for his or its own account or as agent of another, shall engage in the business of buying, selling, dealing or the tanning and dressing of raw furs, hides or pelts of beaver, otter, fisher, marten, muskrat, mink, skunk, raccoon, opossum, wolf, lynx, bobcat, fox, weasel, coyote, badger, deer or bear and the plumage, skins or hides of protected game birds and game animals until each such person, firm or corporation shall have procured a license to do so from the director of conservation. Fees payable to the director of conservation for such license shall be as follows:

(a) For any person who engages in the business of buying and selling raw furs, hides and pelts of fur-bearing animals and the plumage, skins or hides of protected game birds and game animals the fee shall be \$10.00.

(b) Each person, firm or corporation engaged in the business of manufacturing furs, who buys raw pelts shall be considered a dealer and the fee for each such resident citizen, or agent who buys furs, shall be \$10.00, and for each nonresident the fee shall be \$50.00.

(c) The fee for any person, firm or corporation who engages in the business of custom tanning or dressing of raw furs shall pay a fee of \$5.00, but such a license shall not authorize them to buy or sell raw furs.

(2) Any person holding a fur dealer's license under this act, shall be entitled to buy furs, hides, pelts and the plumage, skins or hides, or parts thereof, of protected game birds and game animals legally taken.

(3) No person holding a fur dealer's license under this act shall be eligible to secure or hold a license to trap beaver.

(4) The conservation commission may designate the plumage and skin of those game birds and game animals which may not be bought or sold whenever it is determined such prohibition will best serve the public interest. The plumage and skins, or parts thereof, of migratory game and nongame birds may be bought and sold only in accordance with federal law or rule.

(5) For the purpose of this act, "plumage" means any part of the feathers, head, wings or tail of any bird.

HISTORY: CL 1929, 6276;—Am. 1937, p. 668, Act 332, Eff. Oct. 29;—Am. 1941, p. 96, Act 77, Eff. Jan. 10, 1942;—Am. 1943, p. 65, Act 54, Eff. Jul. 30;—CL 1948, 317.1;—Am. 1951, p. 149, Act 119, Eff. Sep. 28;—Am. 1964, p. 123, Act 128, Eff. Aug. 28;—Am. 1967, p. 198, Act 171, Eff. Nov. 2.

CITED IN OTHER SECTIONS: Sections 317.1 to 317.7 are cited in § 312.7.

317.2 Fur dealer's license; forms and blanks; term; revocation; re-licensing.

Sec. 2. The director of conservation is authorized to prepare suitable report forms and blanks covering the different kinds of licenses to be issued under the provisions of this act. All licenses issued hereunder shall be for the calendar year and shall expire on December 31 of each year. Licenses may be revoked at any time by the director of conservation for any violation of the law relating to the buying, selling or dealing in furs, hides or pelts of fur-bearing animals and the plumage, skins or hides of protected game birds and game animals. Any fraudulent practice employed in connection with the buying or selling of the furs, hides or pelts of any of the animals mentioned in this act and the plumage, skins or hides of protected game birds and game animals, or the failure to make reports required by this act, shall be sufficient grounds for the revocation of such license. Any person whose license shall have been revoked shall not secure another license except at the discretion of the director of conservation.

HISTORY: CL 1929, 6277;—CL 1948, 317.2;—Am. 1967, p. 199, Act 151, Eff. Nov. 2.

317.3 Shipping permits; contents; label, confiscation.

Sec. 3. Any dealer who desires to ship or transport out of the state any fur-bearing animals or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins or hides, or parts thereof, of protected game birds and game animals legally taken or killed in the state during the open season, shall first procure a permit from the department of conservation. The permit shall state the names of the consignee and consignor, destination and number and kinds of fur-bearing animals, or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins or hides, or parts thereof, of protected game birds and game animals that are to be shipped or transported, and said permit shall be presented to transportation company with consignment. All shippers of fur-bearing animals, or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins or hides, or parts thereof, of protected game birds and game animals are required to label all packages offered for shipment by parcel post, common carrier or otherwise, such label to be securely attached to the package, and plainly indicate the names and addresses of the consignee and consignor, and the complete contents of such package. No person or persons or the agent or employee of any common carrier, association, stage, express, railway, or transportation company, shall transport or receive for transportation or carriage, or sell or offer for sale any fur-bearing animals legally taken during the open season therefor, or the raw skins of such fur-bearing animals, or parts thereof, or the plumage, skins or hides, or parts thereof, of protected game birds and game animals except as specifically provided for by this act and all fur-bearing animals, or the raw skins of fur-bearing animals, or parts thereof, or the plumage, skins or hides, or parts thereof, of protected game birds and game animals had in possession or which have been shipped or are being transported in violation of any of the provisions of this act, shall be confiscated and disposed of as provided by law.

HISTORY: CL 1929, 6278;—Am. 1941, p. 96, Act 77, Eff. Jan. 10, 1942;—CL 1948, 317.3;—Am. 1967, p. 199, Act 151, Eff. Nov. 2.

317.4 Report of pelts on hand on last day of season.

Sec. 4. Within 10 days after the close of the respective open seasons provided by law for the taking of fur-bearing animals, game birds and game animals, each person, firm or corporation holding a license as herein provided, shall be required to make a report to the director of conservation stating the number and kinds of furs, hides or pelts of each fur-bearing animal, and the plumage, skins or hides, or parts thereof, of protected game birds and game animals in his possession on the last day of the open season for each fur-bearing animal, game bird and game animal. Said reports must be notarized and sent by registered mail.

HISTORY: CL 1929, 6279;—Am. 1941, p. 96, Act 77, Eff. Jan. 10, 1942;—CL 1948, 317.4;—Am. 1967, p. 199, Act 151, Eff. Nov. 2.

317.5 Monthly reports.

Sec. 5. On or before the tenth day of every month each person licensed to do business under the provisions of this act, shall make a report to the director of conservation on blanks to be furnished by him, stating the number and kinds of raw furs, hides or pelts of fur-bearing animals, or the plumage, skins or hides, or parts thereof, of protected game birds and game animals purchased or sold during the preceding month, and the name and address of the person from whom purchased and to whom sold. Said reports must be notarized and sent by registered mail.

HISTORY: CL 1929, 6280;—Am. 1941, p. 97, Act 77, Eff. Jan. 10, 1942;—CL 1948, 317.5;—Am. 1967, p. 300, Act 151, Eff. Nov. 2.

317.6 Receipts; disposition.

Sec. 6. All moneys received from the sale of licenses as provided in this act, shall be forwarded to the auditor general and placed to the credit of the game protection fund, and shall be used for the purpose necessary to the protection, propagation and distribution of game and fur-bearing animals as provided by law.

HISTORY: CL 1929, 6281;—CL 1948, 317.6.

317.7 Violation of act; penalty.

Sec. 7. Any person, firm or corporation by themselves or their agents, or servants who shall violate any of the provisions of this act, is guilty of a misdemeanor, and shall forfeit to the state all furs, hides and pelts of fur-bearing animals and the plumage, skins or hides, or parts thereof, of protected game birds or game animals illegally bought or held, and reimburse the state for illegal furs or illegal plumage, skins, hides, or parts thereof, of protected game birds and game animals sold. In cases in which a fine with costs is imposed, the court shall sentence the offender to be confined in the county jail until such fine and costs are paid, but for a period not exceeding the maximum jail penalty provided for this offense.

HISTORY: CL 1929, 6282;—CL 1948, 317.7;—Am. 1967, p. 300, Act 151, Eff. Nov. 2.

Sec. 8. (This was a repeal section.)

HISTORY: CL 1929, 6283;—Rep. 1945, p. 407, Act 287, Imd. Eff. May 25.
ACT REPEALED: Act 185, 1927.

Act 103, 1941, p. 126; Eff. Jan. 10, 1942.

AN ACT to classify as domestic animals for certain purposes fur-bearing animals which of their nature, in the absence of efforts for their domestication, were known as wild, whenever the same shall have been brought into or born in restraint or captivity upon farms or ranches for the purpose of cultivating or pelting their furs; to recognize and to protect property rights in such animals; to punish the violation or invasion of such property rights; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

317.21 Foxes in captivity considered domestic animals; protection, exceptions.

Sec. 1. Silver, silver-black, black and cross foxes, which of their nature, in the absence of efforts for their domestication, were known as wild, whenever the same shall have been brought into or born in restraint or captivity upon any farm or ranch for the purpose of cultivating or pelting their furs, together with their offspring and increase, are and shall be considered and classified as domestic animals for the purpose of and within the meaning of any statute or law relating generally to domestic animals, other than dogs and cats or other pets, or relating to farming or to animal husbandry or to the encouragement of agriculture, unless any such statute or law is or shall be impossi-

ble of application to such fur-bearing animals. Such fur-bearing animals, together with their offspring and increase, are and shall be the subjects of ownership, lien and all kinds of absolute and other property rights, the same as purely domestic animals, in whatever situation, location or condition such fur-bearing animals may thereafter come or be, and regardless of their remaining in or escaping from such restraint or captivity. Such fur-bearing animals shall receive the same protection of law, and in the same way and to the same extent shall be the subject of trespass or larceny as other personal property: Provided, however, That nothing herein contained shall be construed to include silver, silver-black, black, and cross foxes within the definition of "livestock," or give any person any right to recovery for damage or destruction thereof under the provisions of Act No. 339 of the Public Acts of 1919, as amended, being sections 5245 to 5257 of the Compiled Laws of 1929.

HISTORY: CL 1948, 317.21.

NOTE: Act 339, 1919, above referred to, is Compilers' §§ 287.261-287.290.

317.22 Brand; registration by owner; prima facie evidence of ownership.

Sec. 2. Any owner or prospective owner of such fur-bearing animals in restraint or captivity shall be entitled from time to time, by written subscribed statement, to adopt distinctive brands or tattoo marks, not including Arabic numerals and not already in known use by others, for any of such fur-bearing animals, and to have such distinctive identifying brands or tattoo marks recorded in his name in the office of the commissioner of agriculture of the state of Michigan, upon paying a recording fee of \$1.00 for each such brand or for each such tattoo mark: Provided, That all fees received by the department of agriculture, as herein provided, shall be retained by said department and used to defray the expenses of administering this act. Such statements shall be recorded in a suitable book to be kept therefor in said office. The presence of such recorded brand or recorded tattoo marks upon any such fur-bearing animal shall be prima facie evidence of the ownership of such animal in the person, persons, partnerships, association or corporation in whose name such brand or tattoo mark is so recorded, subject always to his, their or its right to make due transfer of title, right or interest in, or lien upon such animal.

HISTORY: CL 1948, 317.22.

317.23 Acts prohibited; trespass on premises; trapping, injuring or disturbing fox.

Sec. 3. No person, without the permission of the owner of any such privately owned fur-bearing animal, shall enter the enclosure within which any such privately owned fur-bearing animal is kept for preservation, culture, breeding or growing, or trespass on private ground adjoining such enclosure and shall there knowingly annoy or disturb said animals; and no person shall knowingly and willfully kill, trap or injure any fur-bearing animal owned by another person without the consent of the owner: Provided, That any duly authorized peace or conservation officer may enter upon such premises in the performance of his regular duties.

HISTORY: CL 1948, 317.23.

317.24 Violation of act; penalty.

Sec. 4. Any person who violates the terms of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than 90 days, or by both fine and imprisonment, in the discretion of the court.

HISTORY: CL 1948, 317.24.

317.25 Repeal; saving clause.

Sec. 5. All acts or portions of acts in conflict herewith are hereby repealed: Provided, That this repeal shall not affect any cause or action or proceeding under the existing law at the date this repeal becomes effective.

HISTORY: CL 1948, 317.25.

Sec. 6. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 26.

317.41-317.50 Repealed. 1955, p. 287, Act 189, Eff. Oct. 14.

Sections provided for licensing and regulation of domestic mink farms and prescribed powers and duties of state department of agriculture thereto.

Act 189, 1955, p. 287; Eff. Oct. 14.

AN ACT to repeal Act No. 192 of the Public Acts of 1941, entitled as amended "An act to license and regulate domestic mink farms, and to prescribe the powers and duties of the state department of agriculture with respect thereto," as amended, being sections 317.41 to 317.50, inclusive, of the Compiled Laws of 1948.

The People of the State of Michigan enact:

317.51 Repeal; domestic mink farm act.

Sec. 1. Act No. 192 of the Public Acts of 1941, as amended, being sections 317.41 to 317.50, inclusive, of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1955, p. 287, Act 189, Eff. Oct. 14.

317.52 Construction of repeal.

Sec. 2. The repeal of said Act No. 192 of the Public Acts of 1941 is predicated upon the determination by the legislature that the breeding, raising and producing in captivity, and the marketing, by the producer, of mink as live animals or as animal pelts or carcasses, shall be deemed an agricultural pursuit, and all such animals so raised in captivity shall be deemed domestic animals, subject to all the laws of the state with reference to possession, ownership and taxation as are at any time applicable to domestic animals, and all persons engaged in the foregoing activities are farmers and engaged in farming for all statutory purposes. The repeal of said Act No. 192 of the Public Acts of 1941 shall not be construed to place domestic mink farms under the provisions of Act No. 191 of the Public Acts of 1929, being sections 317.71 to 317.85, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1955, p. 287, Act 189, Eff. Oct. 14.

Act 85, 1915, p. 150; Eff. Aug. 24.

AN ACT to provide for the protection from disturbance of fur-bearing animals kept in captivity for breeding purposes and prescribing penalties for violations.

The People of the State of Michigan enact:

317.61 Private breeding grounds of fur-bearing animals; approach or entry.

Sec. 1. Any person or persons who, without the consent of the owner or caretaker of a ranch or enclosure where fur-bearing animals are kept in captivity for breeding purposes, shall approach or enter upon the private grounds of the owner or owners of the said animals within which the pens or dens of the said animals are located, and upon the fence or enclosure of which notices forbidding trespassing on the said premises are

kept posted, so as to be plainly discernible at distance of not less than 25 yards, shall be guilty of an offense and liable to the penalty hereinafter provided.

HISTORY: CL 1915, 7506;—CL 1929, 6287;—CL 1948, 317.61.

317.62 Breeding grounds; forcible entry.

Sec. 2. Any person or persons who at any time hereafter, in any part of the state of Michigan, without the consent of the owner or caretaker of any enclosure within which fur-bearing animals are kept for breeding purposes, and on the fence of which enclosure are kept posted notices forbidding trespassing on the premises where the said animals are kept, and plainly discernible at a distance of not less than 25 yards therefrom, shall pass within the said fence or such enclosure or climb over, break or cut through the same for the purposes of entering the said enclosure, or for any other purpose whatsoever, shall be guilty of an offense and liable to the penalty hereinafter provided.

HISTORY: CL 1915, 7507;—CL 1929, 6288;—CL 1948, 317.62.

317.63 Dogs; permissible killing.

Sec. 3. Any owner or caretaker may kill any dog found wandering within 40 feet of any enclosure in which fur-bearing animals are kept, and there giving tongue or otherwise terrifying such animals: Provided, That the dog so killed is neither muzzled nor accompanied by the owner or by a person having charge or care of such dog.

HISTORY: CL 1915, 7508;—CL 1929, 6289;—CL 1948, 317.63.

317.64 Violation of act; penalty.

Sec. 4. Any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than 100 dollars, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 7509;—CL 1929, 6290;—CL 1948, 317.64.

Act 191, 1929, p. 506; Imd. Eff. May 20.

AN ACT to license and regulate the possession, propagation, purchase, sale, transportation and use of wild birds and animals held or raised in captivity or imported into the state; and to provide penalties for violation of this act. Am. 1970, p. 477, Act 145, Imd. Eff. Aug. 1.

The People of the State of Michigan enact:

317.71 Game breeders; license; requirements; expiration.

Sec. 1. The director of conservation is authorized to issue licenses to cover the possession for propagation and the dealing in protected game birds and game and fur-bearing animals and the selling thereof. No such license or licenses may be granted to any applicant who is not the owner or lessee of the premises to be used for the purposes covered by such licenses. All such licenses shall be nontransferable and shall be valid from July 1 through June 30 of the next year, except that the 1969 license shall be valid through June 1970.

HISTORY: CL 1929, 6167;—CL 1948, 317.71;—Am. 1970, p. 477, Act 145, Imd. Eff. Aug. 1.

CITED IN OTHER SECTIONS: Sections 317.71 to 317.85 are cited in §§ 287.261, 317.52, and 317.303.

317.72 Game breeders license; requirement; exemptions.

Sec. 2. It shall be unlawful for any person to maintain in captivity or to propagate or sell any protected game birds or any game or fur-bearing animals, except as otherwise provided by law, unless he shall first secure a game breeder's license. Public zoological parks shall not be required to secure such licenses. These licenses shall not be required

of purchasers of any products sold under such licenses when such purchases are for personal use only and not for resale.

HISTORY: CL 1929, 6166;—CL 1948, 317.72;—Am. 1970, p. 477, Act 145, Imd. Eff. Aug. 1.

317.73 Game breeders license; fees.

Sec. 3. The fee for such propagation or breeders' licenses shall be determined by the director of conservation as follows:

(a) When it is practicable to count the stock, the fee shall be \$15.00 for a total number of birds and animals not exceeding 500, and an additional fee of \$5.00 for each additional 500 individuals or fractional number thereof.

(b) When it is impracticable to count the stock the fee shall be \$15.00 for 40 acres or less which is to be used for such propagation purposes, and \$5.00 for each additional 40 acres or fraction thereof.

(c) When the area to be licensed involves a combination of (a) and (b) the fee to be collected shall be the larger one that can be charged for either (a) or (b).

(d) The maximum fee for any single licensed area shall not exceed \$50.00.

HISTORY: CL 1929, 6166;—CL 1948, 317.73;—Am. 1970, p. 477, Act 145, Imd. Eff. Aug. 1.

317.74 Licensee; privileges.

Sec. 4. Any person who has secured a license to propagate protected birds or animals, may possess, propagate, use, buy, sell, trap, kill, consume, ship or transport any or all of the birds or animals designated in such license, also their increase, products, carcasses, pelts or other parts thereof, as hereinafter provided.

HISTORY: CL 1929, 6170;—CL 1948, 317.74;—Am. 1970, p. 477, Act 145, Imd. Eff. Aug. 1.

317.75 Enclosures; housing arrangements.

Sec. 5. All islands, enclosures and pens used for propagation purposes shall be of such character and location as the director of conservation shall accept as satisfactory to keep in complete and continuous captivity the birds and animals covered by the license, and so constructed as to prevent the entrance of wild individuals of these species: Provided, however, That pinioned or wing-clipped birds may be kept in unroofed enclosures.

HISTORY: CL 1929, 6171;—CL 1948, 317.75.

317.76 Purchase from state of animals on licensed lands.

Sec. 6. When wild, state-owned game animals or fur-bearing animals are present on given land which is to be covered by a license under this act, the applicant may secure title to such animals by purchase from the state as hereinafter provided. The price to be paid for such animals shall be fixed by the director of conservation subject to the approval of the conservation commission, but such prices shall not exceed the market value of such animals for breeding purposes.

HISTORY: CL 1929, 6172;—CL 1948, 317.76.

317.77 Game covered by license; manner of taking or killing.

Sec. 7. Game birds and game and fur-bearing animals covered by such licenses may be taken or killed in any manner and at any time, except that such licensed game birds may not be shot, except that in special situations the commission may adopt rules under which such shooting is permissible.

HISTORY: CL 1929, 6173;—CL 1948, 317.77;—Am. 1970, p. 478, Act 145, Imd. Eff. Aug. 1.

317.78 Game; removal from premises, marking; exception.

Sec. 8. Any such birds or animals, and their parts or products, may be removed from licensed premises only when identified as designated by the commission. Such identification may be by bill of sale, invoice, or seals, tags, bands, or appropriate stampmark affixed to carcasses and their parts or to wrappers, crates or other containers. Such tags and seals as are required shall be provided to the licensee by the director at rea-

sonable cost. The use of such seals, bands and tags shall not be required on consignments of birds or animals sent to the department of conservation or to other state institutions to be used for scientific purposes.

HISTORY: CL 1929, 6174;—CL 1948, 317.78;—Am. 1970, p. 478, Act 145, Imd. Eff. Aug. 1.

317.79 Repealed. 1970, p. 478, Act 145, Imd. Eff. Aug. 1.

Section provided for license to sell or serve game birds and animals for food.

317.80 Director of conservation; reports, rules and regulations.

Sec. 10. The director of conservation, with the approval of the conservation commission, is hereby authorized to require such reports and to establish such rules and regulations as may be deemed necessary in order to protect the public interest and for the proper administration of this act.

HISTORY: CL 1929, 6176;—CL 1948, 317.80.

317.81 Protected game; property of state.

Sec. 11. Protected game birds and game and fur-bearing animals which are released or which escape from licensed premises shall become the property of the state.

HISTORY: CL 1929, 6177;—CL 1948, 317.81.

317.82 Receipts; disposition.

Sec. 12. All moneys received from the sale of such licenses under this act shall be credited to the game protection fund.

HISTORY: CL 1929, 6178;—CL 1948, 317.82.

317.83 License; suspension or revocation.

Sec. 13. Any license issued under this act may be suspended or revoked after a hearing upon reasonable notice, when any operations under it fail to comply with the requirements of this act; or when a licensee fails to provide accurate reports and records within reasonable time limits as designated by the commission; and whenever any licensee under this act shall be convicted of a violation of the game or fur laws of the state, his license may be revoked or its renewal denied and the birds or animals held under his license may then be disposed of only in a manner approved by the director of conservation.

HISTORY: CL 1929, 6179;—CL 1948, 317.83;—Am. 1970, p. 478, Act 145, Imd. Eff. Aug. 1.

317.84 Violation of act; penalty.

Sec. 14. Any person violating any of the provisions of this act or any of the rules or regulations issued thereunder, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than 100 dollars or by imprisonment in the county jail for a period of not to exceed 90 days, or by both fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6180;—CL 1948, 317.84.

317.85 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section provided for effective date.

Sec. 16. (This was a repeal section.)

HISTORY: CL 1929, 6182;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 311, 1917, insofar as inconsistent, but see Compilers' § 317.41 et seq. repealing said act; and Act 270, 1919.

317.101-317.109 Repealed. 1957, p. 154, Act 134, Eff. Sep. 27.

Sections provided for licensing propagation, release, shooting, possession and use of upland game birds and for establishment of shooting preserves and regulation thereof.

Act 406, 1919, p. 728; Eff. Aug. 14.

AN ACT to protect deer, moose, elk, caribou, badger, beaver, muskrat, pheasant, grouse, partridge and swan in and within 2 miles from any public park belonging to any city and containing over 200 acres of which 150 acres or more is woodland.

The People of the State of Michigan enact:

317.121 City parks; hunting certain animals and birds in vicinity prohibited.

Sec. 1. No person shall hunt for, pursue, trap, capture, kill or destroy by any means whatever, or attempt to trap, capture, kill or destroy by any means whatever, any animal commonly known as deer, moose, elk, caribou, badger, beaver or muskrat, or any bird commonly known as pheasant, grouse, partridge or swan, in or within 2 miles from any public park belonging to any city and containing over 200 acres of which 150 acres or more is woodland: Provided, This section shall not apply to any act done in any public park by the superintendent, keeper or custodian thereof.

HISTORY: CL 1929, 6291;—CL 1948, 317.121.

PUBLIC PARK: Hunting prohibited, see Compilers' § 317.161.

317.122 Violation of act; penalty.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than 100 dollars, or by imprisonment in the county jail not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6292;—CL 1948, 317.122.

Act 22, 1913, p. 35; Eff. Aug. 14.

AN ACT to provide for the protection and forbid the sale of the plumes and feathers of the birds known as the snowy heron and American egret.

The People of the State of Michigan enact:

317.131 Heron and egret; protection.

Sec. 1. The species of birds scientifically described as the egretta candidissima, commonly known as the snowy heron; and the Herodias egretta, commonly known as the American egret, shall be absolutely protected in the state of Michigan and the killing of said birds and the purchase and sale of the plumes or feathers of said birds is hereby forbidden in this state.

HISTORY: CL 1929, 6293;—CL 1948, 317.131.

317.132 Violation of act; penalty.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than 10 dollars and not more than 50 dollars and the costs of prosecution, and in default of payment thereof shall be confined in the county jail until such fine and costs have been paid: Provided, That such confinement shall not exceed 30 days.

HISTORY: CL 1929, 6294;—CL 1948, 317.132.

317.133 Prosecutions; time limit.

Sec. 3. All prosecutions under the provisions of this act shall be commenced within 1 year from the time such offense was committed.

HISTORY: CL 1929, 6295;—CL 1948, 317.133.

Act 269, 1925, p. 385; Eff. Aug. 27.

AN ACT to provide for the protection of homing pigeons, and to provide a penalty for the violation of any of the provisions of this act.

The People of the State of Michigan enact:

317.141 Homing pigeons; acts prohibited.

Sec. 1. No person or persons shall at any time of the year or in any manner, hunt, take, pursue, capture, wound, kill, maim or disfigure the homing pigeons of another.

HISTORY: CL 1929, 6296;—CL 1948, 317.141.

317.142 Homing pigeons; devices used against, prohibition.

Sec. 2. No person or persons shall at any time make use of any pit, pitfalls, deadfall, scaffold, cage, snarl, trap, net, baited hook, or any similar device, or any drug poison, chemical or explosive for the purpose of injuring, capturing or killing any homing pigeons of another.

HISTORY: CL 1929, 6297;—CL 1948, 317.142.

317.143 Violation of act; penalty.

Sec. 3. Any person who shall violate any of the provisions of this act, upon conviction of a first offense shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than 25 dollars nor more than 100 dollars together with cost of prosecution, or by imprisonment in the county jail or Detroit house of correction for not more than 90 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6296;—CL 1948, 317.143.

Act 277, 1927, p. 523; Eff. Sep. 5.

AN ACT to regulate the propagation, importation, sale, transportation and possession of ferrets or fitchew, providing for issuing of licenses and permits pertaining thereto; prescribing a penalty for the violation and repealing all acts and parts of acts inconsistent with or contravening any of the provisions of this act. Am. 1933, p. 147, Act 108, Imd. Eff. Jun. 10;—Am. 1937, p. 364, Act 233, Eff. Oct. 29.

The People of the State of Michigan enact:

317.151 Unlawful use of ferrets or fitchew; exceptions; rabbits; catching, transporting; rat catcher's permit.

Sec. 1. It shall be unlawful for any person or persons except as otherwise herein provided to have a ferret, ferrets or fitchew in their possession at any time: Provided, That the department of conservation may keep or raise ferrets or fitchew at the Michigan state game farm for the purpose of ridding certain sections of fruit growing territory from rabbits and other rodents: Provided further, That the department of conservation on the application of any citizen who is a responsible free holder of this state and the payment to said department of a license fee of 10 dollars may issue to such applicant a license to propagate, import, sell, transport and possess ferrets or fitchew to be delivered to any person or persons who have obtained a permit from the department of conservation to own and use a ferret, ferrets or fitchew for the purposes hereinafter enumerated. The department of conservation shall grant a permit to any person or persons to own and use a ferret or fitchew upon proper showing of such person or persons that they have or are suffering damage to nursery stock or fruit trees on their premises from rabbits or to those persons or person who are suffering damage from rats to their farm products, farm property, poultry or buildings, or to merchants who are suffering damage from rats to their stock of merchandise or to storage companies who are suffering damage to their goods in storage. After the department of conservation has granted a permit to any of these persons suffering damages, it shall be lawful for the licensed propagator and dealer in ferrets or fitchew to make delivery to

those persons holding such permits. If rabbits shall be taken by a member of the department of conservation under orders of the department therefor in any of the districts hereinbefore mentioned and set forth, then in that event such rabbits shall be caught alive in bags or nets and then transported to other sections of the county where taken and released for breeding purposes: Provided further, That whenever it shall appear to the director of conservation upon the application and affidavit of any person that he is engaged in the business of catching rats, said director of conservation may issue to said professional rat catcher a permit to transport and possess ferrets or fitchew for the purpose of catching rats upon the filing of a bond by said applicant. Said application and bond shall be in form and amounts prescribed by said director of conservation.

HISTORY: CL 1929, 6299;—Am. 1933, p. 147, Act 108, Imd. Eff. June 10;—Am. 1937, p. 364, Act 233, Eff. Oct. 29;—CL 1948, 317.151.

317.152 Violation of act; penalty.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than 5 dollars nor more than 25 dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed for not less than 10 days nor more than 20 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6300;—CL 1948, 317.152.

NOTE: The repealing clause in the title was not carried over into the body of the act.

Act 285, 1927, p. 536; Eff. Sep. 5.

AN ACT to regulate trespass upon any lands or within the limits of the right of way of any public highway adjoining or abutting upon such lands, and to prohibit the posting or enclosing of lands except by the owner or lessee of lands or by his authorized agents. Am. 1931, p. 243-4, Act 161, Eff. Sep. 18;—Am. 1941, p. 202, Act 155, Eff. Jan. 10, 1942;—Am. 1956, p. 173, Act 85, Imd. Eff. Apr. 5;—Am. 1969, p. 328, Act 164, Eff. Mar. 20, 1970.

The People of the State of Michigan enact:

317.161 Farm lands and wood lots; hunting or fishing club lands; private waters; fishing, hunting, posting or enclosing without consent, prohibited; public highway, definition; possession or discharge of loaded firearm prohibited.

Sec. 1. A person shall not fish in any private lake, pond or stream nor hunt with firearms or dogs, or in any other manner, upon any farm lands or farm wood lots connected therewith or within the enclosed and conspicuously posted lands of any hunting or fishing club without the consent of the owner or lessee of such lands. No person shall, without due authority for posting or enclosing from the owner or lessee of any lands in this state, erect posters or enclose lands so as to prohibit the public enjoyment of hunting, trapping, fishing or other recreational activities on said lands. No hunter shall possess a loaded firearm or discharge same within the right of way of any public highway adjoining or abutting upon any lands without the consent of the owner or lessee of such abutting lands. The term "public highway" as used in this act shall be deemed to be any road or highway under the jurisdiction of the state highway department or the road commission of any county.

HISTORY: CL 1929, 6301;—Am. 1931, p. 243, Act 161, Eff. Sep. 18;—Am. 1941, p. 202, Act 155, Eff. Jan. 10, 1942;—CL 1948, 317.161;—Am. 1956, p. 173, Act 85, Imd. Eff. Apr. 5;—Am. 1969, p. 328, Act 164, Eff. Mar. 20, 1970.

CITY PARKS: Hunting, see Compilers' § 317.121.

317.161a Wrongful posting of restrictions; penalty.

Sec. 1a. Any person who, knowingly has no legal right to do so, posts or causes to be posted, signs or notices restricting or purporting to restrict or prohibit hunting, fishing or trespassing on any lands, public or private, shall be guilty of a misdemeanor.

HISTORY: Add. 1965, p. 433, Act 254, Eff. May 31, 1966.

317.161b Hunting without landowner's or lessee's consent; prerequisites to prohibition.

Sec. 1b. A person shall not knowingly enter in or remain upon any lands of another for the purpose of hunting in any manner without the consent of the owner or lessee of the lands under any of the following conditions:

(a) The lands are fenced or enclosed in a manner to exclude intruders.

(b) Notice to stay off or leave is personally communicated to him by the owner or lessee of the lands or some other authorized person.

(c) Notice against trespass is given by posting in a conspicuous manner.

HISTORY: Add. 1969, p. 328, Act 164, Eff. Mar. 20, 1970.

317.161c Operation of snowmobile on lands of another; prerequisites to prohibition.

Sec. 1c. While operating a snowmobile, a person shall not enter in or remain upon premises under any of the following conditions:

(a) The premises are enclosed in a manner so designed to exclude intruders.

(b) The premises are fenced.

(c) The premises are posted in a conspicuous manner against entry.

(d) Notice against trespass is personally communicated to him by the owner or lessee of the land or other authorized person.

HISTORY: Add. 1969, p. 329, Act 164, Eff. Mar. 20, 1970.

317.162 Prosecutions; time limit.

Sec. 2. All prosecutions under this act shall be in the name of the people of the state, and shall be brought before a district court of competent jurisdiction in the county in which the offense was committed, and within 1 year from the time the offense charged was committed.

HISTORY: CL 1929, 6302;—CL 1948, 317.162;—Am. 1969, p. 329, Act 164, Eff. Mar. 20, 1970.

317.163 Enforcement of act; duty of prosecuting attorney.

Sec. 3. All prosecuting attorneys shall enforce the provisions of this act and prosecute all persons charged with violating the provisions of this act.

HISTORY: CL 1929, 6303;—CL 1948, 317.163;—Am. 1969, p. 329, Act 164, Eff. Mar. 20, 1970.

317.164 Violation of act; penalty.

Sec. 4. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than 10 dollars nor more than 50 dollars, and may be committed to the county jail until such fine and costs of the proceedings are paid, not exceeding 30 days; and for a second or any subsequent conviction he shall be punished by a fine of not exceeding 100 dollars and in addition thereto shall be imprisoned in the county jail for a period of not more than 30 days.

HISTORY: CL 1929, 6304;—CL 1948, 317.164.

317.165 Unlawful to resist officer.

Sec. 5. It shall be unlawful for any person to resist or obstruct any officer or person empowered to make arrests under the provisions of this statute.

HISTORY: CL 1929, 6305;—CL 1948, 317.165.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1929, 6306;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 184, 1929, p. 495; Eff. Aug. 28.

AN ACT to provide for the protection and increase of desirable forms of wild life; for the establishment of wild life sanctuaries; for the maintenance and regulation thereof; to provide penalties for the violation of this act and the rules and regulations issued thereunder; and to repeal Act No. 360 of the Public Acts of 1913.

The People of the State of Michigan enact:

317.201 Wild life sanctuaries; establishment, dedication, application.

Sec. 1. The conservation commission is hereby given power to establish state wild life sanctuaries and may by appropriate resolution accept as such, privately owned lands, when the owners or lessees thereof shall file with said commission an application dedicating such lands for such purposes. The commission may accept such dedication only after it shall have determined that the application is made in good faith, that the said lands are suitable for the declared purposes, that the dedication and operation of the proposed wild life sanctuary will tend to increase the supply of desirable wild life in that vicinity and will otherwise be in the public interest. Applications shall not be approved for areas of less than 20 acres nor for more than 1,500 acres or for periods of less than 5 years.

HISTORY: CL 1929, 6113;—CL 1948, 317.201.

See note under section 10 of this act.

317.202 Wild life sanctuaries; dedication of state lands.

Sec. 2. Upon application from the agencies officially in control thereof, lands owned by the state of Michigan or by the United States may be dedicated under this act in the same manner as privately owned lands.

HISTORY: CL 1929, 6114;—CL 1948, 317.202.

317.203 Wild life sanctuaries; signs; removal on expiration of dedication.

Sec. 3. When an application for the dedication of lands as a state wild life sanctuary shall have been approved by the conservation commission, the director of conservation shall supply suitable signs or posters which the dedicator shall promptly erect and thereafter maintain in such a manner as to clearly define and mark the boundaries of such dedicated lands; and it shall be the duty of the said dedicator to remove all such signs or posters within 3 months after the expiration or termination of such dedication.

HISTORY: CL 1929, 6115;—CL 1948, 317.203.

POSTING: Of notices without authority prohibited, see Compilers' § 312.3.

317.204 Wild life sanctuaries; unlawful acts; predatory animals, birds; experiments.

Sec. 4. When lands have been so dedicated and posted as a state wild life sanctuary, the possession or carrying of firearms thereon, hunting or trapping thereon, or the killing or molestation of wild life on such lands by any person or by the owners or lessees thereof, or their agents, shall be unlawful during the period of such dedication: Provided, That the director of conservation may issue permits for the taking on any dedicated lands of predatory animals and birds and such other birds and animals as may require control or as may be appropriate in connection with experiments in wild life management or for other purposes not inconsistent with the original intent of the dedication.

HISTORY: CL 1929, 6116;—CL 1948, 317.204.

HUNTING: Regulation of in public preserves, see Act 285 of 1927, being Compilers' § 317.161 et seq.

317.205 Wild life sanctuaries; change in dedication.

Sec. 5. Dedications under this act may at any time be modified or terminated upon the application of the dedicator and approval by the conservation commission, or may be terminated without the application of the dedicator in case the commission shall determine that a given dedication has become ineffective or otherwise not in the public interest or that the dedicator has failed to erect or maintain the signs and posters provided for in section 3.

HISTORY: CL 1929, 6117;—CL 1948, 317.205.

317.206 Wild life sanctuaries; rules of conservation commission.

Sec. 6. The conservation commission is hereby given authority to issue and enforce such rules and regulations as may be needed in order to administer and accomplish the purposes of this act.

HISTORY: CL 1929, 6118;—CL 1948, 317.206.

317.207 Wild life sanctuaries; protection of wildlife.

Sec. 7. It shall be the duty of all conservation officers having the power of arrest, and of all sheriffs and other peace officers, to protect the wild life on such dedicated areas from injury or molestation and otherwise to enforce the provisions of this act.

HISTORY: CL 1929, 6119;—CL 1948, 317.207.

317.208 Violation of act; penalty.

Sec. 8. Any person who shall violate any of the provisions of this act or any of the rules and regulations issued thereunder, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than 25 dollars and not more than 100 dollars, or to imprisonment in the county jail for not more than 30 days, or to both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6120;—CL 1948, 317.208.

317.209, 317.210 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for continuation of certain game refuges.

Act 80, 1925, p. 108; Eff. Aug. 27.

AN ACT to create a district or refuge in Ingham county to be known as "Pine Lake Wild Life Sanctuary" in which it shall be unlawful to kill, catch, or destroy any wild game animals, wild game or song birds, their offspring or eggs, and to protect fish in any breeding ponds that may be constructed for that purpose and to provide a penalty for the violation thereof.

The People of the State of Michigan enact:

317.221 Pine Lake wild life sanctuary; territory.

Sec. 1. The territory situated in the county of Ingham, described as follows, to-wit: Commencing at a point on the line between the counties of Clinton and Ingham where the north and south quarter line of section 3 in township 4 north, range 1 west, intersects said county line; thence running east on said county line to a point where the north and south eighth line in the northeast quarter of section 2, township 4 north, range 1 west, intersects the county line; thence running south along said eighth line to a point where said line intersects what has heretofore been known as the right-of-way of the Michigan United Railway; thence running southwesterly along said right-of-way to a point where the right-of-way would have intersected with the road or street running east and west through the village of Haslett; thence running west along said street to where it intersects a portion of a certain improved gravel road; thence running north along said highway and the east side of what is shown on the plat of the vil-

lage of Haslett as the farm of Charles Benson, and continuing along said road until it intersects the north and south quarter line of section 3 as aforesaid; thence running north along the road and the said quarter line to the place of beginning, shall be and constitute a refuge for wild game animals and game birds known as "Pine Lake Wild Life Sanctuary."

HISTORY: CL 1929, 6123;—CL 1948, 317.221;—Am. 1955, p. 11, Act 12, Eff. Oct. 14.

PINE LAKE: This lake is now known as Lake Lansing.

317.222 Pine Lake wild life sanctuary; unlawful acts; permit to hunt carnivorous game; permit to keep certain game; supervision; prima facie evidence.

Sec. 2. It shall be unlawful for any person to hunt, trap, capture, kill or otherwise destroy any wild game animals, wild game or song birds, their young offspring or eggs in the district hereinbefore described, or to molest the homes, nests or houses of such wild game animals or wild game or song birds. A permit may be granted by the conservation commission to a person or persons to hunt carnivorous birds and animals on said premises. Nothing herein contained shall be construed to prohibit any person from keeping the animals or birds herein mentioned in captivity under a permit granted therefor by any law now in force or which may be hereinafter enacted. The state department of conservation is specifically charged with the supervision of the refuge hereby created and with the enforcement of the provisions of this act. It shall be prima facie evidence of hunting on said refuge for any person other than an officer charged with enforcing the provisions of this act to be found thereon with a loaded gun outside of his home or buildings owned or occupied by him.

HISTORY: CL 1929, 6124;—CL 1948, 317.222.

HUNTING: Regulation of in public game preserves, see Act 285 of 1927, being Compilers' § 317.161 et seq.

317.223 Pine Lake wild life sanctuary; unlawful to take fish.

Sec. 3. It shall be unlawful for any person to interfere with or destroy or take away in any manner any of the fish that are being reared in any of the ponds in said territory.

HISTORY: CL 1929, 6125;—CL 1948, 317.223.

317.224 Pine Lake wild life sanctuary; posted notices.

Sec. 4. The refuge herein established shall be posted in the manner following: A notice shall be posted on each corner of said refuge, stating which corner it is. Notices shall also be posted at reasonable distances along the boundary line of said refuge. The notices shall also state that all persons are prohibited from hunting thereon.

HISTORY: CL 1929, 6126;—CL 1948, 317.224.

NOTICES: Unauthorized posting, see Compilers' § 312.3.

317.225 Violation of act; penalty.

Sec. 5. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall upon conviction thereof be subject to a fine of not less than 25 dollars nor more than 100 dollars or imprisonment in the county jail for a period of not more than 90 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6127;—CL 1948, 317.225.

Act 368, 1927, p. 881; Imd. Eff. Jun. 2.

AN ACT to create and protect a refuge district in a designated portion of the counties of Barry and Kalamazoo, in the state of Michigan, to be known as "Gull Lake Sanctuary", in which it shall be unlawful to shoot, molest, catch, injure, destroy or kill any wild waterfowl, wild shore bird, wild game birds or any other birds, or any wild

animals except rabbits; and to provide penalties for the violation thereof. Am. 1931, p. 164, Act 102, Eff. Sep. 18;—Am. 1949, p. 124, Act 120, Eff. Sep. 23.

The People of the State of Michigan enact:

317.231 Gull Lake sanctuary; hunting prohibited; taxable property.

Sec. 1. It shall be unlawful for any person to shoot, molest, catch, injure, destroy or kill any wild waterfowl, wild shore bird, wild game birds or any other birds, or any wild animals except rabbits during the open season thereon, within, upon or above the waters of Gull Lake in either the county of Barry or the county of Kalamazoo in this state, or upon or above the territory within 80 rods from the nearest shore line of said lake in either of said counties: Provided, That this act shall not in any way operate to exempt from taxation any otherwise taxable property within the territorial limits herein described.

HISTORY: CL 1929, 6128;—Am. 1931, p. 164, Act 102, Eff. Sep. 18;—CL 1948, 317.231.

HUNTING: Regulation of in public preserves, see Act 285 of 1927, being Compilers' § 317.161 et seq.

317.232 Violation of act; arrest without warrant.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be subject to a fine of not more than \$100.00 or imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment in the discretion of the court. Any officer authorized to make arrest, including the state conservation officers, may arrest without warrant any person apprehended by them in the act of violating any of the provisions of this act.

HISTORY: CL 1929, 6129;—CL 1948, 317.232;—Am. 1949, p. 125, Act 120, Eff. Sep. 23.

Act 22, 1929, p. 46; Eff. Aug. 28.

AN ACT to create a harbor refuge at Harbor Beach, county of Huron; to protect fish and wild waterfowl therein; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

317.241 Harbor Beach refuge; creation, boundaries.

Sec. 1. There is hereby created a harbor of refuge, which shall include the entire harbor at Lake Huron at the city of Harbor Beach in Huron county and the area between 2 parallel lines extending respectively, due east from the northern and southern extremities of the main gap in said harbor for a distance of 1/2 mile and including the waters beneath and the space above all of said territory.

HISTORY: CL 1929, 6130;—CL 1948, 317.241.

317.242 Harbor Beach refuge; unlawful fishing.

Sec. 2. It shall be unlawful for any person to take, catch or kill any fish of any kind, except minnows and carp in accordance with the law, within said harbor of refuge, except by spearing or by hook and line, while held in the hand or under the immediate control of such person.

HISTORY: CL 1929, 6131;—Am. 1945, p. 80, Act 81, Eff. Sep. 6;—CL 1948, 317.242;—Am. 1957, p. 25, Act 23, Eff. Sep. 27.

317.243 Harbor Beach refuge; unlawful use of certain fishing devices.

Sec. 3. It shall be unlawful to set or use any pound, trap, stake, gill, night lines, set-net or like device of any kind within said harbor of refuge for the purpose of taking,

catching or killing of fish of any kind, except seines and dip nets for the taking of minnows and carp as permitted by law.

HISTORY: CL 1929, 8132;—CL 1948, 317.243;—Am. 1957, p. 25, Act 23, Eff. Sep. 27.

Sec. 4.

HISTORY: CL 1929, 8133;—Rep. 1945, p. 80, Act 81, Eff. Sept. 6.

This section provided that it shall be unlawful to hunt or kill waterfowl in said refuge.

317.245 Violation of act; penalty.

Sec. 5. Any person violating the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than 10 dollars, nor more than 100 dollars, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 8134;—CL 1948, 317.245.

Act 164, 1933, p. 242; Eff. Oct. 17.

AN ACT to create and protect a refuge district in the township of Battle Creek, Calhoun county, Michigan, to be known as Goguac Lake Sanctuary, in which it shall be unlawful to shoot, molest, catch, injure, destroy, or kill any wild water fowl, wild shore birds, wild game birds, or any other birds, or any wild animals; to prohibit and declare unlawful shooting in said Goguac Lake Sanctuary, except as herein specifically authorized; and to prescribe penalties for the violation thereof. Am. 1939, p. 320, Act 163, Eff. Sep. 29;—Am. 1949, p. 124, Act 119, Eff. Sep. 23.

The People of the State of Michigan enact:

317.251 Goguac Lake Sanctuary; establishment, rights of owners, shooting.

Sec. 1. It shall be unlawful for any person to shoot, molest, catch, injure, destroy, or kill any wild water fowl, wild shore birds, wild game birds, or any other birds, or any wild animals, during the open season thereon, within, upon or above the waters of Goguac Lake or Minges Brook in the township of Battle Creek, Calhoun county, Michigan, or upon or above the territory within 80 rods from the shore line of said lake, or upon or above the territory within 80 rods of the shore line of Minges Brook, between the west line of section 23 and the east line of section 25 in said township of Battle Creek, Calhoun county, Michigan. The territory herein described is hereby set aside as a refuge district to be known as the Goguac Lake Sanctuary: Provided, That this act shall not in any way operate to exempt from taxation any otherwise taxable property within the territorial limits herein described: Provided further, That nothing in this act shall be construed as prohibiting any property owner or lessee within the confines of the Goguac Lake Sanctuary from hunting, shooting or trapping hawks, crows, sparrows, starlings, rodents, rabbits, owls, gophers, skunks and weasels or other carnivorous birds or animals on their own property for the protection of the same: Provided further, That nothing in this act shall be construed as prohibiting the city of Battle Creek from destroying rodents insofar as the same is necessary for the protection of the water supply of Battle Creek: Provided further, That in order to prevent the frightening away of the wild life herein intended to be protected in said Goguac Lake Sanctuary, all shooting in said Goguac Lake Sanctuary, except as heretofore expressly permitted and in case of emergency, and except organized trap or target shooting on club or recreational premises, is hereby prohibited and declared unlawful.

HISTORY: Am. 1939, p. 320, Act 163, Eff. Sept. 29;—CL 1948, 317.251.

317.252 Violation of act; misdemeanor; arrest without warrant.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor. Any officer authorized to make arrest, including the state conservation officers, may arrest without warrant any person apprehended by them in the act of violating any of the provisions of this act.

HISTORY: CL 1948, 317.252;—Am. 1949, p. 124, Act 119, Eff. Sep. 23.

Act 207, 1923, p. 325; Eff. Aug. 30.

AN ACT to limit the amount of real estate and the location thereof which can be acquired, held or occupied by any person, partnership, corporation or association for the preservation or propagation of game or fish or for certain sporting purposes.

The People of the State of Michigan enact:

317.261 Limitation on acreage held for sporting purposes.

Sec. 1. It shall be unlawful, after this act shall take effect, for any person, partnership, corporation, or association to acquire, hold or occupy by purchase, lease or other evidence of title, possession or right of occupancy or to enclose by fences or other barriers in 1 tract an amount of real estate within this state exceeding 15,000 acres in extent for the purpose of the preservation or propagation of game or fish, or for use for yachting, hunting, boating, fishing, rowing or any other sporting purpose.

HISTORY: CL 1929, 6135;—CL 1948, 317.261.

317.262 Limitation on acreage; within two miles of other lands so held.

Sec. 2. It shall also be unlawful for any such person, partnership, corporation or association to acquire, hold or occupy in the manner and for the purposes above stated any real estate which shall be located within 2 miles of any other real estate acquired, held or occupied for any of the uses or purposes mentioned in the preceding section.

HISTORY: CL 1929, 6136;—CL 1948, 317.262.

317.263 Violation of act; penalty.

Sec. 3. Any person, partnership, corporation, or association violating any of the provisions of this act shall be subject to a penalty of 50 dollars for each and every day that such violation continues, which penalty shall be recovered in the manner now provided by law.

HISTORY: CL 1929, 6137;—CL 1948, 317.263.

Act 66, 1891, p. 68; Imd. Eff. May 8.

AN ACT to set apart certain swamp lands in Wild Fowl Bay in township 16 north, range 9 east, in the county of Huron in this state for public shooting grounds.

The People of the State of Michigan enact:

317.271 Saginaw bay; public shooting and hunting ground.

Sec. 1. That all of the lands belonging to the state of Michigan and being in township 16 north, range 9 east, in Wild Fowl bay, in the county of Huron, in this state, commonly known as the "middle ground," lying between *Maison island, in Saginaw bay, and the main land, shall be and is hereby set apart and dedicated for a public shooting or hunting ground for the benefit and enjoyment of the people of this state.

HISTORY: CL 1897, 1261;—CL 1915, 393;—CL 1929, 6094;—CL 1948, 317.271.

*NOTE: It is evident that the word "Maison" should be spelled "Mai-Sou".

317.272 Saginaw bay; trespassers, prosecution.

Sec. 2. All persons who now have or shall hereafter locate upon or occupy any part of such lands except as herein provided shall be considered trespassers and may be prosecuted as trespassers upon the public lands in the manner now provided by law.

HISTORY: CL 1897, 1262;—CL 1915, 364;—CL 1929, 6065;—CL 1948, 317.272.

TRESPASS ON PUBLIC LANDS: See Compilers' § 322.131 et seq.

317.273 Saginaw bay; hunting.

Sec. 3. It shall be lawful for any and all persons to go upon any parts of said lands at any and all times permitted by the game laws of this state for the purpose of hunting or shooting wild fowl or game thereon; but no person or persons shall hunt or shoot wild fowl or game on said lands or any part thereof at any season or time or manner not permitted by the game laws of this state, and any person violating any game laws of this state by hunting wild fowl or game on any of said lands shall be punished as provided by law.

HISTORY: CL 1897, 1263;—CL 1915, 365;—CL 1929, 6066;—CL 1948, 317.273.

GAME LAWS: See Compilers' § 311.1 et seq.

317.274 Saginaw bay; control; rules, enforcement; violation of act, penalty.

Sec. 4. Said public shooting grounds shall be under the control of the commissioner of the state land office of this state. The said commissioner shall have authority to make, publish and enforce such reasonable rules and regulations for the care and preservation of the said shooting grounds, for the maintenance of good order and for the protection of property as shall from time to time be deemed necessary or expedient. Whenever the said commissioner shall make any rules or regulations pertaining to the management or welfare of said shooting grounds he shall have authority to enforce same and to cause offenders and persons violating any rules and regulations prescribed to be punished therefor in the manner set forth in this act. All rules and regulations made by the said commissioner under the authority of this or any other act shall be effective within the whole territory referred to in this act. Any person who violates any of the provisions of this act or any of the rules and regulations prescribed by the said commissioner shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than 50 dollars or by imprisonment for a period of not less than 10 days nor more than 60 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 1264;—Am. 1909, p. 424, Act 241, Eff. Sept. 1;—CL 1915, 366;—CL 1929, 6067;—CL 1948, 317.274.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 390.2 respectively.

Act 112, 1895, p. 231; Imd. Eff. May 4.

AN ACT to set aside certain submerged lands in Lake Erie and Detroit river lying east of and adjacent to Monroe and Wayne counties, for public shooting grounds, to make it unlawful to cut and destroy the rushes and other submarine vegetation on such submerged lands and to provide a penalty therefor.

The People of the State of Michigan enact:

317.281 Lake Erie submerged lands in Monroe and Wayne counties; public shooting and hunting ground; fishing privileges.

Sec. 1. That all that part of Lake Erie lying adjacent to the surveyed lands of Monroe and Wayne counties and any submerged lands within the surveyed lines of said counties and connected with Lake Erie and Detroit river providing such surveyed lands are owned by the state of Michigan, shall be and hereby are set apart and dedi-

cated for a public shooting or hunting ground for the benefit and enjoyment of the people of the state of Michigan, for a distance extending 1 mile into said Lake Erie, the eastern line of the submerged lands and waters hereby reserved being 1 mile distant from the surveyed lines of the east side of said counties and parallel thereto: Provided, That this reservation and dedication shall not interfere with, or detract from, any rights or privileges as to fishing now enjoyed by any person, or the public.

HISTORY: CL 1897, 1265;—CL 1915, 397;—CL 1929, 6096;—CL 1948, 317.281.

317.282 Lake Erie submerged lands; trespassers; navigation.

Sec. 2. All persons who now have, or shall hereafter locate upon any part of such submerged lands or lake, or occupy the same except as herein provided, shall be considered trespassers and may be prosecuted as trespassers upon the public lands in the manner now provided by law: Provided, That such waters shall be free for all purposes of navigation.

HISTORY: CL 1897, 1266;—CL 1915, 398;—CL 1929, 6099;—CL 1948, 317.282.

317.283 Lake Erie submerged lands; destruction of submarine vegetation, penalty.

Sec. 3. It shall be unlawful for any person to cut, or otherwise destroy the rushes and other submarine vegetation growing on such reserve without the consent of the board of supervisors of said counties and any person or persons who shall wilfully cut or destroy the same, or cause the same to be done, knowingly, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding 100 dollars, or imprisonment in the county jail of said Monroe or Wayne county not exceeding 90 days.

HISTORY: CL 1897, 1267;—CL 1915, 399;—CL 1929, 6100;—CL 1948, 317.283.

Act 171, 1899, p. 251; Imd. Eff. Jun. 23.

AN ACT to set aside the submerged and swamp lands belonging to the state of Michigan bordering upon the great lakes and the bayous thereof and those lying along the shores of the Kalamazoo, Grand and Muskegon rivers, for a public shooting and hunting ground, defining the limits thereof and providing for its care and management. Am. 1921, p. 257, Act 118, Eff. Aug. 18.

The People of the State of Michigan enact:

317.291 Great Lakes, Kalamazoo, Grand and Muskegon rivers; submerged and swamp lands; public shooting and hunting grounds, boundaries; excluded lands.

Sec. 1. That all of the swamp or submerged lands lying along the borders of Lakes Erie, Huron, Michigan, Superior and St. Clair, except such parts of the "St. Clair Flats," so-called, as shall have been, prior to January first, 1899, actually occupied, built up, cultivated or improved to the extent of at least 25 dollars, within the boundaries of the state of Michigan, and within the limits hereinafter described, and also all swamp or submerged lands adjoining said lakes, or in the bayous adjoining or emptying into said lakes, *and also all swamp or submerged lands contiguous to and lying along the shores of the Kalamazoo river, Grand river and Muskegon river*, which now belong to the state of Michigan, or to which the state of Michigan shall hereafter acquire title, shall be and hereby is set apart and dedicated for a public shooting and hunting ground, for the benefit and enjoyment of the people of the state of Michigan. This park so set aside shall extend to the state line into the respective lakes from the shore line thereof, and the outer boundary thereof shall be the center line of said lakes or the boundary of said state, and shall include all swamp or submerged lands lying be-

tween said shore line and outer boundary: Provided, That no premises herein described shall be deemed to include any islands in any of the said lakes to which the state of Michigan has not title, unless the state shall first acquire such title. Said park shall also include the swamp or submerged lands owned by the state aforesaid or hereafter acquired by the state, bordering upon said lakes or in or upon the bayous emptying therein.

HISTORY: CL 1915, 400;—Am. 1921, p. 257, Act 118, Eff. Aug. 18;—CL 1929, 6101;—CL 1948, 317.291.

This act largely supersedes Act 112 of 1895, p. 731, being Compilers' §§ 317.281 to 317.283.

The title of amendatory Act 118 of 1921 refers to Sec. 1 of Act 171 of 1899, but not to any amendment of the title.

The title as it appeared before amendment read as follows: "An act to set aside the submerged and swamp lands in the State of Michigan bordering upon the Great Lakes and the bayous thereof for a public park, defining the limits thereof and providing for its care and management."

Act 118 of 1921 merely added the italicized words of Sec. 1 as above indicated.

317.292 Swamp or submerged lands hereafter acquired.

Sec. 2. Should the state of Michigan hereafter acquire title to any swamp or submerged lands within the limits aforesaid or bordering upon said lakes, or in or upon any bayou emptying into the same, whether by purchase, escheat, forfeiture, tax bid or tax title, the same shall be, by operation of this act, included in said park and shall not thereafter be offered for sale by the state.

HISTORY: CL 1915, 401;—CL 1929, 6102;—CL 1948, 317.292.

317.293 Land subject to fish and game laws; navigation; private and municipal dockage.

Sec. 3. This reservation and dedication shall not interfere with or detract from any rights or privileges of fishing now enjoyed by private persons or the public, but the said park shall be subject to the fish and game laws of this state in the same manner as though there had been no dedication. The waters in this park shall be free for all purposes of navigation. This act shall not be deemed to interfere with the common law right of riparian owners to dockage and wharfage, nor to interfere in any manner with dock or harbor lines or regulations of any municipality or of the state.

HISTORY: CL 1915, 402;—CL 1929, 6103;—CL 1948, 317.293.

FISH AND GAME LAWS: See Compilers' § 311.1 et seq.

317.294 Trespassers; officers to protect possession; no statute of limitations.

Sec. 4. All persons who now have or shall hereafter locate upon any part of the park here set aside, or who shall occupy the same, except as herein provided, shall be deemed trespassers against the state of Michigan, and an action may be brought against such persons in the name of the people of the state of Michigan by the prosecuting attorney or the board of supervisors of any county in which such trespass occurs, or by either the auditor general of the state of Michigan or the commissioner of the state land office; and no statute of limitations shall be deemed operative against the state so as to bar any suit or proceeding brought by or on behalf of the state regarding the possession of such swamp or submerged lands.

HISTORY: CL 1915, 403;—CL 1929, 6104;—CL 317.294.

317.295 Control by board of supervisors; permissible destruction of submarine vegetation.

Sec. 5. The board of supervisors of each county shall have the care and control of that part of said park within its own boundaries and that part lying opposite and immediately adjoining in the Great Lakes. The respective boards of supervisors, in their discretion, may allow the cutting or the destruction of the rushes and submarine vegetation growing in said park in or opposite their respective counties.

HISTORY: CL 1915, 404;—CL 1929, 6105;—CL 1948, 317.295.

317.296 Destruction of submarine vegetation; consent required; penalty.

Sec. 6. It shall be unlawful for any person to cut or otherwise destroy, or cause the same to be done, any rushes or other submarine vegetation growing on this park without the consent of the board of supervisors of the county to which such portion of said park is immediately adjoining; and any person or persons who shall wilfully cut or destroy the same, or cause the same to be done, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding 100 dollars and costs of prosecution, or by imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment, at the discretion of the court.

HISTORY: CL 1915, 405;—CL 1929, 6106;—CL 1948, 317.296.

317.297 Driving ducks away from hunters; penalty; navigation.

Sec. 7. It shall be unlawful for any person or persons to wilfully scare or drive wild ducks or other wild water fowl, or cause the same to be done, from or away from any person lawfully hunting the same within said park, for the purpose of depriving or attempting to deprive such person of any or all of his opportunities of shooting or hunting such wild duck or other wild water fowl; and every person so offending shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding 100 dollars and costs of prosecution, or by imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment, at the discretion of the court. Nothing herein contained shall be deemed to detract from the right of passage over said waters, in good faith, or in the ordinary course of navigation.

HISTORY: CL 1915, 406;—CL 1929, 6107;—CL 1948, 317.297.

Act 134, 1957, p. 152; Eff. Sep. 27.

AN ACT to establish and regulate the operation of shooting preserves; to provide for the issuing of licenses pertaining thereto and the disposition of the moneys derived therefrom; to provide penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

317.301 Private shooting preserves; licenses, fees, expiration; Sunday hunting.

Sec. 1. The director of conservation may issue licenses authorizing the establishment and operation of private shooting preserves. The fee for each such license shall be \$35.00 for a shooting preserve of 320 acres or less and \$60.00 for a shooting preserve in excess of 320 acres. Unless sooner revoked, all such licenses shall be valid from July 1 through June 30. Said private shooting preserves may allow hunting on Sundays, local regulations to the contrary notwithstanding.

HISTORY: New 1957, p. 152, Act 134, Eff. Sep. 27;—Am. 1959, p. 62, Act 62, Eff. Mar. 19, 1960;—Am. 1969, p. 230, Act 126, Imd. Eff. Jul. 29.

CITED IN OTHER SECTIONS: Sections 317.301 to 317.313 are cited in § 314.6.

317.302 Private shooting preserves; size, boundary signs.

Sec. 2. Each shooting preserve shall contain not less than 80 acres nor more than 640 acres of leased or owned land, except that those preserves whose operations are confined only to ducks may contain a minimum of 50 acres. The exterior boundaries of each preserve shall be clearly defined with signs erected at intervals of 150 feet or less.

HISTORY: New 1957, p. 152, Act 134, Eff. Sep. 27;—Am. 1959, p. 62, Act 62, Eff. Mar. 19, 1960.

317.303 Private shooting preserves; hunting of artificially propagated birds; limitations.

Sec. 3. Birds which may be hunted under authority of a shooting preserve license shall be limited to such artificially propagated species as the director of conservation may prescribe. A licensee may propagate and sell such birds, carcasses or products, in addition to releasing birds for hunting purposes, by adhering to all requirements, except breeder's license fee requirements, of Act No. 191 of the Public Acts of 1929, being sections 317.71 to 317.84 of the Compiled Laws of 1948, and rules promulgated by the commission of conservation under authority of that act. Not less than 100 birds of any species to be so hunted shall be released on the licensed premises during the shooting preserve season in any 1 year.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27;—Am. 1960, p. 230, Act 126, Imd. Eff. Jul. 29.

317.304 Licenses; hunting rights granted.

Sec. 4. The licenses herein provided for shall entitle the holders thereof and their lessees and licensees to take, by hunting, the percentage of each species released on the premises each year as the director of conservation may determine.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27.

317.305 Tagging of birds; source, cost, reuse.

Sec. 5. Each bird shot under authority of a shooting preserve license, before being either consumed on the premises or removed therefrom, shall have affixed to the carcass, or wrapper, a stamp-mark, band, tag or seal as designated by the director. The bands, tags or seals shall be furnished at reasonable cost to the operator of the shooting preserve by the director. The stamp-mark, band, tag or seal shall remain affixed to the carcass or wrapper until the carcass is prepared for consumption. Such items of identification shall not be reused by any person.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27;—Am. 1960, p. 231, Act 126, Imd. Eff. Jul. 29.

317.306 Species of wild birds and animals permitted to be hunted.

Sec. 6. No wild bird or wild animal of a species other than permitted to be hunted under authority of the license herein provided shall be hunted or killed on any shooting preserve except in accordance with the laws of this state governing the hunting of such species.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27.

317.307 Hunting licenses; fees; limitations.

Sec. 7. Hunting licenses as provided in Act No. 286 of the Public Acts of 1929, as amended, being sections 311.1 to 315.2 of the Compiled Laws of 1948, shall be required of all persons hunting on shooting preserves, except that in lieu thereof any person may obtain a special shooting preserve hunting license upon paying to the director of conservation or his authorized agent a fee of \$5.00. Such licenses when issued shall be valid from July 1 to June 30, and shall authorize the licensee to hunt only on licensed shooting preserves and only for the species for which the shooting preserve is licensed in accordance with this act and the rules and regulations promulgated hereunder.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27;—Am. 1960, p. 62, Act 62, Eff. Mar. 19, 1960.

317.308 Operator's records; contents, inspection; reports.

Sec. 8. Each operator of a shooting preserve licensed under the provisions of this act shall maintain a record of the names, addresses and hunting license numbers of all persons hunting upon the preserve, together with the date upon which they hunted, the number of each species taken. The operator shall also maintain an accurate record of the total number, by species of birds propagated, reared or purchased, and the date and number of each species released. The records shall be open for inspection by the

director or his representative at any reasonable time; and the licensee shall provide complete and accurate reports when and as required by the director.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27;—Am. 1969, p. 221, Act 126, Imd. Eff. Jul. 29.

317.309 License, application, forms.

Sec. 9. Any person desiring a license under the provisions of this act shall make application therefor to the director of conservation on forms furnished by him, stating his name, address, legal description of the premises to be licensed, the kind of birds to be covered by the license, and such other information as the director of conservation may require. The director shall prepare and distribute suitable forms necessary to carry out the provisions of this act.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27.

317.310 Open season; rules and regulations.

Sec. 10. The director of conservation, subject to the approval of the conservation commission, is hereby authorized to establish the open season for shooting preserves which shall be not less than 120 days, promulgate and enforce such rules and regulations, not inconsistent with law, governing the administration of this act as he may deem expedient, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1957, p. 153, Act 134, Eff. Sep. 27.

317.311 License fees; credit to game protection fund.

Sec. 11. All moneys received from the sale of licenses and tags or seals as herein provided shall be deposited in the state treasury to the credit of the game protection fund.

HISTORY: New 1957, p. 154, Act 134, Eff. Sep. 27.

317.312 Violation of act; penalty; suspension or revocation of license; disposition of birds.

Sec. 12. Any person violating any of the provisions of this act or the rules adopted hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00, together with costs of prosecution, or imprisonment in the county jail for not more than 90 days, or by both. In addition to the penalty herein provided, any license issued under this act may be suspended or revoked, after a hearing upon proper notice, when any operations under it fail to comply with the requirements of this act, when a licensee fails to maintain or submit accurate reports and records as required by the director or when any licensee shall be convicted of a violation of this act. Birds held under such license shall then be disposed of only in a manner approved by the director.

HISTORY: New 1957, p. 154, Act 134, Eff. Sep. 27;—Am. 1969, p. 221, Act 126, Imd. Eff. Jul. 29.

317.313 Repeal.

Sec. 13. Act No. 249 of the Public Acts of 1929, as amended, being sections 317.101 to 317.109 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1957, p. 154, Act 134, Eff. Sep. 27.

Act 159, 1967, p. 220; Eff. Nov. 2.

AN ACT to promote safety in hunting activities; to provide for area closures to hunting and discharge of firearms; to establish a hunting area control committee and to prescribe its powers and duties; to prescribe the powers and duties of the department of conservation, the department of state police, the department of attorney general and the county sheriffs; and to prescribe penalties for violations of this act.

The People of the State of Michigan enact:

317.331 Hunting area control committee; establishment, members, duties; state agency representatives, selection; committee chairman; department of conservation, duties; expenses.

Sec. 1. (1) A hunting area control committee, composed of a representative of the department of conservation, a representative of the department of state police, the township supervisor, or if he declines to serve, a representative selected by the township board, and a representative of the sheriff's department of the respective counties involved is established and shall perform such duties as are authorized by this act.

(2) The representatives of the state agencies shall be selected from the staff of each agency by its chief authority and designated as that agency's representative. The committee shall select 1 of its members as chairman and the chairmanship shall be alternated between the agencies each year. The department of conservation shall perform clerical, operational and administrative duties of the committee in accordance with rules, regulations, procedures and policies promulgated and adopted by the committee and the department of conservation as the agency within which the committee operates. Expense incurred by individual members in carrying out the intent and purpose of this act shall be borne by the member's department. Costs of surveys and actions requiring services outside the committee and the sheriff's department shall be borne by the department of conservation.

HISTORY: New 1967, p. 220, Act 159, Eff. Nov. 2.

317.332 Hunting area control committee; powers; area closures; hearings, investigations, studies, statement of facts; regulations.

Sec. 2. (1) In the interest of public safety and the general welfare, the committee is empowered to regulate and prohibit hunting, and the discharge of firearms and bow and arrow, as herein provided, on those areas established under the provisions of this act where hunting or the discharge of firearms or bow and arrow may or is likely to kill, injure or disturb persons who can reasonably be expected to be present in such areas or to destroy or damage buildings or personal property situated or customarily situated in such areas or will impair the general safety and welfare; and the committee is empowered to determine and define the boundaries of such areas. Areas may be closed throughout the year or parts thereof. The committee, in furtherance of safety, may designate areas where hunting is permitted only by prescribed methods and weapons not inconsistent with law. Whenever the governing body of any political subdivision determines the safety and well-being of persons or property are endangered by hunters or discharge of firearms or bow and arrows, by resolution it may request the committee to recommend such area closure as may be required to relieve the problem. Upon receipt of a certified resolution, the committee shall establish a date for a public hearing in the political subdivision and the requesting political authority shall arrange for suitable quarters for the hearing. The committee shall receive testimony on the nature of the problems resulting from hunting activities and firearms use from all interested parties on the type, extent and nature of the closure, regulations or controls desired locally to remedy these problems.

(2) Upon completion of the public hearing, the committee shall cause such investigations and studies to be made of the area as it deems appropriate and shall then make a statement of the facts of the situation as found at the hearing and as a result of its investigations. The committee shall then prescribe such regulations as are necessary to alleviate or correct the problems found.

HISTORY: New 1967, p. 221, Act 159, Eff. Nov. 2.

317.333 Hunting area control committee; submission of findings and recommendations; approval or disapproval; ordinances; regulations; enforcement.

Sec. 3. (1) The committee shall submit its findings and recommendations to the governing body of the political subdivision concerned. By majority vote, the governing body shall advise the committee by certified resolution that it approves or disapproves the prescribed hunting or firearms controls. When the governing body disapproves the prescribed controls, no further action shall be taken. When the governing body approves the prescribed controls, a local ordinance shall be enacted in accordance with the provisions of law pertaining to the enactment of ordinances, which shall be identical in all respects to the regulations prescribed by the committee and which ordinance shall not be effective until the committee rules are in force and effect in accordance with law. A certified copy of the ordinance shall be forwarded to the committee. The hunting and firearms control regulations shall then be adopted by the committee in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. An ordinance adopted under authority of a rule subsequently suspended by the legislature shall likewise be suspended. The governing body of the political subdivision having established such an ordinance, by subsequent majority vote, may repeal the ordinance at any time. The committee shall be informed of such action by certified resolution.

(2) Local and county law enforcement officers shall enforce ordinances enacted in accordance with this act. State enforcement officers will enforce regulations adopted and made a part of the administrative code in accordance with the provisions of this act.

HISTORY: New 1967, p. 221, Act 159, Eff. Nov. 2.

317.334 Closure notice signs; materials, form, placing, maintenance, spacing, publication of notice; rescission of closure.

Sec. 4. The committee shall designate closure notice signs of approved material, overall size, number and letter size and composition of message. At least 4 notices, relatively equally spaced, shall be posted on the boundaries of the closed area. No closure shall be effective prior to the erection of closure notices and approval of the same by the committee. The petitioning political subdivision shall place and maintain the signs and shall publish a notice of closure for 3 successive weeks, at least once in each week, in a newspaper published in the county in which the area to be closed is located. If no newspaper is published in the county, then the notice shall be published in a newspaper published in an adjoining county. If, in the judgment of the committee, closure signs are not so maintained as to adequately give notice of the closure to a careful and prudent person, the closure may be rescinded by service of notice of rescission on the clerk or recording officer of the political subdivision, and in such case the closure shall terminate 30 days after service of notice of rescission.

HISTORY: New 1967, p. 222, Act 159, Eff. Nov. 2;—Am. 1968, p. 499, Act 294, Eff. Nov. 15.

317.335 Prohibitions against discharge of firearms; exceptions.

Sec. 5. Any prohibition against discharge of firearms made under authority of this act shall not apply to peace officers or members of any branch of the armed forces in the discharge of their proper duties. The director of conservation may authorize the use of firearms to prevent or control the depredations of birds or animals in situations where significant damages are being caused by wildlife.

HISTORY: New 1967, p. 222, Act 159, Eff. Nov. 2.

317.336 Violation of act; penalty.

Sec. 6. Any person who violates any provisions of this act or regulations promulgated under authority of this act is guilty of a misdemeanor.

HISTORY: New 1967, p. 222, Act 159, Eff. Nov. 2.

Act 82, 1947, p. 90; Eff. Oct. 11.

AN ACT to provide for the creation of special dog training areas; to provide for rules and regulations for the training of dogs thereon; and to provide penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

317.401 Dog training areas; application; permit, fees; size, number.

Sec. 1. Upon application of any club or organization having 10 or more members who are citizens of this state, or upon the application of 10 or more citizens of this state, and the payment of a registration fee of \$5.00, the director of conservation may issue a permit authorizing the establishment and maintenance by such club, organization, or citizens on land owned by them, or over which they have legal control, of a special dog training area wherein and whereon dogs may be trained at any time during the entire year. No such dog training area shall be of less than 80 acres nor of more than 240 acres, nor shall permits be issued for more than 6 special dog training areas in any 1 county: Provided, That in counties having a population of 100,000 or more such additional permits as the director of conservation may deem to be in the public interest may be issued.

HISTORY: CL 1948, 317.401.

317.402 Dog training areas; use, rules, and regulations; hunting or possession of firearms prohibited, exception.

Sec. 2. Permittees may at any time during the entire year train their own dogs or the dogs of other persons on such area or permit others to do so under such conditions as shall be mutually agreed upon and under such rules and regulations as may be deemed expedient by the director: Provided, however, That hunting or the carrying or possession of firearms other than pistol or revolver with blank cartridges at any time of year on such areas shall be unlawful.

HISTORY: CL 1948, 317.402.

317.403 Dog training areas; posting boundary lines; notice, form.

Sec. 3. The boundary lines of each such special dog training area shall be kept plainly and conspicuously posted by permittee with legible notices at least 10 inches by 12 inches in size placed not more than 100 yards apart which shall bear the following warning:

Special Dog Training Area
Hunting is Unlawful
This Land is Set Aside under Special Permit
For the Training of Dogs
Entering Hereon for the Purpose of Hunting or
Permitting Dogs to Enter without Proper Authorization
Is Punishable by Fine and/or Imprisonment

.....
(Name and address of permittee to be printed here)

HISTORY: CL 1948, 317.403.

317.403a Dog training areas; establishment.

Sec. 3a. The conservation commission is hereby authorized to establish not to exceed 8 areas which shall include the Gladwin, Brighton, Highland, Waterloo and White Cloud areas for field dog trials on state-owned lands or lands under their jurisdiction or control and may promulgate such rules and regulations in the manner provided by Act 88 of the Public Acts of 1943 as amended governing the operation and control of such areas as by it are deemed desirable or expedient. The said conservation commission may close such areas for any period to the hunting and/or trapping of any or all species of wild birds and wild animals.

HISTORY: Add. 1952, p. 86, Act 76, Eff. Sep. 18.

317.404 Dog training areas; boundary fence or poster, wilful mutilation, injury or destruction prohibited.

Sec. 4. It shall be unlawful for any person to wilfully, negligently, or maliciously cut, remove, cover up, deface, or otherwise mutilate, injure, or destroy any special dog training area boundary fence or wire or poster placed in accordance with the provisions of this section.

HISTORY: CL 1948, 317.404.

317.405 Violation of act, and rules and regulations; penalty.

Sec. 5. Any person violating any of the provisions of this act or of any rule or regulation promulgated under the provisions of section 2 hereof shall, upon conviction thereof, be subject to a fine of not more than \$100.00 and costs of prosecution, or by imprisonment in the county jail for a period not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 317.405.

CHAPTER 318. CONSERVATION—STATE PARKS

STATE PARK COMMISSION

Act 218 of 1919

- 318.3 Michigan state park commission; officers, employees; annual report and statements; disbursements.
- 318.4 State park commission; supervision of lands; exception; transfer of control.
- 318.5 State park commission; acquisition of parks, care, public service privileges; riparian lands; revenue; power to contract, accept deeds; liability of state.
- 318.6 State park commission; property held in trust for state, tax exempt; investment by treasurer; state park fund.
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- 318.7 State park commission; open spaces, agreements with municipalities for care.
- 318.8 State park commission; rules, posting.

STATE PARK SITES

Act 312 of 1937

- 318.21, 318.22 Repealed.

IMPROVEMENT APPROPRIATION

Act 278 of 1945

- 318.31, 318.32 Repealed.

GIFTS, GRANTS AND DEVISES

Act 212 of 1915

- 318.41 Gifts of realty for public parks; supervision.

MUNICIPAL APPROPRIATIONS

Act 4 of 1921 (2nd Ex. Ses.)

- 318.51 State-owned parks; appropriations by municipalities.
- 318.52 Acceptance of gifts by conservation commission; maintenance; contracts.
- 318.53 Scope of act; regulation of state parks by state conservation commission.
- 318.54 Declaration of necessity.

MACKINAC ISLAND STATE PARK

Act 355 of 1927

- 318.61 Mackinac Island state park; establishment.
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Act 45 of 1943

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- 318.102 Appropriation.

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Act 201 of 1923

- 318.111-318.113 Repealed.

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Act 218, 1919, p. 388; Eff. Aug. 14.

AN ACT to create the Michigan state park commission; to define its rights, powers and duties, in acquiring and maintaining state parks; to authorize the commission to rent or lease public service privileges in such parks and to provide for the disposal of

revenues received therefrom; making an appropriation and providing a tax to meet the same. Am. 1929, p. 103, Act 62, Imd. Eff. Apr. 18.

The People of the State of Michigan enact:

Secs. 1-2.

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

Title Am. 1929, p. 103, Act 62, Imd. Eff. April 18.

These sections provided for the creation and organization of the Michigan state park commission and are obsolete, the commission having been abolished and its powers and duties transferred to the department of conservation by Act 17 of 1921, being Compilers' § 290.1 et seq.

318.3 Michigan state park commission; officers, employees; annual report and statements; disbursements.

Sec. 3. Said commission shall annually choose 1 of its members to be chairman and may from time to time, upon approval of the governor, appoint a secretary and such other employes including engineers, architects, and custodians as it may deem necessary to carry out the purposes of this act. Said commission may determine the duties and compensation of such appointees, such compensation to be paid as other state employes are now paid. Said commission shall be furnished by the board of state auditors with a suitable office where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at reasonable times. On or before the thirty-first day of December in each year said commission shall make a report of its proceedings to the governor, with a statement of its receipts and disbursements. All disbursements of the commission shall be upon warrant of the auditor general, when approved by the governor.

HISTORY: CL 1929, 6075;—CL 1948, 318.3.

318.4 State park commission; supervision of lands; exception; transfer of control.

Sec. 4. Said commission shall have charge and supervision of all lands acquired by the state as public parks for the purposes of public recreation or the preservation of natural beauty or historic association, except such lands as may be placed by law in the charge and under the supervision of other commissions or officials. Any lands now owned or hereafter acquired by the state may be transferred to the commission by the commissions or officials having control of the same.

HISTORY: CL 1929, 6076;—CL 1948, 318.4.

MACKINAC ISLAND STATE PARK: See Compilers' § 318.61 et seq.

318.5 State park commission; acquisition of parks, care, public service privileges; riparian lands; revenue; power to contract, accept deeds; liability of state.

Sec. 5. Said commission shall have power to acquire, maintain and make available for the use of the public, open spaces for recreation; shall be authorized to rent or lease public service privileges in any such park or parks; shall be authorized to take in the name of the state and for the benefit of the public, by purchase, condemnation, gift, or devise, lands and rights in lands for public parks; to preserve and care for such public parks, and, in the discretion of the commission and upon such terms as it may approve, such other open spaces within this state as may be entrusted, given, or devised, to the state by the United States or by cities, towns, corporations, or individuals for the purposes of public recreation, or for the preservation of natural beauty or natural features possessing historic information or association: Provided, That said commission shall not take or contract to take by purchase or condemnation any land or other property for an amount or amounts beyond such sum or sums as shall have been appropriated or contributed therefor. In the purchase or condemnation of any lands for such public parks preference shall be given to lands bordering upon the great lakes, or

the connections or tributaries thereof, or upon the inland waters of the state: Provided further, That all funds or moneys or revenue derived from public service activities or privileges shall be paid into the state treasury by the director of conservation and shall there be credited to the general fund of the state.

Said commission shall have the power to accept any contract or contracts for the purchase of lands and rights in lands for public parks, and on the fulfillment of the terms and conditions in any such contract or contracts, to accept a deed or deeds therefor: Provided, That said commission shall not have power to pledge in the said contract or contracts the faith and credit of the state of Michigan.

HISTORY: Am. 1929, p. 103, Act 62, Imd. Eff. Apr. 18;—CL 1929, 6077;—Am. 1937, p. 582, Act 304, Imd. Eff. Jul. 23;—CL 1948, 318.5;—Am. 1957, p. 160, Act 137, Eff. Sep. 27.

318.6 State park commission; property held in trust for state, tax exempt; investment by treasurer; state park fund.

Sec. 6. The commission is hereby authorized to receive and hold in trust for the state, exempt from taxation, any grant or devise of land or rights in land and any gift or bequest of money or other personal property made for the purposes of this act. Whenever any money or other personal property is so received, the same shall be turned over to the state treasurer who shall preserve and invest, upon approval of the commission, any funds so received in such securities as banks are permitted to invest in. Such invested funds shall be known as the "state park fund," and the proceeds thereof shall be used and expended under the direction of said commission and subject to its orders.

HISTORY: CL 1929, 6078;—CL 1948, 318.6.

318.7 State park commission; open spaces, agreements with municipalities for care.

Sec. 7. Any municipality is hereby authorized to transfer the care and control of any open spaces owned or controlled by it to the state park commission upon such terms and for such periods as may be mutually agreed upon, or to enter into an agreement with said commission for the joint care or preservation of open spaces within or adjacent to such municipality, and said commission may in like manner transfer the care and control of any open spaces controlled by it to any local municipality upon such terms and for such periods as may be agreed upon.

HISTORY: CL 1929, 6079;—CL 1948, 318.7.

MUNICIPAL APPROPRIATIONS: See Compilers' § 318.51 et seq.

318.8 State park commission; rules, posting.

Sec. 8. Said commission shall have power, with the approval of the governor, to make, alter, and enforce rules and regulations for the maintenance of order, safety, and sanitation upon the lands in its control and for the protection of trees and other property and the preservation of the natural beauty thereof. Such rules and regulations shall be posted in conspicuous places upon such lands.

HISTORY: CL 1929, 6080;—CL 1948, 318.8.

Secs. 9-19. (These were appropriation and tax clause sections.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

318.21, 318.22 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections authorized director of conservation to purchase certain lands for state park purposes and made appropriation.

318.31, 318.32 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections made appropriation for improvements in state parks and provided for disbursement thereof.

Act 212, 1915, p. 362; Eff. Aug. 24.

AN ACT to authorize the public domain commission to accept and receive gifts, grants and devises of real property in trust for the state.

The People of the State of Michigan enact:

318.41 Gifts of realty for public parks; supervision.

Sec. 1. The public domain commission is hereby authorized to receive and accept gifts, grants and devises of real property which shall by any deed of gift, grant or by will become vested in the state for public park purposes. All such lands shall be under the care and supervision of the public domain commission and it shall be their duty to preserve the property thereon.

HISTORY: CL 1915, 499;—CL 1929, 6061;—CL 1948, 318.41.

PUBLIC DOMAIN COMMISSION: Abolished; powers and duties transferred to the department of conservation, see Compilers' § 299.2.

Act 4, 1921 (2nd Ex. Ses.), p. 823; Eff. Oct. 25.

AN ACT authorizing and empowering counties, cities, and other municipalities to appropriate money for the support, maintenance and improvement of certain state owned parks and zoological grounds; and to authorize such municipalities to contract with the state with respect to the control, management, improvement and up-keep of the same.

The People of the State of Michigan enact:

318.51 State-owned parks; appropriations by municipalities.

Sec. 1. The board of supervisors of each county, and the legislative body of each city, village and township, are hereby authorized and empowered to appropriate, out of the general or contingent funds of such county, city, village or township, such sum or sums of money as may by such legislative body be deemed advisable, for the purpose of contributing towards the support, maintenance, up-keep and improvement of any state-owned park or zoological gardens or grounds. Such contributions shall be made to the state conservation commission and when received shall be devoted exclusively to the purposes for which given.

HISTORY: CL 1929, 6062;—CL 1948, 318.51.

AGREEMENTS: See Compilers' § 318.7.

318.52 Acceptance of gifts by conservation commission; maintenance; contracts.

Sec. 2. The state conservation commission is hereby authorized to accept donations, gifts and devises of lands within the state for the purpose of establishing 1 or more zoological parks, gardens or grounds or parks for any other purpose and such parks, gardens or grounds may be maintained exclusively by such commission, or the commission may enter into contracts with any county, city, village or township, or any number of such municipalities, jointly, for the support, maintenance, up-keep and improvement of such park or parks, and each such municipality is hereby authorized and empowered to enter into the contracts herein provided for by resolution of the legislative body thereof.

HISTORY: CL 1929, 6063;—CL 1948, 318.52.

318.53 Scope of act; regulation of state parks by state conservation commission.

Sec. 3. The provisions of this act shall apply to lands already owned by the state of Michigan, as well as to lands hereafter acquired. The state conservation commission may make such rules and regulations as it shall deem necessary respecting the control,

management and protection of such parks and gardens; and all such parks and gardens established by the state conservation commission shall be deemed to be state parks within the meaning of any law establishing state parks under the jurisdiction of said commission.

HISTORY: CL 1929, 6064;—CL 1948, 318.53.

318.54 Declaration of necessity.

Sec. 4. This act is declared to be immediately necessary for the public peace, health and safety.

HISTORY: CL 1929, 6065;—CL 1948, 318.54.

Act 355, 1927, p. 853; Imd. Eff. Jun. 2.

AN ACT to provide for the appointment of a board of commissioners who shall have the management and control of the Mackinac Island state park, defining its powers and duties; and to repeal Act No. 222 of the Public Acts of 1895.

The People of the State of Michigan enact:

318.61 Mackinac Island state park; establishment.

Sec. 1. Pursuant to the turning over to the state of Michigan, for use as a state park, and for no other purpose, the military reservation, lands and buildings of the national park on Mackinac Island, subject to a reversion to the United States whenever the state ceases to use the lands for the purpose aforesaid, by the secretary of war, under the authorization of an act of congress, such lands and buildings shall be used as a state park and shall be known as the Mackinac Island state park.

HISTORY: CL 1929, 6058;—CL 1948, 318.61.

MACKINAC ISLAND STATE PARK: J.R. No. 6 of 1897 provided for the restoring of Port Mackinac to the United States whenever the latter determined to regarrison the same. J.R. No. 6 was repealed by Act 37 of 1921.

STATE PARKS: In general, see Compilers' § 318.3 et seq.

318.62 Mackinac Island state park commission; members, appointment, qualifications; resident commissioners; terms, vacancies, expenses, officers.

Sec. 2. Within 15 days after the passage of this act the governor shall appoint 7 commissioners, who shall be citizens of, registered voters, and regularly domiciled in this state and who shall hereafter constitute a board of commissioners to be known as the Mackinac Island state park commission: Provided, That the present commissioners shall hold office until their successors have been appointed. One commissioner shall be known as the "resident commissioner," and said commissioner shall be a legal resident of the island and a property owner in the city of Mackinac Island for a period of not less than 6 months preceding his nomination. One commissioner shall be a resident of the village of Mackinac [sic] City. His term of office shall commence on April 12, 1958.

Said commissioners shall be appointed by the governor, by and with the advice and consent of the senate, for terms of 6 years each and shall hold office until their successors are appointed: Provided, That of the members first appointed, 2 shall be appointed for a term of 2 years, 2 for a term of 4 years each, and 2 for a term of 6 years each: Provided further, That not more than 4 commissioners at any one time shall be of the same political party. Vacancies shall be filled by the governor in the same manner as the original appointment for the unexpired term. No member of the board shall receive any compensation for his services as commissioner, but each commissioner shall receive his actual disbursement for his expense incurred in connection with the

duties of his office, which expense shall be allowed and paid by the auditor general upon proper vouchers therefor.

The commission shall annually elect a chairman, vice-chairman and secretary.

HISTORY: CL 1929, 6059;—Am. 1937, p. 350, Act 219, Eff. Oct. 22;—Am. 1941, p. 28, Act 30, Imd. Eff. Mar. 26;—CL 1948, 318.62;—Am. 1953, p. 26, Act 29, Imd. Eff. Apr. 13;—Am. 1958, p. 53, Act 51, Imd. Eff. Apr. 7.

CITED IN OTHER SECTIONS: The above section is cited in § 16.356.

318.63 Mackinac Island state park; control; rentals; employees; rules; motor vehicles; deputy sheriffs; disposition of funds, rentals; reports.

Sec. 3. The Mackinac Island state park shall be under the control and management of said Mackinac Island state park commission, and the majority of same shall constitute a quorum for the transaction of business. The commissioners shall have power to lay out, manage and maintain said park and preserve the old fort, and to make and enforce bylaws, rules and regulations necessary to carry out the purposes thereof, not inconsistent with the laws of the state; to effect leases, and to fix prices for rentals or privileges upon the property of said park; to sell or lease as personal property buildings or structures acquired by the commission in settlement of delinquent land rentals, and any such sales or leases heretofore executed or made are hereby ratified; and to employ a superintendent and such persons as may be needed. All rules and regulations of the commission shall be made in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The rules and regulations of the commission shall apply to all roads situated on Mackinac Island state park lands. The commission shall make no rule permitting the use of motor vehicles except motor vehicles owned by the state or any political subdivision or by a public utility and used in the exercise of its franchise but the commission is authorized to provide by rule for the issuance of temporary permits for the operation of motor vehicles over any roads situated on state park lands. The commission may grant permits for the use of lands for the expansion of existing cemeteries, under such terms and conditions as the commission shall prescribe. The commissioners shall also have power to grant privileges and franchise for waterworks, sewerage, transportation and lighting, for a period not to exceed 30 years. The commission shall prescribe by regulation the maximum number of horse drawn vehicles for hire that may be licensed by the commission for operation within the park. It is hereby provided that the sheriff of the county of Mackinac, upon the application of said commission, shall appoint 1 or more persons, to be by said commission designated, and who shall be employees, as provided in this act, as deputy sheriffs in and for said county, but who shall receive no fees or emoluments for services as deputy sheriffs. Said commissioners shall have the power to fix the compensation of the persons employed by them, but no debt or obligation shall be created by them exceeding the amount of moneys at their disposal at the time. All moneys received from rentals or privileges shall be paid promptly into the state treasury to be credited to the general fund and to be disbursed as appropriated by the legislature. The Mackinac Island state park commission is hereby authorized, in consideration of the furnishing of fire protection, street service, sewerage service and other public service agreed upon, to remit such reasonable rentals as the commission shall determine from leases of property acquired by the state under the general tax law and deeded to the commission, to the several tax assessing units in which such property is situated as provided in the general tax law, in proportion to the delinquent taxes and special assessments of such units cancelled against such description of land. Said commissioners shall make to the governor an annual report and statement of receipts and expenditures, and such recommendations and suggestions as may seem to them proper.

HISTORY: CL 1929, 6060;—Am. 1935, p. 45, Act 31, Imd. Eff. Apr. 27;—Am. 1943, p. 36, Act 40, Eff. Jul. 30;—Am. 1947, p. 106, Act 94, Imd. Eff. May 14;—CL 1948, 318.63;—Am. 1959, p. 60, Act 59, Eff. Mar. 19, 1960;—Am. 1980, p. 114, Act 109, Imd. Eff. Apr. 26.

318.64 Fort Mackinac; flag, maintenance.

Sec. 4. It shall be the duty of the superintendent of said Mackinac Island state park to see to it that the United States flag is kept floating from the flagstaff at Fort Mackinac, and rules relative thereto being the same as those that have governed in that matter when the fort was in possession and occupancy by the United States troops.

HISTORY: CL 1929, 8061;—CL 1948, 318.64.

318.64a Fort de Buade; restoration, fees, rules and regulations.

Sec. 4a. The Mackinac Island state park commission may acquire by purchase, lease, grant or transfer the use of certain state land in the county of Mackinac for the purpose of developing and restoring as an historical site the area in or near the location where Fort deBuade once stood. After the acquisition and restoration, the site shall be under the jurisdiction, management and control of the Mackinac Island state park commission, and the commission shall have and exercise the same rights and powers over the site as it has and exercises over Mackinac Island state park, including the right to levy and collect fees for the use of the facilities at the site. All rules and regulations made by the commission shall be effective within the whole territory covered by the park. The commission may prescribe and enforce rules and regulations relative to any part or portion thereof, notwithstanding any contrary or inconsistent ordinance, regulation or bylaw of any political subdivision.

HISTORY: Add. 1958, p. 53, Act 51, Imd. Eff. Apr. 7.

318.65 Mackinac Island state park; injuring trees, leaving rubbish; penalty.

Sec. 5. Any person who shall wilfully cut, peel or otherwise injure or destroy any tree standing in Mackinac Island state park, or who shall carry, draw, leave or deposit anywhere within said park, any filth, rubbish or garbage, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than 10 dollars nor more than 50 dollars, or by imprisonment in the county jail of Mackinac county, for a period of not less than 10 days nor more than 60 days, or both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 8062;—CL 1948, 318.65.

318.66 Mackinac Island state park; special police, appointment, powers, duties; complaints.

Sec. 6. The superintendent of the Mackinac Island state park may appoint, by and with the consent of the board of commissioners thereof, such number of special police as the board may by resolution direct, which special police shall be under the supervision and direction of the superintendent, who shall be charged with the execution of such rules and regulations for the care and preservation of the park, and the property in and about the fort, as may be prescribed in rules duly formulated by the said board. Such special police shall be vested with the authority of sheriffs of said island, and may apprehend and arrest, without warrant, any person whom they may find violating the rules which shall have been published relative to good order, the preservation of property, the mutilation of landmarks, or the destruction or injury to growing trees and shrubs. Said special police are authorized to make complaint against offenders against the rules of the government of said Mackinac Island state park, before any justice of the peace of the township of Holmes, and said justice or justices of the peace are hereby authorized to take cognizance, hear, try and determine such complaints and pass sentence upon such offenders, in accordance with said rules and the proper enforcement thereof, and in accordance with justice.

HISTORY: CL 1929, 8063;—CL 1948, 318.66.

318.67 Mackinac Island state park commission; acceptance of gifts.

Sec. 7. The Mackinac Island state park commission, for and on behalf of the state of Michigan, is hereby authorized to receive, accept and hold, by gift, grant, devise or be-

quest, any property, real or personal, but only for the purposes incidental to or connected with the state parks under its management and control.

HISTORY: CL 1929, 8064;—CL 1948, 318.67.

Sec. 8. (This was a repeal section.)

HISTORY: CL 1929, 8065;—Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 222, 1895, CL 1915, 374-379.

Act 20, 1955, p. 19; Imd. Eff. Apr. 7.

AN ACT authorizing the Mackinac Island state park commission to acquire, on behalf of the state of Michigan, the "Old Mission Church" as an historical site on Mackinac Island; and to prescribe the powers and duties of the Mackinac Island State park commission with respect thereto.

The People of the State of Michigan enact:

318.71 Old Mission Church at Mackinac Island; acquisition, description.

Sec. 1. The Mackinac Island state park commission is hereby authorized to acquire, in consideration of the payment of the sum of \$1.00 and other considerations to be in hand paid, the so-called "Old Mission Church", being all that certain piece or parcel of land situate and being in the city of Mackinac Island, county of Mackinac and state of Michigan, and described as follows, to-wit:

Lot 6 of Block 4 of C. R. Miller's Proposed Subdivision of the Mission House Lots in the Village of Mackinac and bounded and more particularly described as follows: Beginning at a point in the North line of East Water Street as prolonged in said subdivision 30 feet North 89° East from the Southeast corner of the North half of Lot 12 (known as the Wendell Homestead) for a place of beginning; thence North 6° East along the East line of Mission Street as platted in said subdivision to the South line of an alley 120 feet; thence along the South line of said alley North 89° 15' East 51 feet; thence Southerly about 118 feet to a point in the prolongation of the North line of said East Water Street in said proposed plat of said subdivision; thence Westerly on said North line of said East Water Street 52 feet to the place of beginning, said lot being intended to be the same land on which the Old Mission Church now stands, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

HISTORY: New 1955, p. 19, Act 20, Imd. Eff. Apr. 7.

318.72 Old Mission Church; maintenance as historic shrine.

Sec. 2. The property acquired by the Mackinac Island state park commission under the provisions of this act shall be maintained as an historic shrine by the Mackinac Island state park commission and shall be open to the public subject to such reasonable rules and regulations as the commission shall adopt.

HISTORY: New 1955, p. 19, Act 20, Imd. Eff. Apr. 7.

Act 54, 1909, p. 90; Eff. Sep. 1.

AN ACT to place under the control and management of the board of commissioners of Mackinac Island state park, the site formerly occupied as a military post under the name of Fort Michilimackinac, in the village of Mackinaw City, in the county of Cheboygan, Michigan, heretofore conveyed to the state of Michigan by said village of Mackinaw City, under and by virtue of the provisions of Act No. 520 of the local acts of 1903, conveyed as "Wawatam Park," defining the power and authority of said Mackinac Island state park board therein, and to authorize it to make, publish and en-

force rules and regulations for the care, order and preservation thereof, and to change the name of said park.

The People of the State of Michigan enact:

318.81 Michilimackinac state park; control; name change.

Sec. 1. The board of commissioners of Mackinac Island state park shall have the control and management of the site formerly occupied as a military post under the name of Fort Michilimackinac, in the village of Mackinaw City, county of Cheboygan and state of Michigan, heretofore conveyed by the said village of Mackinaw city to the state of Michigan, under and by virtue of the provisions of Act No. 520 of the local acts of 1903, conveyed as Wawatam park, by deed dated January twenty-seventh, 1904, which said deed is recorded in the office of the register of deeds of Cheboygan county in liber 26 of deeds on page 588. Though conveyed as "Wawatam Park," said park shall hereafter be known as "Michilimackinac state park."

HISTORY: CL 1915, 384;—CL 1929, 6066;—CL 1948, 318.81.

318.82 Michilimackinac state park; rules for protection and maintenance.

Sec. 2. Said board shall have authority to make, publish and enforce such reasonable rules and regulations for the care and preservation of Michilimackinac state park, for the maintenance of good order, for the protection of property and for the welfare of said park as shall from time to time be deemed necessary or expedient by said board.

HISTORY: CL 1915, 385;—CL 1929, 6067;—CL 1948, 318.82.

318.83 Michilimackinac state park; enforcement of rules.

Sec. 3. Whenever said board shall make any rules or regulations pertaining to the management or welfare of said park, it shall have authority to enforce the same and to cause offenders and persons violating any rules and regulations prescribed to be punished therefor in the manner set forth and indicated in Act No. 80 of the Public Acts of 1905.

HISTORY: CL 1915, 386;—CL 1929, 6068;—CL 1948, 318.83.

NOTE: Act 80 of 1905, above referred to, is Compilers' § 19.141 et seq.

318.84 Michilimackinac state park; jurisdiction of commission.

Sec. 4. All rules and regulations made by said board under the authority of this or any other act shall be effective within the whole territory covered by said park, and said board shall have the power and authority to prescribe and enforce rules and regulations relative to any part or portion thereof, notwithstanding any contrary or inconsistent ordinance, regulation or by-law of the village of Mackinaw City.

HISTORY: CL 1915, 387;—CL 1929, 6069;—CL 1948, 318.84.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1915, 388;—CL 1929, 6070;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 22, 1907, p. 24; Imd. Eff. Mar. 14.

AN ACT defining the power and authority of the board of commissioners of Mackinac Island state park, to authorize and empower it to make, publish and enforce rules and regulations for the care, order and preservation thereof, and to repeal all acts or parts of acts inconsistent with or contravening the provisions of this act.

The People of the State of Michigan enact:

318.91 Mackinac Island state park; rules and regulations for care and preservation.

Sec. 1. The board of commissioners of the Mackinac Island state park shall have authority to make, publish and enforce such reasonable rules and regulations for the care and preservation of the Mackinac Island state park, for the maintenance of good order, for the protection of property and for the welfare of said park, as shall from time to time be deemed necessary or expedient by said board.

HISTORY: CL 1915, 369;—CL 1929, 6071;—CL 1948, 318.91.

HUNTING: Prohibited in public park, see Compilers' § 317.161 et seq.

318.92 Mackinac Island state park; enforcement of rules.

Sec. 2. Whenever said board shall make any rules or regulations pertaining to the management or welfare of said park, it shall have authority to enforce same and to cause offenders and persons violating any rules and regulations prescribed to be punished therefor in the manner set forth and indicated in Act No. 80 of the Public Acts of 1905.

HISTORY: CL 1915, 360;—CL 1929, 6072;—CL 1948, 318.92.

NOTE: Act 80 of 1905, above referred to, is Compilers' § 19.141 et seq.

318.93 Mackinac Island state park commission; jurisdiction.

Sec. 3. All rules and regulations made by said board under authority of this or any other act shall be effective within the whole territory covered by said park, and said board shall have the power and authority to prescribe and enforce rules and regulations relative to any part or portion thereof, notwithstanding any contrary or inconsistent ordinance, regulation or by-law of the city of Mackinac Island.

HISTORY: CL 1915, 361;—CL 1929, 6073;—CL 1948, 318.93.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 362;—CL 1929, 6074;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 45, 1943, p. 42; Imd. Eff. Mar. 29.

AN ACT to authorize the city of Mackinac Island and the Mackinac Island state park commission to enter into contract for fire protection; and to make appropriation therefor.

The People of the State of Michigan enact:

318.101 Mackinac Island state park commission; contract for fire protection.

Sec. 1. The Mackinac Island state park commission and the city of Mackinac Island by its governing body are hereby authorized to enter into a continuing contract for fire protection to be furnished by the city of Mackinac Island for property under the control and management of the Mackinac Island state park commission. The fire protection service and apparatus to be furnished shall meet with the approval of the state fire marshal. The contract shall be signed by the chief executive and clerk of the city of Mackinac Island and by the chairman and secretary of the Mackinac Island state park commission.

HISTORY: CL 1948, 318.101;—Am. 1963, p. 118, Act 99, Imd. Eff. May 8.

318.102 Appropriation.

Sec. 2. There is hereby appropriated for the fiscal year ending June 30, 1964 from the general fund of the state the sum of \$1,800.00 to the Mackinac Island state park commission for the purpose of making payments under such contract.

HISTORY: CL 1948, 318.102;—Am. 1963, p. 118, Act 99, Imd. Eff. May 8.

318.111-318.113 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections made appropriation for purchase of certain lands for public park.

Act 70, 1957, p. 76; Eff. Sep. 27.

AN ACT authorizing the Mackinac Island state park commission to acquire, on behalf of the state of Michigan, the "Clerk's Quarters—American Fur Company" as an historical site on Mackinac Island; and to prescribe the powers and duties of the Mackinac Island state park commission with respect thereto.

The People of the State of Michigan enact:

318.121 Clerk's Quarters of American Fur Company at Mackinac Island; acquisition, description.

Sec. 1. The Mackinac Island state park commission is hereby authorized to acquire, in consideration of the payment of the sum of \$1.00 and other considerations to be in hand paid, the so-called "Clerk's Quarters—American Fur Company", being all that certain piece or parcel of land situate and being in the city of Mackinac Island, county of Mackinac and state of Michigan, description of said property being the east 1/2 of Lot 99, Assessors Plat No. 3, city of Mackinac Island.

HISTORY: New 1957, p. 77, Act 70, Eff. Sep. 27.

318.122 Clerk's Quarters of American Fur Company; maintenance as historic shrine.

Sec. 2. The property acquired by the Mackinac Island state park commission under the provisions of this act shall be maintained as an historic shrine by the Mackinac Island state park commission and shall be open to the public subject to such reasonable rules and regulations as the commission shall adopt.

HISTORY: New 1957, p. 77, Act 70, Eff. Sep. 27.

Act 201, 1958, p. 244; Imd. Eff. Apr. 24.

AN ACT authorizing the construction and acquisition of certain improvements by Mackinac Island state park commission; providing for the financing of such improvements through the issuance of revenue bonds; authorizing said commission to impose certain charges and fees; providing for the payment and security of the aforesaid bonds; making certain provisions with respect to the foregoing; declaring said commission to be a state instrumentality, and exempting the properties and obligations of the commission and income therefrom from taxes.

The People of the State of Michigan enact:

318.201 Mackinac Island state park commission; additional powers; airport, rules and regulations.

Sec. 1. The Mackinac Island state park commission, hereinafter sometimes called "the commission", is hereby authorized and empowered, in addition to the powers already conferred on it by law, to exercise the following powers, rights and privileges:

(a) To acquire, construct, develop, improve, better, extend, repair, maintain, use and operate all property, real or personal, necessary to the exercise of the powers, rights, privileges and functions conferred upon it by law and this act including, without limiting the generality of the foregoing, the power to acquire, construct, develop, improve, better, extend, restore, reconstruct, renovate, refurbish, repair, equip, furnish, maintain, use and operate, and to provide landscaping, driveways, streets and walkways for, buildings, structures, areas (any and all) and facilities of all kinds which in the judgment of the commission will increase the beauty and utility of said state park facilities and provide recreational, historical or other facilities for the benefit and enjoyment of the public, or which are necessary or convenient to the exercise of the powers of the commission.

(b) To employ consulting architects, engineers, museum technicians, landscape architects, supervisors, managers, lawyers, fiscal agents, and other agents and employees as it may deem necessary, and to fix their compensation.

(c) To enlist the guidance, assistance and cooperation of the Michigan historical commission.

(d) To make such charges for admission to the facilities under its jurisdiction, to make such other charges for the use of any such facilities, including fees or charges to be imposed on concessionaires, and to charge such rentals for the lease or use of any of its facilities as in the judgment of the commission may seem proper and as will assure the prompt and full carrying out of all covenants contained in the proceedings authorizing any bonds hereunder.

(e) To acquire, construct, develop, improve, repair, maintain and operate, but not to extend the runway beyond 3600 feet, an airport or landing field on property under its jurisdiction, and to lease to any governmental unit any real or personal property under its jurisdiction for use as an airport or landing field on such terms and conditions as shall be approved by the commission and the department of administration. The exercise of any power granted by this subsection shall be subject to determination by the proper federal authority that such exercise will not affect the title of the state to the land involved. All rules and regulations promulgated by any lessee shall reflect written approval by the commission before any such rules or regulations are in effect.

HISTORY: New 1958, p. 244, Act 201, Imd. Eff. Apr. 24;—Am. 1964, p. 63, Act 58, Imd. Eff. May 12.

318.202 Mackinac Island state park commission; revenue bonds, issuance, sale.

Sec. 2. The commission is authorized and empowered from time to time to issue its revenue bonds in anticipation of the collection of all or any part of its revenues, for the purpose of acquiring, constructing, reconstructing, improving, bettering, extending, restoring, refurbishing, renovating, repairing, equipping, furnishing, any or all, the properties and facilities which it is authorized to acquire, construct, reconstruct, maintain or operate hereunder, including properties and facilities now owned by it, and shall pledge to the payment of the interest on and principal of such bonds, all or any part of the revenues derived from the operation of the properties and facilities so controlled and operated by the commission. There may be included in the cost for which bonds are to be so issued, reasonable allowances for legal, engineering or fiscal services, interest during construction or reconstruction and for 6 months after the estimated date of completion of such construction or reconstruction, and other incidental expenses. Such bonds shall be authorized by resolution of the commission and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding 30 years from their respective dates, may bear interest at such rate or rates not exceeding 6% per annum, may be in such form, either coupon or registered, may be executed in such manner, may be payable at such place or places, may

be subject to such terms of redemption, with or without premium, and may contain such terms, covenants and conditions as such resolution or subsequent resolution may provide. Such bonds shall be sold by the commission in the manner required under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, for the sale of bonds issued pursuant to said act. Pending preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the commission may determine may be issued to the purchaser or purchasers of the bonds sold pursuant to this act. Said bonds and interim receipts and certificates shall be fully negotiable within the meaning of and for all purposes of the negotiable instruments law of this state.

Authorizing resolution, contents.

Any resolution authorizing the issuance of bonds under this act or any instrument of trust entered into as hereinafter authorized may contain covenants, including, but not limited to, (a) the purpose or purposes to which the proceeds of the sale of the bonds may be applied, and the deposit, use and disposition thereof; (b) the use, deposit, securing of deposits and disposition of the revenues of the commission, including the creation and maintenance of reserves; (c) the issuance of additional bonds payable from the revenues of the commission; (d) the operation and maintenance of properties of the commission; (e) the insurance to be carried thereon, and the use, deposit and disposition of insurance monies; (f) books of account and the inspection and audit thereof and the accounting methods of the commission; (g) the non-rendering of any free service by the commission; and (h) the preservation of the properties of the commission, so long as any of the bonds remain outstanding, from any mortgage, sale, lease or other encumbrance not specifically permitted by the terms of the resolution. The resolution shall also provide for the employment of sufficient personnel for the collection of fees and charges incident to the operation of the facility and for the payment of compensation to such personnel out of the fees and charges.

Trust indenture, contents.

In the discretion of the commission, any bonds issued under the provisions of this act may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company or bank having the right to exercise the powers of a trust company within this state. Any such trust indenture may pledge or assign the revenues from the operation of properties of the commission, but shall not convey or mortgage any properties, except such revenues. Any such trust indenture or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the improvements in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all monies, and provisions for the employment of consulting engineers, architects and landscape architects in connection with the planning, construction or operation of such improvements. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust indenture or resolution may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. The holder of any bond issued hereunder or a trustee in his behalf may bring suit against the commission and its members, officers and agents to enforce the provisions and covenants contained in any such trust indenture or resolution. All expenses incurred in

carrying out the provisions of any such trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

Money received, deposit, payment.

Monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues from the operations of properties, or otherwise received by the commission, shall be deemed to be trust funds, to be held and applied solely as provided in this act and in the resolution authorizing, or trust indenture securing, its bonds. All monies so received may be deposited in as received and paid out by any bank or banks selected for such purpose and eligible to hold public monies under the laws of Michigan, such deposits and paying out to be in the manner provided in such resolution or trust indenture. None of such monies need be paid into the state treasury.

Refunding bonds, purposes, contents.

Any bonds issued under this act may be refunded pursuant to resolution to be adopted by the commission. Refunding bonds so issued may be secured in such manner and may be made payable from such sources as may be provided in the resolution authorizing their issuance, and may have such rates and maturities as the commission may provide. Refunding bonds so issued may be delivered in whole or in part in exchange for a like principal amount of the bonds authorized to be refunded, and to the extent not so exchanged shall be sold in the manner provided for the sale of other bonds hereunder. If sold, the proceeds of the sale may be placed in escrow for the payment of the bonds to be refunded in such manner as may be provided in the resolution authorizing the bonds. No bonds may be refunded hereunder unless they either mature or are callable for redemption under their terms within 12 months from the date of issuance of the refunding bonds or unless the holders thereof voluntarily surrender them for exchange or payment.

HISTORY: New 1958, p. 244, Act 201, Imd. Eff. Apr. 24.

318.203 Mackinac Island state park commission; charges and fees; payment of bonds.

Sec. 3. The commission shall prescribe and collect charges and fees as above authorized for admission to and for the use of the services, facilities and commodities supplied by or through all its properties, including museums, the revenues of which have been pledged to the payment of bonds issued hereunder, and shall revise such charges and fees from time to time whenever necessary to insure that the revenues to be derived therefrom shall be fully sufficient to pay principal of and interest on such bonds, and to carry out all requirements and covenants contained in the proceedings pursuant to which any such bonds are issued. All or any part of the gross revenues derived by the commission from the operation, leasing or other use of any properties of the commission utilized as a part of any state park project financed hereunder may be pledged to the payment of such principal and interest. Each bond shall recite in substance that such bond and the interest thereon are payable solely from the revenues pledged to the payment thereof, and that such bond does not constitute a debt of the commission or of the state of Michigan within the meaning of any constitutional or statutory limitation.

HISTORY: New 1958, p. 245, Act 201, Imd. Eff. Apr. 24.

318.204 Mackinac Island state park commission; public body corporate; tax exemptions.

Sec. 4. The commission is hereby declared to constitute a public body corporate constituting an instrumentality of the state of Michigan and carrying out duties and functions imposed upon and in the state under its constitution and laws, and shall have the power to sue and be sued. It is accordingly hereby found, determined and de-

clared that the carrying out of powers of the commission and the purposes of this act are for the benefit of the people of the state and constitute a public purpose. Accordingly, all property owned by the commission or owned by the state and controlled by the commission shall be exempt from all taxes levied by the state and all of its political subdivisions and taxing districts, and the bonds and interim receipts or certificates issued by the commission and the income therefrom shall be free from taxation within the state, and the commission shall be required to pay no taxes or assessments upon its activities or upon any of its revenues.

HISTORY: New 1958, p. 245, Act 201, Imd. Eff. Apr. 24.

318.205 Contraction of debts.

Sec. 5. Nothing in this act shall be construed or interpreted as to authorize or permit the incurring of the indebtedness of the state of Michigan contrary to the provisions of the constitution or laws of the state.

HISTORY: New 1958, p. 246, Act 201, Imd. Eff. Apr. 24.

318.206 Mackinac Island state park commission; authorizing resolution, publication, testing of validity.

Sec. 6. The commission may in its discretion cause any resolution authorizing the issuance of bonds hereunder to be published one time in a newspaper published in the county where the facilities are located having a general circulation therein. Any action or proceeding questioning the validity of such resolution or any provision thereof or the validity of the bonds authorized thereby or the provisions of any trust indenture therein authorized to be executed for the security of such bonds, must be commenced within 20 days from the publication of such resolution. After the expiration of said 20 days no right of action or defense founded upon the invalidity of said resolution or any of its provisions or of said trust indenture, if any, or of the bonds, shall be asserted nor shall any court in this state have authority to inquire into such matters.

HISTORY: New 1958, p. 246, Act 201, Imd. Eff. Apr. 24.

318.207 Mackinac Island state park commission; acts, approval.

Sec. 7. Except to the extent that the constitution of Michigan may be construed to require the approval of any act of the commission hereunder, by the state administrative board, the commission may carry out all powers and functions granted and imposed in it hereunder without first obtaining the approval of any other state department, board, bureau, agency or official.

HISTORY: New 1958, p. 246, Act 201, Imd. Eff. Apr. 24.

318.208 Construction of act.

Sec. 8. In so far as any one or more provisions of this act may be inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

HISTORY: New 1958, p. 246, Act 201, Imd. Eff. Apr. 24.

Act 51, 1970, p. 142; Imd. Eff. Jul. 10.

AN ACT to authorize the department of natural resources to lease state parkland within the Petoskey state park.

The People of the State of Michigan enact:

318.221 Petoskey state park; lease, purpose.

Sec. 1. The department of natural resources may lease land in the Petoskey state park to a cooperative nonprofit organization whose purpose is the preservation of Indian culture, arts and crafts.

HISTORY: New 1970, p. 142, Act 51, Imd. Eff. Jul. 10.

318.222 Petoskey state park; terms of lease.

Sec. 2. Any lease so made shall contain provisions limiting the purposes for which the land is to be used, and shall contain a provision authorizing the department of natural resources to terminate the lease upon a finding that the land is being used for other purposes or contrary to the intent thereof.

HISTORY: New 1970, p. 142, Act 51, Imd. Eff. Jul. 10.

Act 225, 1964, p. 300; Imd. Eff. May 22.

AN ACT to provide for the establishment and maintenance of a state system of trails for horseback riders and hikers; to prescribe the powers and duties of the department of conservation.

The People of the State of Michigan enact:

318.231 Trail; definition.

Sec. 1. As used in this act:

"Trail" means a right of way adapted to foot or horseback travel.

HISTORY: New 1964, p. 300, Act 225, Imd. Eff. May 22.

318.232 State system of trails; master plan, development and maintenance, facilities.

Sec. 2. Within legislative appropriations, the department of conservation shall make a survey and prepare a master plan for a state system of trails with camp sites and necessary facilities which takes into account points of historical interest and scenic beauty. Revisions of the plan may be made from time to time. On those parts of the trail which are not public roads, the director of conservation may prohibit motor equipment. The department may provide, develop and maintain a system of trails with camp sites and necessary facilities for the use of the public, within the appropriations made therefor by the legislature.

HISTORY: New 1964, p. 300, Act 225, Imd. Eff. May 22.

318.233 Trails; gifts, grants of property interests; prison labor.

Sec. 3. The department may accept gifts or grants of land, rights of way and other property. The department shall have authority to use state timber, timber materials, equipment and prison labor on lands under lease or use permit to it.

HISTORY: New 1964, p. 300, Act 225, Imd. Eff. May 22.

Act 280, 1969, p. 520; Eff. Mar. 20, 1970.

AN ACT to prohibit vandalism in state or publicly owned parks and recreation areas; to provide penalties; and to provide for recovery of damages.

The People of the State of Michigan enact:

318.251 Vandalism prohibited.

Sec. 1. It is unlawful to destroy, damage or remove any tree, shrub, wildflower or other vegetation, or to destroy, damage, deface or remove any state or publicly owned property in any state or public park or recreation area.

HISTORY: New 1960, p. 530, Act 280, Eff. Mar. 20, 1970.

318.252 Violation of act; penalty.

Sec. 2. Any person who violates any provision of this act is guilty of a misdemeanor.

HISTORY: New 1960, p. 530, Act 280, Eff. Mar. 20, 1970.

318.253 Reimbursement by vandals; triple damages; judgments, joint responsibility; parents; collection.

Sec. 3. (1) In addition to the penalties provided in this act for violating its provisions, any person convicted of an act of vandalism shall reimburse the state or public agency for up to 3 times the amount of the damage as determined by the court.

(2) In every case of conviction for the offenses, the court before whom such conviction is obtained, shall enter judgment in favor of the state or public agency and against the defendant for liquidated damages in a sum as provided in subsection 1. The state or public agency shall, with the assistance of the prosecuting attorney, collect the award by execution or otherwise. If 2 or more defendants are convicted of the vandalism, the judgment for damages shall be entered against them jointly. If the defendant is a minor, the judgment shall be entered against his parents.

HISTORY: New 1960, p. 530, Act 280, Eff. Mar. 20, 1970.

318.254 Reimbursement; disposition.

Sec. 4. Upon collection, the sums shall be credited to the general fund of the public agency involved and shall be used for repairs and improvements to the parks.

HISTORY: New 1960, p. 530, Act 280, Eff. Mar. 20, 1970.

318.255 Municipal ordinances; penalties, triple damages.

Sec. 5. Cities, villages, townships and counties may adopt ordinances imposing penalties and providing for the collection of triple damages against any person convicted of an act of vandalism in a park or recreation area owned and operated by the city, village, township or county.

HISTORY: New 1960, p. 530, Act 280, Eff. Mar. 20, 1970.

Act 149, 1960, p. 215; Eff. Aug. 17.

AN ACT to authorize the state conservation commission to acquire land and undertake an improvement program at certain state parks; to provide for financing through the issuance of revenue bonds; to provide the terms, conditions and limitations on such bonds; to prescribe the powers and duties of certain state officers; to authorize the imposition of certain charges and fees for the payment and security of such bonds and for other purposes; to authorize the refunding of such bonds; and to prescribe penalties for violations of this act.

The People of the State of Michigan enact:

318.301 State park improvements; definitions.

Sec. 1. The state conservation commission, hereinafter called the commission, may acquire land and undertake an improvement program for state parks which are now or hereafter may be under its jurisdiction, pursuant to the powers, rights and privileges conferred by this act, but no land acquisition or improvement program shall be under-

taken until approved by the legislature in the annual capital outlay appropriation act. The term "improvement program" shall be limited to construction, reconstruction, development, improvement, bettering and extending the facilities in the Michigan state park system, such facilities to include site improvements, impoundments, roads and parking, toilet buildings, concession buildings, shelter buildings, bathhouses, utilities, outdoor centers, ski areas, ski tows, ski shelters and administration units. The term "state parks" as used in this act shall mean and include any state park or state recreation area so designated by the commission, but shall not include state forest campgrounds, state game areas or state public fishing access sites.

HISTORY: New 1960, p. 215, Act 149, Eff. Aug. 17.

318.302 State park improvements; revenue bonds, includable costs.

Sec. 2. For the purpose of financing the cost of land and the improvement program, the commission may issue revenue bonds as hereinafter provided. With the consent of the legislature, the commission may from time to time borrow money and issue revenue bonds payable solely and only from state park revenues as defined in this act. The aggregate principal amount of such revenue bonds which may be issued by the commission pursuant to this act shall not exceed \$20,000,000.00. Said bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 5 years from the date of issuance and no annual maturity after 5 years from the date of issuance shall be less than 1/4 of any subsequent maturity. Said bonds shall bear interest at a rate or rates not exceeding 6% per annum and shall not be issued for a period of time in excess of 30 years from the date of the bond. There may be included in the cost for which bonds are to be issued a reasonable allowance for legal, engineering, architectural and consultant services, traffic studies, cost of printing and issuing of the bonds, interest on the bonds becoming due before collection of the first revenues available therefor and for a period of 1 year thereafter, and other incidental expenses. There may be included also in the cost for which bonds are to be so issued a sum not to exceed \$50,000.00 for the construction of gate houses at the collection points, the preparation and erection of suitable signs and the printing of leaflets advising park visitors of the law. The term "state park revenues" as used in this act shall mean all park permit fees as provided in section 10 and shall in no event include other moneys appropriated by the legislature. Said bonds shall be authorized by a resolution adopted by a majority vote of the commission and may be issued in one or more series as shall be determined by the commission.

HISTORY: New 1960, p. 216, Act 149, Eff. Aug. 17;—Am. 1967, p. 587, Act 286, Imd. Eff. Aug. 1.

318.303 State park improvements; resolution authorizing issuance of bonds, contents.

Sec. 3. The resolution to be adopted by the commission authorizing the issuance of bonds shall contain the following:

(a) A description in reasonable detail of the land, if any, to be acquired and improvement program as approved by the legislature, for which the bonds are to be issued.

(b) The bond maturities, the maximum rate of interest, the form of the bonds which may be either coupon bond or bonds registered as to principal only or bonds registered as to both principal and interest, the terms of redemption prior to maturity, if any, with or without premium, the manner in which said bonds and the interest coupons shall be executed, and such other terms and conditions as shall be necessary in connection with said bonds and the security therefor. The premium on any redemption prior to maturity shall not exceed 3% of the par value.

(c) A provision that the state park revenues shall be pledged for the payment of the bonds, but the pledge of state park revenues shall be on a parity with pledges of said

revenues theretofore or thereafter made by the commission pursuant to any other resolution or resolutions authorizing the issuance of bonds under the provisions of this act and the resolution shall so recite.

(d) A listing by the commission of the state parks or portions thereof previously posted or to be posted within a time specified in said resolution and in accordance with the provisions of section 9 of this act.

(e) A covenant that the park permit fees provided in section 10 of this act shall be revised from time to time within the limits permitted by law whenever necessary to insure that the revenues to be derived therefrom shall be fully sufficient to pay the principal of and interest on any bonds issued pursuant to this act and other obligations of the commission in connection therewith.

(f) A provision requiring the fiscal agent to set aside moneys from the state park revenue bond receiving fund into a fund to be designated "state park revenue bond and interest redemption fund" in a sum proportionately sufficient to provide for the payment of the principal of and interest upon all bonds payable therefrom as and when the same become due and payable in such manner as shall be prescribed by the commission. In addition the resolution shall authorize the commission to provide that a reasonable excess amount may be set aside by the fiscal agent from time to time as directed by the commission in the state park revenue bond and interest redemption fund so as thereby to produce and provide a reserve to meet any possible future deficiencies therein. Said resolution shall further provide that out of the revenues remaining each quarter, after having first made provision for the requirements of the state park revenue bond and interest redemption fund, including the reserve therefor, the commission may by direction to the fiscal agent next set aside additional moneys in the state park revenue bond and interest redemption fund for the purpose of calling bonds for redemption, subject to approval by the state administrative board. Said resolution shall also contain a provision for the investment of funds held by the fiscal agent.

(g) A provision that any moneys on deposit in the state park revenue bond receiving fund after setting aside the amounts in the state park revenue bond and interest redemption fund shall be deemed to be surplus moneys and to the extent in excess of a constant balance of \$100,000.00 shall be deposited quarterly by the fiscal agent upon the order of the commission in the state treasury in a special fund to be designated "state park improvement fund", and be subject to appropriation by the legislature for the improvement of state parks and for no other purpose.

(h) The terms and conditions under which additional bonds payable from the state park revenues of equal standing with any prior issue of bonds may be issued.

(i) A provision for deposit and expenditure of the proceeds of sale of the bonds and for investment of the proceeds of sale of the bonds and of other funds of the commission relating to bonds authorized by the provisions of this act.

(j) A provision that in the event of a default in the payment of principal of or interest on the bonds, or in the performance of any agreement or covenant contained in the resolution, the holders of a specified percentage of the outstanding bonds may for the equal benefit of the holders of all of the bonds:

- (1) By mandamus or other suit, action or proceeding at law or in equity enforce all rights of the holders of such bonds;
- (2) Bring suit upon the defaulted bonds or coupons; and
- (3) Take such other actions as may be provided by law.

HISTORY: New 1980, p. 216, Act 149, Eff. Aug. 17.

318.304 Revenue bonds; state debt; extent of liability.

Sec. 4. Each of said bonds shall state on its face that it is not a general obligation of the state of Michigan, but is a revenue bond payable solely and only from state park

revenues as defined in this act. The interest coupons to be attached to the bonds shall contain a statement that the interest coupons are not general obligations of the state of Michigan but are payable only from such state park revenues. Nothing in this act shall be construed or interpreted so as to authorize or permit the incurring of the indebtedness of the state contrary to the provisions of the constitution or laws of the state. In no event shall the holders of the bonds or interest coupons have the right to compel a sale of any real estate or personal property of the state parks, nor shall the holders of the bonds or interest coupons have any lien, mortgage or other encumbrances upon any property of the state of Michigan, real, personal or mixed. Said bonds shall be fully negotiable within the meaning of and for all purposes of the negotiable instruments law of this state.

HISTORY: New 1980, p. 217, Act 149, Eff. Aug. 17.

318.305 Revenue bonds; refunding issue; additional bonds.

Sec. 5. The commission, with consent of the legislature, may issue bonds hereunder for the purpose of refunding any obligations theretofore issued under the provisions of this act, or may authorize and deliver a single issue of bonds hereunder in part for the purpose of refunding such obligations and in part for the purpose of financing any additional cost of land or improvement program, as authorized by the legislature in a capital outlay appropriation act. Bonds issued under this section shall be payable solely and only from state park revenues and may either be sold as in this act provided or delivered in exchange for outstanding bonds issued hereunder and to the extent not so exchanged, said bonds shall be sold in the manner provided for the sale of bonds hereunder. If sold, that portion of the proceeds representing the refunding portion may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement thereof. No bonds may be refunded hereunder unless they either mature or are subject to redemption under their terms within 12 months from the date of sale of the refunding bonds, or unless the holders thereof voluntarily surrender them for exchange or payment.

HISTORY: New 1980, p. 218, Act 149, Eff. Aug. 17.

318.306 Revenue bonds; public sale; approval.

Sec. 6. Any bonds issued under the provisions of this act, except bonds issued for delivery in exchange as permitted by section 5 of this act, shall be sold at public sale in accordance with the provisions of Act No. 202 of the Public Acts of 1943, as amended, and shall require as a condition precedent to their issuance the approval of the municipal finance commission under the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1980, p. 218, Act 149, Eff. Aug. 17.

318.307 State park revenues; fiscal agent; receiving fund.

Sec. 7. All state park revenues as defined in this act shall be deposited, as collected by the commission, with the state treasurer who shall be fiscal agent for the commission. The state treasurer as such fiscal agent shall open a special depository account with a federal reserve system member bank or banks selected by the fiscal agent with the approval of the commission, said account to be designated "state park revenue bond receiving fund". The necessary expenses of the fiscal agent incurred by reason of said agent's duties under this act shall be paid from the state park revenue bond receiving fund. The fiscal agent, with the approval of the commission, shall designate banks or trust companies located in Detroit, Michigan, New York, New York or Chicago, Illinois, to act as paying agent or agents for the said revenue bonds and interest coupons. The fees and necessary expenses of such agent or agents shall be paid from the state park revenue bond and interest redemption fund.

HISTORY: New 1980, p. 218, Act 149, Eff. Aug. 17.

318.308 Free entry of motor vehicles into posted park prohibited.

Sec. 8. Except as otherwise provided herein, no free entry of a motor vehicle shall be permitted into any state park or portion thereof posted in accordance with this act.

HISTORY: New 1980, p. 218, Act 149, Eff. Aug. 17.

318.309 Park permits; exempted vehicles.

Sec. 9. The commission by resolution shall designate from time to time the state parks in which a park permit shall be required for lawful entry by motor vehicle under the provisions of this act. In making such designation the commission shall consider only those parks in which state facilities and services are provided for the public. The commission may in its judgment limit the requirement for a park permit for lawful entry to a portion of a designated state park and in such event shall recite in the resolution a reasonable description of the area in which the park permit shall be required. The commission shall promptly cause signs to be posted and maintained at the entrances to all such designated parks or designated portions thereof, said signs to display a legend that entrance by motor vehicle into the park or designated portion is prohibited unless there is displayed on said motor vehicle a park permit of the type described in section 10 of this act. As used in this act the term "motor vehicle" means every vehicle which is self-propelled. It shall be unlawful for any person to enter any state park or portion thereof, posted in accordance with this act, in a motor vehicle unless a park permit valid under the provisions of section 10 hereof has been procured and affixed to the lower right-hand corner of the windshield of such motor vehicle, except that no park permit shall be required to be affixed to a motor vehicle while being driven or parked within an established federal, state or county highway within a state park. The provisions of this act shall not apply to motor vehicles used in the operation or maintenance of state parks, to emergency vehicles, nor to state-owned or law enforcement motor vehicles or private motor vehicles being operated on official state business.

HISTORY: New 1980, p. 218, Act 149, Eff. Aug. 17.

318.310 Park permits; annual permit, daily permit, sale.

Sec. 10. The commission may require park permits and impose and collect park permit fees for entry into any state park or portion thereof posted in the manner prescribed by this act. The commission shall cause to be prepared and distributed suitable park permits to carry out the provisions of this act.

An annual park permit shall be issued and shall authorize the entry of the motor vehicle to which it is originally attached within the confines of any state park during the calendar year in which issued. The fee for the annual park permit shall be \$3.00 for resident motor vehicles and \$5.00 for nonresident motor vehicles.

A daily park permit, valid for 1 day only, shall be issued for a fee to be fixed by the commission, but in an amount not to exceed \$1.00 for resident motor vehicles and \$2.00 for nonresident motor vehicles, and shall authorize the entry of the motor vehicle to which it is originally attached within the confines of any state park during the day in which issued.

A resident motor vehicle is one which is registered in this state.

The requirements of this act shall apply only to the entry of motor vehicles into the state parks and the park permits authorized herein and shall not obviate the necessity of obtaining additional permits for special services or park privileges as heretofore or hereafter may be required by law or by rules and regulations promulgated by the commission. The director of conservation shall designate persons, partnerships or corporations in the state authorized to sell the park permits and shall require as a condition of such designation that a surety bond be furnished in such amount and in such form and with such surety as shall be acceptable to the director. Any person, partnership or cor-

poration so designated by the director of conservation shall thereupon be authorized to issue park permits in accordance with the provisions of this act.

HISTORY: New 1960, p. 219, Act 149, Eff. Aug. 17;—Am. 1967, p. 567, Act 296, Imd. Eff. Aug. 1.

318.311 Park permits; monthly accounting; vendor's fee; report.

Sec. 11. On or before the tenth day of every month, all persons, partnerships or corporations authorized to sell park permits as provided in this act shall pay over to the department of conservation all moneys received from the sale of park permits for the preceding month. Any person, partnership or corporation which refuses or neglects to pay over the moneys as herein provided, in addition to other penalties provided by law, shall forfeit the right to sell park permits. All persons, partnerships or corporations authorized to sell park permits, except conservation employees who receive a regular salary from the state, may charge the purchaser as compensation therefor 15 cents additional for each annual park permit and 10 cents additional for each daily park permit issued. On or before February 15 of each year a complete report of all permits sold during the previous calendar year shall be filed with the commission by each person, partnership or corporation authorized to sell the same, and all unsold park permits for the previous year shall be returned to the department of conservation.

HISTORY: New 1960, p. 219, Act 149, Eff. Aug. 17.

318.312 Rules and regulations.

Sec. 12. The commission is hereby authorized to adopt such rules and regulations, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, governing the administration of this act, as may be deemed necessary.

HISTORY: New 1960, p. 219, Act 149, Eff. Aug. 17.

318.313 Violation of act or rule; presumption.

Sec. 13. A violation of this act or the valid rules and regulations promulgated by the commission shall constitute a misdemeanor. In any proceeding for the violation of this act, where a motor vehicle without the required park permit affixed is found parked in any state park, the registration plate displayed on the motor vehicle shall constitute prima facie evidence that the owner of the motor vehicle was the person who parked or placed it at the location where found.

HISTORY: New 1960, p. 220, Act 149, Eff. Aug. 17.

318.314 Bonds; exemption from taxation.

Sec. 14. All bonds issued hereunder and the interest thereon shall be exempt from taxation by the state of Michigan, or by any municipality, corporation, county or other political subdivision or taxing district of the state.

HISTORY: New 1960, p. 220, Act 149, Eff. Aug. 17.

318.315 Cumulative authority.

Sec. 15. This act and the powers and authority hereby granted shall be deemed cumulative and confirmatory of any power heretofore granted to the conservation commission, and the powers herein granted may be exercised without reference to the provisions of any other act except as otherwise provided herein.

HISTORY: New 1960, p. 220, Act 149, Eff. Aug. 17.

318.316 Governing law.

Sec. 16. Insofar as any one or more provisions of this act may be inconsistent with the provisions of any other act, general or special, the provisions of this act shall control.

HISTORY: New 1960, p. 220, Act 149, Eff. Aug. 17.

Act 257, 1968, p. 443; Imd. Eff. Jul. 1.

AN ACT to authorize the issuance of general obligation bonds of the state of Michigan and to pledge the full faith and credit of the state of Michigan for the payment of principal and interest thereon for public recreation facilities and grants, loans and advances to municipalities of the state for public recreation purposes and facilities; to provide for other matters relating to the bonds and the use of the proceeds of sale of the bonds; and to provide for the submission of the question of the issuance of the bonds to the electors of the state.

The People of the State of Michigan enact:

318.351 Public recreation bonds; definitions.

Sec. 1. As used in this act:

(a) "Municipality" or "municipalities" means and includes any county, city, village, township, school district, metropolitan district, port district, drainage district, authority, or other governmental authority, agency or department within or of the state with power to acquire, construct, improve or operate public recreation facilities.

(b) "Public recreation facilities" means and includes the acquisition of lands and the planning, acquisition, construction, equipping and developing of programs and facilities for parks, forest and wildlife areas, fisheries and other facilities used or useful for public recreational purposes hereafter authorized by law.

HISTORY: New 1968, p. 443, Act 257, Imd. Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 318.351 to 318.362 are cited in § 318.371.

318.352 Necessity; determination by legislature.

Sec. 2. The legislature determines that it is essential for the public health, safety and welfare of the state and the residents thereof to undertake a complete program of public recreation facilities and to make grants, loans and advances to political subdivisions of the state for such purposes.

HISTORY: New 1968, p. 443, Act 257, Imd. Eff. Jul. 1.

318.353 Bonds; issuance, pledge, purpose.

Sec. 3. The state shall borrow the sum of \$100,000,000.00 and issue the general obligation bonds of the state therefor pledging the faith and credit of the state for the payment of the principal and interest thereon for the purpose of providing money for public recreation facilities and for the making of grants, loans and advances to municipalities for such purposes, in accordance with conditions, methods and procedures therefor to be established by law.

HISTORY: New 1968, p. 443, Act 257, Imd. Eff. Jul. 1.

318.354 Bonds; issuance, series, interest, redemption; disposition of proceeds; sale.

Sec. 4. The bonds shall be issued in 1 or more series, each series to be in such principal amount, to be dated, to have such maturities which may be either serial, term or term and serial, to bear interest at such rate or rates not exceeding 6% per annum, to be subject or not subject to prior redemption and if subject to prior redemption with such call premiums, to be payable at such place or places, to have or have not such

provisions for registration as to principal only or as to both principal and interest, to be in such form and to be executed in such manner as shall be determined by resolution to be adopted by the administrative board. The administrative board in the resolution may provide for the investment and reinvestment of bond sales proceeds and such other details for the bonds and the security thereof as may be deemed to be necessary and advisable. The bonds or any series thereof shall be sold for not less than the par value thereof and shall be sold at public sale after publication of a notice of sale thereof in a newspaper circulating in the state, which carries as part of its regular service notices of sale of municipal bonds, at least 7 days before the date fixed for sale of the bonds or series thereof. The bonds prior to their issuance shall be approved by the municipal finance commission, but shall not otherwise be subject to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1908, p. 443, Act 257, Imd. Eff. Jul. 1.

318.355 Bonds; disposition of proceeds, authorized purposes.

Sec. 5. The proceeds of sale of the bonds or any series thereof and any premium and accrued interest received on the delivery thereof shall be deposited in the state treasury in a separate account and shall be disbursed from the separate account only for the purposes for which the bonds have been authorized and the expense of issuing the bonds. Proceeds of sale of the bonds or any series thereof shall be expended for the purposes set forth in this act in such manner as shall be provided by law.

HISTORY: New 1908, p. 443, Act 257, Imd. Eff. Jul. 1.

318.356 Bonds; negotiability; tax exemption.

Sec. 6. Bonds issued under this act shall be fully negotiable under Act No. 174 of the Public Acts of 1962, as amended, being sections 440.1101 to 440.9994 of the Compiled Laws of 1948, and said bonds and the interest thereon shall be exempt from all taxation by the state or any of its political subdivisions.

HISTORY: New 1908, p. 444, Act 257, Imd. Eff. Jul. 1.

318.357 Bonds; investment by certain entities and individuals permitted.

Sec. 7. Bonds issued under the provisions of this act are securities in which all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all administrators, executors, guardians, trustees and other fiduciaries may properly and legally invest any funds, including capital, belonging to them or within their control.

HISTORY: New 1908, p. 444, Act 257, Imd. Eff. Jul. 1.

318.358 Bonds; submission to vote of electors.

Sec. 8. The question of borrowing the sum of \$100,000,000.00 and issuing bonds of the state for the purposes set forth in this act shall be submitted to vote of the electors of the state qualified to vote thereon in accordance with the provisions of article 9, section 15 of the state constitution, at the general election to be held on November 5, 1968. The question submitted to the electors shall be substantially as follows:

“Shall the state of Michigan borrow the sum of \$100,000,000.00 and issue general obligation bonds of the state therefor pledging the full faith and credit of the state for the payment of principal and interest thereon for public recreational facilities and programs consisting of land acquisition and the development of parks, forest and wildlife areas, fisheries and other facilities used or useful for public recreational purposes and for the making of grants, loans and advances to political subdivisions and agencies of the state for such recreational purposes, the method of repayment of said bonds to be from the general fund of the state?

Yes ☐ No ☐

HISTORY: New 1908, p. 444, Act 257, Imd. Eff. Jul. 1.

318.359 Bonds; duties of secretary of state to submit question to electors.

Sec. 9. The secretary of state shall take such steps and perform all acts as are necessary to properly submit said question to the electors of the state qualified to vote thereon at the general November election to be held on November 5, 1968.

HISTORY: New 1968, p. 444, Act 257, Imd. Eff. Jul. 1.

318.360 Bonds; covenants by legislature.

Sec. 10. After the issuance of the bonds authorized by this act or any series thereof it shall be the duty of the legislature and the legislature covenants that it will each year make appropriations fully sufficient to pay promptly when due the principal of and interest on all outstanding bonds authorized by this act and all costs incidental to the payment thereof.

HISTORY: New 1968, p. 444, Act 257, Imd. Eff. Jul. 1.

318.361 Bonds; necessity of electors' approval.

Sec. 11. No bonds shall be issued under this act unless the question set forth in section 8 is approved by a majority vote of the qualified electors voting thereon at the general November election to be held on November 5, 1968.

HISTORY: New 1968, p. 444, Act 257, Imd. Eff. Jul. 1.

318.362 Effective date of act.

Sec. 12. This act shall be finally effective at such time as the question set forth in section 8 is approved by a majority vote of the qualified electors of the state as required by article 9, section 15 of the state constitution.

HISTORY: New 1968, p. 444, Act 257, Imd. Eff. Jul. 1.

Act 108, 1969, p. 195; Eff. Sep. 1.

AN ACT to implement the public recreation bond act by providing for grants, loans and advances from a part of the bond proceeds to local units of government, and for direct use of a part of the bond proceeds by the department of natural resources, in both cases for public recreational purposes.

The People of the State of Michigan enact:

318.371 Public recreation bond proceeds; definitions.

Sec. 1. As used in this act:

(a) "Approved cost" means total project cost as determined and approved in the notice of approval given to a local unit by the department.

(b) "Department" means the department of natural resources.

(c) "Local unit" means a county, city, village, township or other governmental authority within or of the state having power to acquire, construct, improve or operate facilities for public recreational purposes.

(d) "Public recreation bond act" means Act No. 257 of the Public Acts of 1968, being sections 318.351 to 318.362 of the Compiled Laws of 1948.

(e) "Public recreational purpose" means a project for the acquisition of land or an interest therein, together with costs directly incidental thereto incurred by the department but not by a local unit; the preparation of site, architectural and engineering plans; and the acquisition, construction, expansion, equipment and development of facilities for parks, recreational centers, forest and wildlife areas, waterways, fisheries and other facilities used or useful for public recreation. It does not include operation,

maintenance or administration of such facilities, nor any local unit expense incurred in establishing cost or fair market value, or administration of projects nor purchase of facilities already dedicated to public recreational purposes.

(f) "Project" means an undertaking to accomplish a public recreational purpose.

(g) "Facility" means lands or installations resulting from a project.

HISTORY: New 1969, p. 195, Act 108, Eff. Sep. 1.

318.372 Public recreation fund; creation, source of funds.

Sec. 2. The public recreation fund is created in the state treasury. The proceeds of sale of the \$100,000,000.00 bond issue, or any series thereof, authorized by the public recreation bond act and subsequent referendum and any premium and accrued interest received on the delivery thereof, shall be deposited in the public recreation fund.

HISTORY: New 1969, p. 195, Act 108, Eff. Sep. 1.

318.373 Bond revenues; allocation to local units and department of natural resources, uses.

Sec. 3. (1) Thirty million dollars of the bond revenues shall be allocated to the local units to be used to initiate local community recreational projects to satisfy deficiencies in community recreational facilities and to provide facilities for future recreational needs as provided in this act.

(2) Seventy million dollars of the bond revenues shall be allocated to the department of natural resources to fund the state's recreation program.

HISTORY: New 1969, p. 195, Act 108, Eff. Sep. 1.

318.374 Allocation for local units; division.

Sec. 4. (1) The allocation for local units shall be divided as follows:

(a) Thirty million dollars is allocated to the regions of the state on a per capita basis, determined by the most recent decennial census. The regions are:

(i) Region 1—all of the counties of the Upper Peninsula.

(ii) Region 2—Emmet, Charlevoix, Antrim, Leelanau, Benzie, Grand Traverse, Kalkaska, Manistee, Wexford, Missaukee, Osceola, Lake, Mason, Newaygo, Mecosta and Oceana counties.

(iii) Region 3—Cheboygan, Presque Isle, Otsego, Montmorency, Alpena, Crawford, Oscoda, Alcona, Roscommon, Clare, Ogemaw, Iosco, Arenac and Gladwin counties.

(iv) Region 4—Muskegon, Ottawa, Kent, Montcalm, Ionia, Eaton, Clinton, Ingham, Barry, Allegan, Van Buren, Kalamazoo, Calhoun, Jackson, Lenawee, Hillsdale, Branch, St. Joseph, Cass and Berrien counties.

(v) Region 5—Bay, Midland, Isabella, Gratiot, Saginaw, Tuscola, Huron, Sanilac, Lapeer, Genesee and Shiawassee counties.

(vi) Region 6—Livingston, Oakland, Macomb, St. Clair, Monroe and Washtenaw counties.

(vii) Region 7—Wayne county.

HISTORY: New 1969, p. 196, Act 108, Eff. Sep. 1.

318.375 Grants to local units; limitations; grant money not allocated, disposition.

Sec. 5. (1) During the fiscal years ending June 30, 1970, and June 30, 1971, grants to local units shall not exceed the per capita allocation defined above.

(2) After June 30, 1971, the grant money not allocated to approved projects shall be put into a regional fund from which grants may be made for any project within the region.

(3) After June 30, 1972, the grant moneys allocated to a region which have not been

allocated to approved projects shall be put into a state fund from which grants may be made for any local unit project within the state.

HISTORY: New 1969, p. 196, Act 108, Eff. Sep. 1.

318.376 Applications for disbursement to local units; terms, conditions, procedure.

Sec. 6. The department shall prescribe, publish and make available to all local units no later than November 1, 1969, the terms, conditions and procedures for the processing and approval of applications for disbursement to local units.

HISTORY: New 1969, p. 196, Act 108, Eff. Sep. 1.

318.377 Grant to local unit; application, approval, representative for unit; recreation plan; priorities.

Sec. 7. (1) A local unit, to obtain a grant, shall make a separate application to the department for each project. Before or concurrent with making the application, and for the purpose of doing so, the legislative body of the local unit shall designate to the department its official representative and shall submit a recreation plan meeting the approval of the department. The plan shall include a survey of existing facilities of the applicant local unit, including therein any facilities of school districts within the local unit and any pertinent facilities of the state or other local units, proposals for future expansion and the basis therefor. The plan shall take cognizance of guidelines promulgated by the department and shall define local objectives and shall determine deficiencies in facilities and assign priorities to projects required to overcome the deficiencies. Priority consideration should be given to providing facilities in areas of low income and high population density.

Approval of applications; priority factors.

(2) Approval of an application shall not be made before the expiration of 60 days after the publication and availability of the terms, conditions and procedures referred to in section 6. Approval of applications shall be made by the department on a priority of need basis, with due regard to all purposes of this act and the public recreation bond act and with particular regard to: (a) the number, geographical location and income level of the people to be served by the facility, (b) the deficiency in recreational facilities for the people to be served by the facility, (c) the probable multiple use of the facility, (d) the demonstrated ability of the local unit to maintain, operate and administer the facility on its completion, (e) such factors as accessibility to all users including the handicapped, the elderly, the young, deprived and low income families, and (f) interagency cooperation. The method of assigning priorities shall be approved by a majority of those elected and serving in each house by concurrent resolution.

Consultation on priorities; county applicant.

(3) The department shall consult as to the general application of priorities to project approval with the recreation advisory committee created by section 5 of Act No. 326 of the Public Acts of 1965, being section 299.125 of the Compiled Laws of 1948. In any county where the board of supervisors has established a parks and recreation department it may by resolution and concurrence of each of the incorporated municipalities within that county designate that department as the sole applicant for funds for that county.

List of eligible local projects, approval.

(4) The department shall report to the legislature during the months of January and May of each year a list of local projects eligible for grants compiled in order of their assigned priority. The list shall be accompanied by estimate of total costs for the land acquisition projects and for construction projects, summarized by regions, as defined in section 4. The legislature may, by concurrent resolution of a majority of those elected and serving in each house, approve or reject the list of projects, but shall not add to

nor delete from or change the order of priority of the projects listed. If legislative action on the list of eligible projects is not taken within 45 days after receipt of the department's list of eligible projects, the department's list will be considered approved.

Initial list of local projects; approval.

(5) The department shall report to the legislature by September 10, 1969, an initial list of local projects eligible for grants compiled in order of their assigned priority. The list shall be accompanied by estimate of total costs for land acquisition projects and for the construction projects, summarized by regions, as defined in section 4. The legislature may, by concurrent resolution of a majority of those elected and serving in each house, approve or reject the list of projects, but shall not add to nor delete from or change the order of priority of the projects listed. If legislative action on the list of eligible projects is not taken within 30 days after receipt of the department's list, the department's list will be considered approved. The department shall accompany this initial list with a statement of preliminary guidelines utilized in determining eligibility and priority of these local projects. These guidelines shall be consistent with the objectives of the criteria as established in sub-divisions (a) to (f) of subsection (2) of section 7.

HISTORY: New 1969, p. 196, Act 108, Eff. Sep. 1.

318.378 Disbursements; form.

Sec. 8. (1) Disbursement shall be made in accordance with the accounting laws of this state on certification by the department to the director of the department of administration and to the state treasurer.

(2) Disbursement shall be made in the form of a grant, loan or advance, or any combination.

HISTORY: New 1969, p. 187, Act 108, Eff. Sep. 1.

318.379 Costs; local, state, and federal portions; payment.

Sec. 9. The part of the approved cost borne by a local unit shall be known as the "local unit portion" and shall be at least 20% of the approved cost. The part of the approved cost borne by the state from the public recreation fund shall be known as the "state portion", and in no case shall exceed 80% of the total project cost. If any part of the project cost is jointly borne by federal grant, such part shall be known as the "federal portion", but in no such jointly funded project shall the amount of the state portion be such as to reduce the local portion to less than 20% of total project cost. A local unit may meet its local unit portion from public sources or private contributions and may include cash or any of the following which may be shown to be directly related to the project: (a) land or an interest therein not publicly owned, or publicly owned but not dedicated to recreation use, immediately prior to its use in meeting the local unit portion, (b) equipment made a permanent part of the facility, and (c) goods and services directly rendered to the construction of the project. A local unit shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any of the above items with which it seeks to meet its local unit portion. Not more than 60% of the local unit portion shall be met in goods and services.

HISTORY: New 1969, p. 197, Act 108, Eff. Sep. 1.

318.380 Local unit portion; financing; advances, interest, payment, security.

Sec. 10. The entire local unit portion, or any part, may be financed through a loan or advance determined in accordance with the department's published terms, conditions and procedures. An advance may be made to a local unit without interest for a period of 1 year at which time the advance shall become a loan in an amount equal to the outstanding balance of advance. Commencing 1 year thereafter, payments of prin-

cipal on the outstanding balance shall be made to the public recreation fund in 4 equal annual installments, together with interest at a rate equal to that borne on the series of the bonds from the proceeds of which the loan was made. The outstanding balance of an advance or loan and the accrued interest shall be secured by that part of the local unit's share of the income tax rebate provided by section 481 of Act No. 281 of the Public Acts of 1967, as amended, being section 206.481 of the Compiled Laws of 1948, equal to the outstanding balance and accrued interest on the advance or loan. The entire balance of the loan shall be due and payable 5 years after the making of the advance, but the right of prepayment exists and may be exercised at any time. Repayments of principal and interest shall be immediately available for applications for local unit projects in accordance with all other provisions of this act.

HISTORY: New 1969, p. 198, Act 108, Eff. Sep. 1.

318.381 Failure to reasonably progress with approved project; revocation of approval.

Sec. 11. When the department determines, but not before 1 year after the notice of approval, that reasonable progress toward the commencement and execution of an approved project has not been made, it may revoke its approval and the money approved for the project shall be immediately available for applications for local unit projects in accordance with all other provisions of this act.

HISTORY: New 1969, p. 198, Act 108, Eff. Sep. 1.

318.382 Pre-requisites for disbursement; use not specified in application; availability to general public.

Sec. 12. No disbursement shall be made to a local unit other than for an approved project dedicated in perpetuity to public recreation. A facility shall not be sold, disposed of or converted to a use not specified in the application without express approval of the department. All projects shall be open to the general public of the state.

HISTORY: New 1969, p. 198, Act 108, Eff. Sep. 1.

318.383 Records; requirement, access.

Sec. 13. The department may prescribe and require the keeping of books and records for the effective administration of this act. The department, auditor general and state treasurer, and their authorized representatives, shall have access to the books and records relevant to the receipt and use of disbursements made under this act.

HISTORY: New 1969, p. 198, Act 108, Eff. Sep. 1.

318.384 Allocation of funds; reports to legislature.

Sec. 14. (1) The \$70,000,000.00 to be allocated to the department for the state recreation programs is to be expended as follows:

(a) Twenty-five million dollars shall be reserved for state recreation projects in or near urban areas for multiple use recreational centers and outdoor recreational activities and shall be allocated to the regions of the state, as defined in section 4 on a per capita basis determined by the most recent decennial census. The department may enter into a contract with a local unit regarding the operation and maintenance of a facility established under the provisions of this subdivision. Under the contract, provision shall be made that the costs of the operation and maintenance of a facility shall be borne in whole or in part by the state.

Projects shall be initiated on a priority of need basis, with due regard to all purposes of this act and the public recreation bond act and with particular regard to: (i) the number, geographical location and income level of the people to be served by the project, (ii) the deficiency in recreational facilities for the people to be served by the project, (iii) the probable multiple use of the facility, (iv) such factors as accessibility to all

users including the handicapped, the elderly, the young, deprived and low income families, and (v) interagency cooperation.

(b) Twenty-four million, three hundred thousand dollars shall be reserved for state park projects of the department.

(c) Eleven million, seven hundred thousand dollars shall be reserved for fisheries projects of the department.

(d) Six million, three hundred thousand dollars shall be reserved for wildlife projects of the department.

(e) Two million, seven hundred thousand dollars shall be reserved for forest recreation projects of the department.

(2) Projects shall be initiated under subdivisions (b), (c), (d) and (e) of this section on a priority of need basis with due regard to all purposes of this act and the public recreation bond act.

(3) The department shall report to the legislature in July, 1969 and January of each year thereafter a list of state projects to be funded under the provisions of this section, compiled in order of their assigned priority. The list shall be accompanied by estimate of total costs for land acquisition projects and for construction projects, summarized by region, as defined in section 4. The department shall accompany each list with a statement of guidelines utilized in listing and assigning the priority of these state projects. The legislature shall approve by law those projects that are to be constructed in each year.

HISTORY: New 1969, p. 196, Act 106, Eff. Sep. 1.

318.385 Annual status report to legislature and governor.

Sec. 15. The department shall annually transmit to the legislature and to the governor on the status of all matters relevant to this act.

HISTORY: New 1969, p. 199, Act 106, Eff. Sep. 1.

318.386 Rules.

Sec. 16. In addition to the terms, conditions and procedures referred to above, the department may promulgate rules for the implementation of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 199, Act 106, Eff. Sep. 1.

318.387 Effective date; full implementation date, uncommitted funds, funds subsequently received.

Sec. 17. This act shall become effective September 1, 1969, and the department shall exert all reasonable efforts to fully implement it within 5 years thereafter. If funds allocated to either the state recreation program or the local community projects are not committed within 5 years, such uncommitted funds shall then be committed to such projects as may be placed under construction or acquisition within 1 year without regard to whether they are state or local. Any funds received after September 1, 1974, in repayment of loans and advances shall be allocated only for grants to local units.

HISTORY: New 1969, p. 199, Act 106, Eff. Sep. 1.

CHAPTER 319. CONSERVATION—OIL, GAS AND MINERALS

SUPERVISOR OF WELLS

Act 61 of 1939

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Act 61, 1939, p. 104; Imd. Eff. May 3.

AN ACT to provide for a supervisor of wells; to prescribe his powers and duties; to provide for an advisory board and an appeal board; to prescribe their powers and duties; to provide for the prevention of waste and for the control over certain matters, persons and things relating to the conservation of oil and gas, and for the making and promulgation of rules, regulations and orders relative thereto; to provide for the plugging of wells and for the entry on private property for that purpose; to provide for the enforcement of such rules, regulations and orders and of the provisions of this act, and to provide penalties for the violations thereof; and to provide for the assessment and collection of certain fees. Am. 1951, p. 240, Act 190, Eff. Sep. 28.

The People of the State of Michigan enact:

319.1 Declaration of state policy as to conservation of oil and gas.

Sec. 1. It has long been the declared policy of this state to foster conservation of natural resources to the end that our citizens may continue to enjoy the fruits and profits thereof. Failure to adopt such a policy in the pioneer days of the state permitted the unwarranted slaughter and removal of magnificent timber abounding in the state, which resulted in an immeasurable loss and waste. In an effort to replace some of this

loss, millions of dollars have been spent in reforestation, which could have been saved had the original timber been removed under proper conditions.

Within the past few years extensive deposits of oil and gas have been discovered which have added greatly to the natural wealth of the state, and if properly conserved can bring added prosperity for many years in the future to our farmers and land owners, as well as to those engaged in the exploration and development of this great natural resource. The interests of the people demand that exploitation and waste of oil and gas be prevented so that the history of the loss of timber may not be repeated.

It is accordingly the declared policy of the state to protect the interests of its citizens and land owners from unwarranted waste of gas and oil and foster the development of the industry along the most favorable conditions and with a view to the ultimate recovery of the maximum production of these natural products. To that end this act is to be construed liberally in order that effect may be given to sound policies of conservation and the prevention of waste and exploitation.

HISTORY: CL 1948, 319.1.

FORMER ACTS: Act 65, 1927; Act 15, 1929, as amended by Act 185, 1931, being CL 1929, 5696-5712.

CITED IN OTHER SECTIONS: Sections 319.1 to 319.27 are cited in §§ 125.201, 319.236, and 319.352.

319.2 Conservation of oil and gas; definitions.

Sec. 2. Unless the context requires a different meaning, the words defined in this section shall have the following meaning when found in this act, to-wit:

(a) "Person" means any natural person, corporation, association, partnership, receiver, trustee, so-called common law or statutory trust, guardian, executor, administrator and a fiduciary of any kind.

(b) "Oil" means natural crude oil or petroleum and other hydro carbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.

(c) "Gas" means casing-head gas, or gas produced incidental to the production of oil.

(d) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each productive zone of a general structure which is completely separated from any other zone in the structure, or for the purposes of this act may be so declared by the supervisor of wells, is covered by the word "pool" as used herein.

(e) "Field" means the general area which is underlain or appears to be underlain by at least 1 pool; and "field" also includes the underground reservoir or reservoirs containing such oil or gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to 2 or more pools.

(f) "Product" means any commodity or thing made or manufactured from oil or gas, and all derivatives of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, naphtha, distillate, gasoline, casing-head gasoline, natural gas gasoline, kerosene, benzene, wash oil, waste oil, lubricating oil, and blends or mixtures of oil or gas or any derivatives thereof whether enumerated or not.

(g) "Owner" means the person who has the right to drill into and produce from any pool, and to appropriate the production either for himself or for himself and another or others.

(h) "Producer" means the operator, whether owner or not, of a well or wells capable of producing oil or gas or both in paying quantities.

(i) "Commission" means the commission of conservation for the state of Michigan.

(j) "Supervisor" means the supervisor of wells as provided by this act.

(k) "Board" means the advisory board appointed, as provided in this act, by the state geologist.

(l) As used in this act, the term "waste" in addition to its ordinary meaning shall include:

(1) "Underground waste" as those words are generally understood in the oil business, and in any event to embrace (1) the inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating, or producing of any well or wells in a manner to reduce or tend to reduce the total quantity of oil or casing-head gas ultimately recoverable from any pool, and (2) unreasonable damage to underground fresh or mineral waters, natural brines, or other mineral deposits from operations for the discovery, development, and production and handling of oil or casing-head gas.

(2) "Surface waste," as those words are generally understood in the oil business, and in any event to embrace (1) the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of casing-head gas, oil, or other product thereof, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage or fire, especially such loss or destruction incident to or resulting from the manner of spacing, equipping, operating, or producing well or wells, or incident to or resulting from inefficient storage or handling of oil, (2) the unnecessary damage to or destruction of the surface, soils, animal, fish or aquatic life or property from or by oil and gas operations; and (3) the drilling of unnecessary wells.

(3) "Market waste," which shall embrace the production of oil in any field or pool in excess of the market demand as defined herein.

(m) The words "market demand" as used herein shall be construed to mean the actual demand for oil from any particular pool or field for current requirements for current consumption and use within or outside the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of oil or the products thereof, or both such oil and products and shall not be less than the actual purchasing commitments for oil from such pool or field.

(n) "Illegal oil" shall mean oil which has been produced within the state from any well or wells in excess of the amount allowed by any valid rule, regulation or order of the supervisor as distinguished from oil produced in the state not in excess of the amount so allowed, which is "legal oil."

(o) "Illegal product" shall mean any product of oil or gas or any part of which was processed or derived in whole or part knowingly from illegal oil as distinguished from "legal product" which is a product processed or derived to no extent from illegal oil.

(p) "Illegal conveyance" shall mean any conveyance by or through which illegal oil or illegal oil products are being transported.

(q) "Illegal container" shall mean any receptacle which contains illegal oil or illegal oil products.

(r) "Tender" shall mean a permit or certificate of clearance for the transportation of oil or products, approved and issued or registered under the authority of the supervisor.

HISTORY: CL 1948, 319.2;—Am. 1966, p. 361, Act 262, Imd. Eff. Jul. 12.

319.3 Supervisor of wells; assistants; advisory board, selection, access to records; appeal board; compensation and expenses; offices.

Sec. 3. The state geologist shall act as the supervisor of wells. He shall designate with the approval of the commission such suitable assistants as may be required to

carry out the provisions of this act, and after conference with and recommendations by oil or gas producers or operators or their representatives, shall, subject to approval by the director of the department and by the commission, appoint 6 persons who shall constitute a board to be known as the advisory board. The members of the board shall be chosen from oil or gas producers or operators, or their managing agents or representatives, having ownership, production, or operations within the state of Michigan: Provided, however, That not less than 3 members of the board shall be independent oil or gas producers or operators whose ownership, production or operations are chiefly within the state of Michigan. There will be not more than 1 representative from 1 company or any of its subsidiaries or affiliates.

The members of the advisory board shall be selected with special reference to their training, experience and standing as oil or gas producers or operators, or as managing agents or representatives of such, and each member of said board shall have at least 5 years of practical or technical experience as a producer or operator himself or as managing agent or representative of oil producers or operators and they shall be residents of the state at the time of their appointment and throughout the period of their membership on the board.

The term of each member of the advisory board shall be for 3 years. Of the first 6 members selected, 2 shall serve for 1 year, 2 for 2 years, and 2 for 3 years. The supervisor, after conference with and recommendations by oil and gas producers, and operators or their managing agents or representatives, shall fill any vacancy occurring in the membership of the advisory board subject to the approval of the director and the commission, and may remove any member thereof for good cause, except for political reasons or causes, after a full public hearing and approval by the commission. Each member of the board, unless removed in the manner herein provided, shall serve until the appointment and qualification of his successor.

Each member of the board shall qualify by taking and subscribing to the constitutional oath of office and by filing same in the office of the secretary of state. The board, after having qualified, shall immediately, and annually thereafter, meet at the office of the supervisor of wells in Lansing and organize by electing a chairman and a vice-chairman. Four members of the board shall constitute a quorum for the transaction of business. The board shall hold at least 1 meeting each month, and such other meetings as it may deem necessary upon such notice as the board shall provide unless such notice is waived by each member. Meetings shall be held at the office of the supervisor of wells at Lansing, or at such other place in the state of Michigan as may be fixed by the board or the supervisor. Meetings shall be called by the chairman or in his absence by the vice-chairman, or by a majority of the members of the board or by the supervisor.

In addition to the powers and duties of the board which are herein specifically stated, it shall, when requested by the commission or the supervisor, consult and advise with the commission or the supervisor, and shall perform such other duties as may be lawfully delegated to it by the supervisor in the administration of this act. The board shall have the right to participate officially in all public hearings provided for in this act, and also the right upon request being made by the board to consult promptly with the supervisor with respect to the rule, regulation or order, which should be made in view of such hearing.

The board shall, at all reasonable times, have access to all office records, documents, orders, etc., of the supervisor excepting such records as are hereinafter provided in sections 6(d) and 23(a) and shall be kept informed by bulletins or otherwise agreed plan as to the conduct of the supervisor relative to the enforcement of this act.

The commission of conservation shall act as an appeal board. Whenever the advisory board or any producer or owner deems any rule, regulation, order, action, inaction, or procedure as proposed, initiated or made by the supervisor to be unduly burdensome, inequitable, unreasonable, or unwarranted, said board, producer, or owner may appeal to the appeal board for relief from such rule, regulation, order, action, inaction, or procedure, giving due notice to the supervisor. The chairman of the commission shall set a date and place to hear such appeal, which may be at any regular meeting or at any special meeting of the commission duly called for such purpose. The supervisor, members of the board, or any person interested in the matter shall have the right to be heard at such hearing.

The action of the appeal board shall be final with respect to an appeal by the advisory board, but any person may seek relief in the courts as provided elsewhere in this act, and the taking of an appeal as herein provided shall not be a prerequisite to seeking relief in the courts, anything herein to the contrary notwithstanding.

The supervisor and employees shall, in addition to their salaries, receive their reasonable expenses while away from their respective homes traveling upon business connected with their duties. The members of the board and of the appeal board shall receive no compensation, but each member shall be entitled to reasonable expenses while traveling in the performance of any of the duties hereby imposed. All salaries and expenses authorized hereunder shall be paid out of the state treasury in the same manner as the salaries and expenses of other officers and employees of the conservation department are paid.

It shall be the duty of the board of state auditors to furnish suitable offices for the use of the supervisor, the board, and the employees.

HISTORY: CL 1948, 319.3;—Am. 1966, p. 362, Act 202, Imd. Eff. Jul. 12.

319.4 Waste prohibited.

Sec. 4. It shall be unlawful for any person to commit waste in the exploration for or in the development, production, or handling or use of oil or gas; or in the handling of any product thereof.

HISTORY: CL 1948, 319.4.

319.5 Supervisor of wells; jurisdiction, authority; enforcement of act.

Sec. 5. The supervisor shall have, and he is hereby given (a) jurisdiction and authority over the administration and enforcement of the provisions of this act and all matters relating to the prevention of waste as defined herein, and to the conservation of oil and gas in this state; and (b) jurisdiction and control of and over all persons and things necessary or proper to enforce effectively the provisions of this act and all matters relating to the prevention of waste and the conservation of oil and gas.

HISTORY: CL 1948, 319.5.

319.6 Supervisor of wells; rules and regulations; prevention of waste; regulation of drilling; bonds.

Sec. 6. The supervisor shall prevent the waste prohibited by this act. To that end, acting directly or through his authorized representatives, the supervisor, after consulting with the board, is specifically empowered:

(a) To make and enforce rules and regulations subject to the approval of the commission, issue orders and instructions necessary to enforce such rules and regulations, and to do whatever may be necessary with respect to the subject matter stated herein to carry out the purposes of this act, whether or not indicated, specified, or enumerated in this or any other section hereof.

(b) To collect data to make inspections, studies, and investigations, to examine such properties, leases, papers, books and records as are necessary to the purposes of this

act; to examine, check, and test and gauge oil and gas wells and tanks, plants, refineries, and all means and modes of transportation and equipment, to hold hearings, to provide for the keeping of records and making of reports, and for the checking of the accuracy thereof.

(c) To require the locating, drilling, deepening, redrilling or reopening, casing, sealing, operating and plugging of wells drilled for oil and gas or for geological information or as key wells in secondary recovery projects, or wells for the disposal of salt water, brine or other oil field wastes, to be done in such manner and by such means as to prevent the escape of oil or gas out of 1 stratum into another, or of water or brines into oil or gas strata; to prevent pollution, damage to or destruction of fresh water supplies including inland lakes and streams and the Great Lakes and connecting waters, and valuable brines by oil, gas or other waters, to prevent the escape of oil, gas or water into workable coal or other mineral deposits; to require the disposal of salt water and brines and oily wastes produced incidental to oil and gas operations, in such manner and by such methods and means that no unnecessary damage or danger to or destruction of surface or underground resources, to neighboring properties or rights, or to life, shall result. Any such well may be plugged to a fresh water level and not to the surface in case such well is desired to be used as a water well.

(d) To require reports and maps showing locations of all oil and gas wells, the keeping and filing of logs, well samples, and drilling and operating records or reports. All well data and samples furnished the supervisor shall, upon request of owner of well, be held confidential for 90 days after the completion of a well and not open to public inspection except by written consent of the owner. No producer shall be required to submit or file logs or reports of core or test wells drilled for geological purposes only, nor required to furnish well samples of such core or test wells.

(e) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas, or both oil and gas, in paying quantities, and to prevent the premature and irregular encroachment of water, or any other kind of water encroachment, which reduces or tends to reduce the total ultimate recovery of oil or gas, or both such oil or gas, from any pool.

(f) To prevent fires or explosions.

(g) To prevent "blow-outs", "seepage", and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil business.

(h) To regulate the "shooting" and chemical treatment of wells.

(i) To regulate the secondary recovery methods of oil and gas, including the pulling or creating a vacuum, the introduction of gas, air, water and other substances into the producing formations.

(j) To fix the spacing of wells.

(k) To require the operation of wells with efficient gas-oil ratios and to fix such ratios.

(l) To require by written notice immediate suspension of any operation or practice and the prompt correction of any condition found to exist which is causing or resulting or threatening to cause or result in waste.

(m) To require either generally, or in, or from, particular areas, certificates of clearance or tenders in connection with the transportation of oil, gas or any product thereof.

(n) To identify the ownership of oil and gas producing leases, properties, and wells.

(o) To make rules, regulations or orders for the classifications of wells as oil wells or dry natural gas wells; or wells drilled, or to be drilled, for geological information, or as key wells for secondary recovery projects, or wells for the disposal of salt water, brine

or other oil field wastes, or wells for the storage of dry natural gas or casinghead gas, or wells for the development of reservoirs for the storage of liquid petroleum gas.

(p) To require surety bonds of owners, producers, operators, or their authorized representatives in such reasonable form, condition, term and amount as will insure compliance with this act and with the rules, regulations or orders issued thereunder.

HISTORY: CL 1948, 319.6;—Am. 1961, p. 165, Act 131, Eff. Sep. 8;—Am. 1967, p. 123, Act 98, Eff. Nov. 2.

319.7 Prevention of waste; procedure; hearing by board; supervisor to promulgate rules and regulations.

Sec. 7. Upon the initiative of the supervisor or the board, or upon verified complaint of any person interested in the subject matter alleging that waste is taking place or is reasonably imminent, the supervisor shall call a hearing, or direct the board to call a hearing, to determine whether or not waste is taking place or is reasonably imminent, and what action should be taken to prevent such waste. Whenever the supervisor so directs, the board shall hold a hearing and shall promptly make its findings and recommendations, and the supervisor shall promptly consider the same, promulgating such rules, regulations, or orders as he may deem necessary to prevent waste as defined herein, which he finds to exist or to be reasonably imminent.

HISTORY: CL 1948, 319.7.

319.8 Rules of order or procedure in hearings; supervisor to prescribe; filing, certified copy as evidence.

Sec. 8. The supervisor, after consulting with the board and considering its recommendations, shall prescribe rules of order or procedure in hearings or other proceedings before him or the board under this act. Any notice required to be given under this act or under any rule, regulation or order issued by the supervisor, shall be by personal service on the person affected, or by such general notice as the supervisor may fix. All rules, regulations and orders made by the supervisor shall be entered in full in a book to be kept for such purpose by the supervisor. A copy of any such rule, regulation or order, certified by the supervisor, shall be received in evidence in all courts of the state with the same effect as the original.

HISTORY: CL 1948, 319.8.

319.9 Procedure upon hearings; witnesses and production of books; incriminating testimony.

Sec. 9. The supervisor may, and is hereby authorized, to compel by subpoena, the attendance of witnesses, the production of books, papers, records, or articles necessary in any proceeding before him, the board, or the commission. No person shall be excused from obeying the command of any subpoena issued in any hearing or proceeding brought under the authority of this act on the ground or for the reason that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a penalty or forfeiture: Provided, That nothing herein contained shall be construed as requiring any person to produce books, papers or records or to testify in response to any inquiry not pertinent to some question lawfully before such board or supervisor or commission or court for determination within the purposes of this act: Provided further, That any incriminating evidence, documentary or otherwise, shall not thereafter be used against such witness in a prosecution or action for forfeiture: Provided further, That no person testifying shall be exempted from prosecution and punishment for perjury in so testifying.

HISTORY: CL 1948, 319.9.

319.10 Witnesses; refusal to appear or testify; attachment, punishment for contempt, procedure; witnesses fees, payment.

Sec. 10. In case of failure or refusal on the part of any person to comply with any subpoena issued by the supervisor, or on the refusal of any witness to testify or answer

as to any matters regarding which he may be lawfully interrogated, any circuit court in this state, or any judge thereof, on application of said supervisor, may issue an attachment for such person and compel him to comply with such subpoena and to attend before the board or supervisor and produce such documents, and give his testimony upon such matters, as may be lawfully required and such court or judge shall have the power to punish for contempt as in case of disobedience of a like subpoena issued by or from such court, or a refusal to testify therein.

Any witness summoned by subpoena or by written request of the supervisor and attending any hearing called by the supervisor shall be entitled to the same fees and mileage as are or may be provided by law for attending the circuit court in any civil matter or proceeding. The fees and mileage of witnesses subpoenaed at the instance of the supervisor or the board shall be paid out of the general funds of the state treasury upon proper voucher approved by the supervisor. The fees and mileage of witnesses subpoenaed at the instance of any other interested parties shall be paid by such other parties.

HISTORY: CL 1948, 319.10.

319.11 False swearing deemed perjury; penalty.

Sec. 11. If any person of whom an oath shall be required under the provisions of this act, or by any rule, regulation or order of the supervisor, shall wilfully swear falsely in regard to any matter or thing respecting which such oath is required, or shall wilfully make any false affidavit required or authorized by the provisions of this act, or by any rule, regulation or order of the supervisors, such person shall be deemed guilty of perjury and shall be punished by imprisonment in the state penitentiary for not more than 5 years nor less than 6 months.

HISTORY: CL 1948, 319.11.

319.12 Apportionment of allowable production between wells; basis.

Sec. 12. Whenever to prevent waste, as defined herein, the supervisor limits the amount of oil to be produced from any pool or field in this state, he shall, after consulting with the board and considering its recommendations, allocate or distribute the allowable production in any such field or pool. Such determination or distribution in such field or pool shall be made on a reasonable basis, giving, if reasonable, under all circumstances, to each small well of settled production in such pool or field, an allowable production which will prevent a general or premature abandonment of the wells in such pool or field.

HISTORY: CL 1948, 319.12.

319.13 Apportionment of total allowable production; basis.

Sec. 13. Whenever, to prevent waste, the total allowable production for any field or pool in the state is fixed in an amount less than that which the field or pool could produce if no restriction were imposed, the supervisor, after consulting with the board and considering its recommendations, shall prorate or distribute on a reasonable basis the allowable production among the producing wells in the field or pool, so as to prevent or minimize reasonably avoidable drainage from each developed area which is not equalized by counter drainage. The rules, regulations, or orders of the supervisor shall, so far as it is practicable to do so, afford the owner of each property in a pool the opportunity to produce his just and equitable share of the oil and gas in the pool, being an amount, so far as can be practicably determined and obtained without waste, and without reducing the bottom hole pressure materially below the average for the pool, substantially in the proportion that the quantity of the recoverable oil and gas under such property bears to the total recoverable oil and gas in the pool, and for this purpose to use his just and equitable share of the reservoir energy: Provided, That a well in a pool producing from an average depth of 1,000 feet or less, shall, on the basis of a

full drilling unit as may be established under this section, be given a base allowable production of at least 100 barrels of oil per well per week; for a well in a pool producing from an average depth greater than 1,000 feet, the base allowable production shall be increased 10 barrels per well per week for each addition 100 feet of depth greater than 1,000 feet: Provided further, That such allowable production is or can be made without surface or underground waste, as defined herein.

Drilling unit.

To prevent the drilling of unnecessary wells the supervisor, after conference with and recommendation by the board, may fix a drilling unit for each pool. A drilling unit, as contemplated herein, means the maximum area which may be efficiently and economically drained by 1 well and such unit shall constitute a developed area as long as a well is located thereon which is capable of producing the economically recoverable oil thereunder. Each well permitted to be drilled upon any drilling unit shall be located in the approximate center thereof, or at such other location thereon as may be necessary to conform to a uniform well spacing pattern as adopted and promulgated by the supervisor after due notice and public hearing, as provided in this act.

Unnecessary wells.

The drilling of unnecessary wells is hereby declared waste as such wells create fire and other hazards conducive to waste, and unnecessarily increase the production cost of oil and gas to the operator, and thus also unnecessarily increase the cost of the products to the ultimate consumer.

Pooling of properties; drilling on smaller parcels.

The pooling of properties or parts thereof shall be permitted, and, if not agreed upon, the supervisor after conference with and recommendations by the board, may require such pooling in any case when and to the extent that the smallness or shape of a separately owned tract or tracts would, under the enforcement of a uniform spacing plan or proration or drilling unit, otherwise deprive or tend to deprive the owner of such tract of the opportunity to recover or receive his just and equitable share of the oil and gas and gas energy in the pool: Provided, That the owner of any tract that is smaller than the drilling unit established for the field, shall not be deprived of the right to drill on and produce from such tract, if same can be done without waste, but in such case, the allowable production therefrom as compared with the allowable production if such tract were a full unit, shall be in the ratio of the area of such tract to the area of a full unit, except as a smaller ratio may be required to maintain average bottom hole pressures in the pool, to reduce the production of salt water, or to reduce an excessive gas-oil ratio. All orders requiring such pooling shall be upon terms and conditions that are just and reasonable, and will afford to the owner of each tract in the pooling plan the opportunity to recover or receive his just and equitable share of the oil and gas and gas energy in the pool as above provided, and without unnecessary expense, and will prevent or minimize reasonably avoidable drainage from each developed tract which is not equalized by counter drainage. The portion of the production allocated to the owner of each tract included in a drilling unit formed by voluntary agreement or by a pooling order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon.

Location of unit well.

Each well permitted to be drilled upon any drilling unit or tract shall be drilled at a location which conforms to the uniform well spacing pattern with such exception as may be reasonably necessary where it is shown, after notice and upon hearing and the supervisor finds that the unit is partly outside the pool, or for some other reason, a well at such location would be unproductive, or that the owner or owners of a tract or tracts covering that part of the drilling unit or tract on which said well would be lo-

cated if it conformed to the uniform well spacing pattern refuses to permit drilling at the regular location, or where topographical or other conditions are such as to make drilling at the regular location unduly burdensome or imminently threatening to water or other natural resources, or property or life.

Exceptions.

Whenever any exception is granted the supervisor shall take such action as will offset any advantage which the person securing the exception may have over other producers in the pool by reason of the drilling of the well as an exception, and so that drainage from the developed areas to the tract with respect to the exception granted will be prevented or minimized and the producer of the well drilled as an exception will be allowed to produce no more than his just and equitable share of the oil and gas in the pool as such share is set forth herein, and to that end the rules, regulations and orders of the supervisor shall be such as will prevent or minimize reasonably avoidable drainage from each developed area which is not equalized by counter drainage and will give to each producer the opportunity to use his just and equitable share of the reservoir energy.

Minimum allowable production.

Minimum allowable for some wells and pools may be advisable from time to time, especially with respect to wells and pools already drilled when this act takes effect, to the end that the production will repay reasonable lifting costs and thus prevent premature abandonment of wells and resulting wastes.

Excess production prohibited.

After the effective date of any rule, regulation or order made by the supervisor in accordance with and under the provisions of this act fixing the allowable production, no person shall produce more than the allowable production applicable to him, his wells, leases or properties, and the allowable production shall be produced in accordance with such applicable rules, regulations or orders.

HISTORY: CL 1948, 319.13;—Am. 1961, p. 166, Act 131, Eff. Sep. 8.

319.14 Certificates of clearance or tenders; issuance.

Sec. 14. The supervisor shall have authority to issue certificates of clearance or tenders whenever the same may be required to effectuate the purposes of this act.

HISTORY: CL 1948, 319.14.

319.15 Illegal oil; handling unlawful, penalty.

Sec. 15. It shall be unlawful for any person to sell, purchase, acquire, transport, refine, process or otherwise handle or dispose of any illegal oil in whole or in part, or any illegal product of oil: Provided, That no penalty nor forfeiture shall be imposed on account of any such act until certificates of clearance or tenders have been required by the supervisor as provided in section 14 hereof.

HISTORY: CL 1948, 319.15.

319.16 Public hearings to be held before adoption of rules, regulations, or orders; notice.

Sec. 16. No rules, regulations or orders shall be made, promulgated, put into effect, revoked, changed, renewed or extended except emergency orders hereinafter provided for until and unless public hearings shall be held thereon. Public hearings shall be held at such time, place and manner and upon such notice, not less than 10 days, as shall be prescribed by general order and rules adopted in conformity with this act. The supervisor shall have authority to promulgate and put in effect emergency rules, regu-

lations or orders without a public hearing that may be necessary to carry out the provisions of this act: Provided, That such emergency rules, regulations and orders shall in no event remain in force and effect more than 21 days.

HISTORY: CL 1948, 319.16.

319.17 Actions against supervisor or commission; Ingham county circuit court, jurisdiction; injunction or restraining order only after hearing.

Sec. 17. The circuit court of Ingham county shall have exclusive jurisdiction of all suits brought against the commission, the supervisor, the board or any agent or employee thereof, by or on account of any matter or thing arising under the provisions of this act. No temporary restraining order or injunction shall be granted in any such suit except after due notice and for good cause shown.

HISTORY: CL 1948, 319.17.

319.18 Supervisor; actions for enforcement of act; jurisdiction; attorney general to represent.

Sec. 18. The supervisor shall have power to bring proceedings at law or in equity for the enforcement of the provisions of this act and all rules and regulations promulgated thereunder or for the prevention of the violation thereof, and the attorney general shall represent the supervisor in all actions brought under this act. The circuit court of Ingham county shall have concurrent jurisdiction thereof.

HISTORY: CL 1948, 319.18.

319.18a Oil well or test hole; failure of owner or operator to case, plug, or repair; notice of determination by supervisor of wells, service; liability; claims.

Sec. 18a. Whenever the supervisor of wells shall determine that the owner or operator of any oil well or test hole shall have failed or neglected to properly case, plug or repair the same in accordance with the provisions of this act or the rules and regulations promulgated thereunder, the supervisor of wells shall give notice of such determination, in writing, to the said owner or operator and to the surety executing the bond filed with the said supervisor of wells by such owner or operator in connection with the issuance of the permit authorizing the drilling of said oil well or test hole. This notice of determination may be served upon said owner or operator and surety in person or by registered mail. If the owner or operator cannot be found in the state of Michigan, the mailing of the notice of determination to such owner or operator at his last known post office address by registered mail shall constitute service of same. If the said owner or operator, or surety, shall fail or neglect to properly case, plug or repair the oil well or test hole described in the notice of determination herein provided for within 30 days of the date of service or mailing of such notice, the supervisor of wells may enter into and upon any private or public property on which the oil well or test hole is located and upon and across any private or public property necessary to reach same, and case, plug or repair said oil well or test hole, and the owner or operator and surety shall be jointly and severally liable for all expenses incurred by the supervisor of wells in doing same. The supervisor of wells, acting for and in behalf of the state of Michigan, shall certify in writing to the said owner or operator and surety the claim of the state in the same manner herein provided for the service of the notice of determination, and shall list thereon the items of expense incurred in casing, plugging or repairing the said oil well or test hole. Such claim shall be paid by the owner or operator, or surety, within 30 days, and if not paid within that time the supervisor of wells, acting for and in behalf of the state, may bring suit against such owner or operator, or surety, jointly or severally, for the collection of same in any court of competent jurisdiction in the county of Ingham.

HISTORY: Add. 1951, p. 241, Act 190, Eff. Sep. 28.

319.18b Abandoning oil well or test hole without properly plugging; penalty; owner or operator, definition.

Sec. 18b. Any person who shall abandon any oil well or test hole without properly plugging the same in accordance with this act or the rules and regulations promulgated thereunder, whether as principal, agent, servant or employee, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00 and costs of prosecution, or imprisonment in the county jail for a period not exceeding 90 days, or both such fine and imprisonment in the discretion of the court. Nothing herein contained shall be construed as imposing any liability upon the owner of any land upon which any oil well or test hole is located, unless he be the owner or part owner of the said well or test hole. The words "owner or operator" as used in section 18a of this act shall refer to the person or persons who, by the terms of this act and the rules and regulations promulgated thereunder, are made responsible for the plugging of any well or test hole.

HISTORY: Add. 1951, p. 241, Act 190, Eff. Sep. 28.

319.19 Unlawful acts; penalty.

Sec. 19. Any person who, for the purpose of evading this act, or of evading any rule, regulation or order made hereunder, shall intentionally make, or cause to be made, false entry or statement of fact in any report required by this act or by any rule, regulation or order made hereunder, or who, for such purpose, shall make or cause to be made false entry in any account, record, or memorandum kept by any person in connection with the provisions of this act, or of any rule, regulation or order made thereunder; or who, for such purpose, shall omit to make, or cause to be omitted, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the petroleum industry of such person as may be required by the supervisor under authority given in this act or by any rule, regulation or order made hereunder; or, who, for such purpose, shall remove out of the jurisdiction of the state, or who shall mutilate, alter, or by any other means falsify any book, record, or other paper pertaining to the transactions regulated by this act, or by any rule, regulation or order made hereunder; shall be deemed guilty of a felony and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than \$1,000.00, or imprisonment for a term of not more than 3 years, or to both such fine and imprisonment.

HISTORY: CL 1948, 319.19.

319.20 Violation of act; civil penalty, enforcement.

Sec. 20. Except as penalty is herein otherwise especially provided for, any person who violates any provision of this act or any rule, regulation or order promulgated hereunder shall be subject to a penalty of not exceeding \$1,000.00 and each day that violation shall continue shall constitute a separate offense. Said penalty shall be recovered by suit brought by the supervisor.

Any person aiding or abetting in the violation of any provision of this act, or any rule, regulation or order made thereunder, shall be subject to the same penalties as are prescribed herein.

HISTORY: CL 1948, 319.20.

319.21 Illegal oil; confiscation; seizure; action, jurisdiction, procedure; right of claimant to intervene; sale.

Sec. 21. All illegal oil and products derived from illegal oil and conveyances used in the transportation thereof and containers used in the storage thereof except railroad tank cars and oil pipe lines shall be subject to confiscation and the supervisor is hereby empowered and authorized to seize such illegal oil, illegal oil products, conveyances and containers. The supervisor shall immediately upon such seizure institute a pro-

ceeding in rem to confiscate said illegal oil, illegal oil products, conveyances and containers in the circuit court of the county in which such seizure was made or in the circuit court of Ingham county. Upon commencement of such proceedings such notice shall be given to all known interested persons in such manner as the court shall direct. The court, upon finding that said oil or said oil products or said conveyances or containers so seized are illegal as herein defined, shall order the same to be sold under such terms and conditions as it may direct. Any person claiming an interest in any oil or oil product or conveyance or container so seized shall have the right to intervene in said proceedings and the rights of such person shall be determined by the court as justice may require.

HISTORY: CL 1948, 319.21.

319.22 Privilege fee; amount, levy.

Sec. 22. A privilege fee of 1/8 of 1 cent per barrel shall be paid upon oil produced in Michigan and sold. This fee shall be levied and collected by the department of revenue in the same manner and subject to the same provisions as the tax levied under the provisions of Act No. 48 of the Public Acts of 1929, as amended, being sections 205.301 to 205.317 of the Compiled Laws of 1948. All moneys received from this source shall be credited to the general fund.

HISTORY: CL 1948, 319.22;—Am. 1968, p. 364, Act 262, Imd. Eff. Jul. 12.

CITED IN OTHER SECTIONS: The above section is cited in § 305.13.

319.23 Permit to drill well; application, conditions and requirements; fees; records, inspection.

Sec. 23. No person shall drill or begin the drilling of any well for oil and gas, geological information, key well for secondary recovery, or a well for the disposal of salt water, brine or other oil field wastes, or wells for the storage of dry natural gas or casinghead gas, or wells for the development of reservoirs for the storage of liquid petroleum gas, until the owner directly or through his authorized representatives shall have first made a written application to drill any such well and filed with the supervisor a satisfactory surety bond as provided in section 6 of this act, and received and posted in a conspicuous place at the location of the well a permit in accordance with the rules, regulations and requirements or orders made and promulgated by the supervisor. A fee of \$25.00 shall be charged for a permit to drill wells for oil and gas, wells for the storage of dry natural gas or casinghead gas, or wells for the development of reservoirs for the storage of liquid petroleum gas, and a fee of \$1.00 shall be charged for a permit to drill a well for geological information, a key well for secondary recovery, and wells for the disposal of salt water, brine or other oil field wastes. Upon receiving such written application and payment of the fee required, the supervisor shall within 5 days thereafter issue to any owner or his authorized representative, a permit to drill such well: Provided, however, That no permit to drill a well shall be issued to any owner or his authorized representative who does not comply with the rules, regulations and requirements or orders made and promulgated by the supervisor: And provided further, That no permit shall be issued to any owner or his authorized representative who has not complied with or is in violation of this act, or any of the rules, regulations, requirements or orders issued by the supervisor, or the department of conservation.

The supervisor shall thereupon pay such permit fee into the state treasury and it shall there be credited to the general fund of the state.

All information and records with reference to the issuance of permits for the drilling of any core or test well or for geological information including the permit, shall be held confidential for 6 months after completion of such well, and shall not be open for public inspection during that time.

HISTORY: CL 1948, 319.23;—Am. 1961, p. 168, Act 131, Eff. Sep. 8.

319.24 Governing law; repeal.

Sec. 24. This act shall be cumulative of all existing laws on the subject matter, but, in case of conflict, this act shall control and shall repeal such conflicting provisions. Act No. 15 of the Public Acts of 1929, as amended, being sections 5696 to 5712, inclusive, of the Compiled Laws of 1929, is hereby repealed.

HISTORY: CL 1948, 319.24.

Sec. 25. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

319.26 Repealed. 1961, p. 168, Act 131, Eff. Sep. 8.

Section provided for drilling of wildcat wells.

319.27 Applicability of act.

Sec. 27. The provisions of this act shall not apply to drill holes for the exploration and the extraction of iron, copper, or brine, to water wells, to mine and quarry drill and blast holes, nor to coal test holes, nor to seismograph or other geophysical exploration test holes.

HISTORY: CL 1948, 319.27.

Act 326, 1937, p. 649; Eff. Oct. 29.

AN ACT to provide for a supervisor of natural dry gas wells; to prescribe his powers and duties; to provide regulations for the locating, sinking, drilling, casing, deepening, operating, abandonment and plugging of natural dry gas wells and test holes; to provide for the plugging of wells and for the entry on private property for that purpose; to provide for and regulate the payment of fees, issuance of permits and payment of money received under the provisions of this act; to provide for an appeal board; to prohibit waste in the development, production and handling of natural dry gas and to define waste and other terms used herein; to provide for public hearings and notice thereof, and procedure upon appeals; and to prescribe penalties for the violation of this act. Am. 1951, p. 306, Act 216, Eff. Sep. 28.

The People of the State of Michigan enact:

319.51 Natural dry gas wells; definitions.

Sec. 1. Unless the context requires a different meaning, the words defined in this section shall have the following meaning when found in this act, to-wit:

(a) "Person" means any natural person, corporation, association, partnership, receiver, trustee, common law or statutory trust, guardian, executor, administrator and fiduciary of any kind.

(b) "Gas" means natural dry gas.

(c) "Pool" means an underground reservoir containing a common accumulation of gas.

(d) "Product" means natural dry gas and any commodity or thing made or manufactured from natural dry gas.

(e) "Owner" means the person who has the right to drill into and produce from any pool.

(f) "Producer" means the operator whether owner or not of a well or wells capable of producing gas in paying quantities.

(g) "Commission" means the commission of conservation of the state of Michigan.

(h) "Supervisor" means the supervisor of wells as provided in this act.

HISTORY: CL 1948, 319.51.

CITED IN OTHER SECTIONS: Sections 319.51 to 319.82 are cited in § 319.236.

319.52 Director of conservation to act as supervisor of wells; assistants.

Sec. 2. The director of conservation shall act as supervisor of wells. He shall designate such suitable assistants in the department of conservation as shall be required to carry out the provisions of this act.

HISTORY: CL 1948, 319.52.

319.53 Director of conservation; employees, compensation and expenses; offices.

Sec. 3. The supervisor shall receive no salary except that which he receives as director of conservation. The supervisor and his employees, in addition to their salaries, shall receive their reasonable expenses. All salaries and expenses authorized hereunder shall be paid out of the state treasury in the same manner as the salaries and expenses of other officers and employees of the conservation department are paid. It shall be the duty of the board of state auditors to furnish suitable offices, office equipment and supplies for the use of the supervisor, and his employees.

HISTORY: CL 1948, 319.53.

319.54 Director of conservation; duties; waste, definition.

Sec. 4. It shall be the duty of the supervisor of wells, directly or through his representatives or assistants, to inspect the locating, drilling, casing, deepening, sealing and operating of gas wells or test holes, so far as the same may endanger, result in waste, or do damage to, the gas, the fresh, brine and mineral waters, or to other mineral resources, or to life and property; to supervise the abandonment and plugging of gas wells or test holes and to see that such work shall be done in accordance with the methods and means prescribed in this act or by such methods and means as he or his authorized representatives may prescribe or approve in writing, and to issue and enforce such additional rules and regulations as he may find necessary to prevent damage and waste to the gas, the fresh, brine and mineral waters, the other mineral resources, and to prevent danger to life or property from gas operations; to visit from time to time operations for the discovery or production of gas, to inspect such operations with a view to preventing waste of gas, damage to formations or deposits containing oil, gas, valuable brines, mineral or fresh waters, or to coal measures or other mineral deposits, injury to life or property, including both land being operated and adjacent land, or economic waste; and to issue, in accordance with the provisions of this act such necessary orders, rules and regulations to owners, operators, well contractors and drillers as will effectively prevent such waste or damage, or danger; to collect all data and information concerning wells and test holes, necessary for the intelligent supervision of the locating, drilling, redrilling, deepening, casing, sealing, repairing, operating, abandoning and plugging of the same that the gas, the fresh, brine and mineral waters, and other mineral resources, and life and property, may be most efficiently and effectively protected against unnecessary danger, injury, waste or destruction; to prescribe the manner and form in which all records of operations, reports and notices shall be made by owners, operators, contractors, or drillers; to require that tests shall be made to detect wastes of gas, as well as the presence of oil, gas or water in a well; to require the correction, in a manner to be prescribed or approved by him, of any condition found to exist during the drilling or subsequent to the completion of a well which is causing, or is likely to cause damage to any formation bearing oil, gas, valuable brines, mineral or fresh waters, or to coal measures or other mineral deposits; or which is dangerous to life or property, including the property being operated and adjacent property, and is wasteful of gas; to determine the percentage of the potential capacity of any gas well which may be utilized when, in his opinion, such action is necessary to protect the gas producing formations and to specify the time and method for determining the potential capacity of gas wells; to assist and advise owners or oper-

ators of gas wells in making tests and carrying on experiments for the purpose of increasing the efficiency of operation; to compile statistics of production; to require by written notice, immediate suspension of any operation or practice contrary to the requirements of this act, the rules and regulations made thereunder, or to the written orders of the supervisor or his representatives, until the owner, operator, well contractor, or driller shall have complied with such requirements or orders. The term "waste," as used in this act, in addition to its ordinary meaning shall include, (a) surface waste which shall include the escape of natural dry gas in commercial quantities into the open air from a stratum recognized as a natural dry gas stratum and any unnecessary or excessive surface loss, including leakage, fire-loss and loss or destruction incident to the manner of spacing, equipping, operating or producing such well or wells, or by inefficient handling thereof. All waste of gas is hereby prohibited and it shall be the duty of the supervisor to prevent such waste and said supervisor is hereby empowered to make and enforce such rules, regulations and orders, subject to the approval of the commission, and to require such surety bonds and do whatever else may be reasonably necessary to carry out the purpose of this act and to prevent such waste. Upon the verified complaint of any interested person that such waste is taking place or is imminent, or upon his own motion, the supervisor may call a hearing to determine whether or not such waste is taking place or is reasonably imminent, or what action should be taken to prevent such waste, (b) the intentional drowning with water of a gas stratum capable of producing gas in commercial quantities, (c) underground waste which shall include inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating, or producing of any well or wells in such a manner as to reduce or tend to reduce the total quantity of gas ultimately recoverable from such pool, and the unreasonable damage to underground fresh or mineral waters, oil, natural brines or other mineral deposits from operations for the discovery, development, and production of gas, (d) the permitting of any natural gas well to wastefully burn, (e) the wasteful use of such gas.

HISTORY: CL 1948, 319.54.

319.55 Gas well or test hole; application for sinking or drilling, contents, filling; permit, fee, issuance.

Sec. 5. No person or his representatives or employees shall begin the sinking or drilling of any gas well or test hole until such person or his authorized representative shall first have filed with the supervisor of wells a written application and shall have received a written permit signed by the well supervisor or his authorized representatives to begin such well or test hole. Such application shall set forth the exact location of the well or test hole by giving the legal description of the property or properties on which the well or test hole is to be drilled, the section, township and range thereof in unplatted land, the lot or fraction thereof, the block, the recorded plat, and the municipality in platted land; the distance of the proposed well or test hole from the nearest well and the nearest property lines, and the distance in 2 directions from the nearest section corner or quarter post; the name of the farm or property; the name and address of the lessee or lessees, if any, of the fee; the purpose for which it is to be sunk or drilled; the intended depth of the well; the oil and gas and water bearing formations which are expected to be penetrated; and such other information as may be required by the supervisor of wells. Such application shall be signed by the owner of the proposed well or test hole, or his authorized representative and forwarded to the supervisor of wells or his authorized representative for approval, and when approved shall be filed as a permanent record in the department of conservation. Upon payment of a permit fee of 25 dollars by such applicant the supervisor of wells shall issue in duplicate within 5 days to any responsible person making proper application therefor, a permit to drill or

sink such well or test hole in accordance with the terms of the application, which permit when obtained by the applicant shall be exhibited in a conspicuous place at all times at the location of the well: Provided, however, That no permit shall be issued to any applicant or operator who is in violation of, or who is not complying with the provisions of this act and with the rules and regulations issued by the supervisor of wells, of the department of conservation, of the state fire marshal and commissioner of the department of insurance.

HISTORY: CL 1948, 319.55.

319.56 Service of notices, rules, orders, regulations and requirements.

Sec. 6. Service of any notice, order, rule, regulation or requirement, under this act, may in the case of a corporation or association be made upon any officer thereof or upon any person in the employ of the corporation or association who may be found at any office or place of business maintained by said corporation or association. In event of the failure to immediately obtain service as aforesaid upon any corporation or association, or upon any individual or partnership, service may be made upon any employee or upon any contractor employed by said individual, partnership, corporation or association, or upon any employee of said contractor, who may be found at the well, and service made as above provided shall be deemed service upon the owner or operator of such well or test hole. Service may be made by the supervisor of wells, any of his representatives, members of the Michigan state police, any constable, sheriff, under sheriff, or deputy sheriff.

HISTORY: CL 1948, 319.56.

319.57 Receipts from permit fees; disposition.

Sec. 7. The supervisor of wells shall thereupon pay such permit fee to the state treasurer together with a report giving the name of the applicant, the date and number of the permit issued and the location of the proposed well. The state treasurer shall place all permit fees so paid to him in the general fund.

HISTORY: CL 1948, 319.57.

319.58 Wells; casing or sealing off; duty of supervisor.

Sec. 8. Every person who shall drill, sink, or cause to be sunk, such a well or test hole penetrating bed rock shall case and seal off each oil, gas, brine or water stratum or formation to effectually prevent migration of gas or fluids to other strata, and such casing or sealing off shall be effected and tested in such manner and by such methods and means as may be prescribed or approved by the supervisor of wells or his authorized representative.

HISTORY: CL 1948, 319.58.

319.59 Wells and test holes; records; deepening, application, permit, display.

Sec. 9. Every owner, operator, or well contractor shall, while the well or test hole is being drilled, keep and preserve at the well being drilled or sunk, an accurate log or record of such well, shall protect such record from damage or destruction by fire, oil, water, or any other agency, whereby such record may be lost or become illegible. If the owner or operator of any such well or test hole shall desire to deepen such well or test hole, in addition to the depth allowed in the permit, he shall notify the supervisor of wells, or his authorized representative in writing, identifying the well, giving the depth to which it is proposed to deepen the well or test hole, setting forth in detail the plan and/or method, and means to be used in sealing off any oil, gas, water, brine, or other mineral bearing stratum or formations that have been or are expected to be penetrated in such deepening, also the plan and/or method and means to be used in controlling the well upon completion in the event oil and/or gas is found. Upon receipt of such notice and proposal for deepening the supervisor of wells or his representative

shall promptly issue a deepening permit: Provided, however, That if in the opinion of the supervisor of wells or his authorized representative, the proposed plans and methods and means of effectively and permanently protecting the oil, gas, water, brine, and other mineral bearing strata or formations or of effectively controlling the well in case oil and/or gas is struck, are not adequate and satisfactory, the supervisor of wells may refuse to issue such permit for deepening the well, until adequate and satisfactory plans and methods and/or means are submitted by the applicant for a deepening permit. Actual deepening of any well or test hole shall not be started until the deepening permit is issued and is prominently displayed at the well.

HISTORY: CL 1948, 319.59.

319.60 Wells and test holes; abandonment or plugging, notice, supervision; rules and regulations.

Sec. 10. No person shall plug or abandon any well, without first notifying the supervisor of wells or his representatives of his intention of and plans for doing the work and receiving written approval. The supervisor of wells or his representative shall supervise the work of abandoning such well or test hole and the same shall be plugged by the owner or operator thereof forthwith. Authorization is hereby given the supervisor to make rules, regulations and orders with respect to the following subject matter:

(a) To require dry or abandoned wells to be plugged in such a way as to confine the oil, gas, and water in the strata in which they are found, and to prevent them from escaping into other strata; or to the surface.

(b) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas, or both oil and gas, in paying quantities, and to prevent the premature and irregular encroachment of water, or any other kind of water encroachment, which reduces, or tends to reduce the total ultimate recovery of oil or gas, or both such oil or gas, from any pool.

HISTORY: CL 1948, 319.60.

319.61 Wells and test holes; abandonment without plugging, penalty; wells or test holes deemed abandoned, exception, test; leaking casing.

Sec. 11. Every well or test hole penetrating oil, gas or water bearing strata which has been abandoned and which has not been plugged in accordance with the provisions of this act, shall be forthwith plugged by the owner or operator thereof in the presence of and under the supervision of the supervisor of wells or his duly authorized representative, in accordance with the provisions of this act. In case such well or test hole shall not have been properly plugged within 30 days after this act shall have become effective, the supervisor of wells shall thereupon ascertain the name and address of the owner or operator thereof, and shall proceed to give personal notice or notice by registered mail of such fact to such owner or operator thereof, after which time such owner or operator shall forthwith take all steps necessary to comply with the provisions of this act and shall thereafter be liable to the penalties herein provided. Hereafter such well or test hole shall be deemed to have been abandoned for the purposes of this act when the same shall have been left with intent on the part of the owner or operator thereof not to renew operations thereat, or, when and after the supervisor of wells shall find that such well or test hole is in fact not being operated or worked and shall have given written notice thereof to such owner or operator, which notice shall have been served personally or by registered mail sent to the last known mail address of such owner or operator of such well or test hole: Provided, however, That in the event the owner or operator does not desire to either plug or operate the well immediately he shall by adequate test, in the presence of the supervisor of wells or his authorized representative, give satisfactory proof that the well is in such condition and that by being allowed to continue to remain in its present condition, no damage will be

done to any oil, gas, fresh water, brine, or mineral bearing formation which has been penetrated: Provided further, That if the tests show the casing to be leaking, water standing in the hole, or any other condition which is causing or might cause damage to the oil, gas, fresh water, brine, or mineral bearing formations, the owner or operator of the well shall immediately do such work as will correct the conditions found.

HISTORY: CL 1948, 319.61.

319.62 Wells and test holes; failure to properly case, plug or repair; notice of determination, service; authority of supervisor of wells; claim of state, payment.

Sec. 12. Whenever the supervisor of wells shall determine that the owner or operator of any gas well or test hole shall have failed or neglected to properly case, plug or repair the same in accordance with the provisions of this act or the rules and regulations promulgated thereunder, the supervisor of wells shall give notice of such determination, in writing, to the said owner or operator and to the surety executing the bond filed with the said supervisor of wells by such owner or operator in connection with the issuance of the permit authorizing the drilling of said gas well or test hole. This notice of determination may be served upon said owner or operator and surety in person or by registered mail. If the owner or operator cannot be found in the state of Michigan, the mailing of the notice of determination to such owner or operator at his last known post office address by registered mail shall constitute service of same. If the said owner or operator, or surety, shall fail or neglect to properly case, plug or repair the gas well or test hole described in the notice of determination herein provided for within 30 days of the date of service or mailing of such notice, the supervisor of wells may enter into and upon any private or public property on which the gas well or test hole is located and upon and across any private or public property necessary to reach same, and case, plug or repair said gas well or test hole and the owner or operator and surety shall be jointly and severally liable for all expenses incurred by the supervisor of wells in doing same. The supervisor of wells, acting for and in behalf of the state of Michigan, shall certify in writing to the said owner or operator and surety the claim of the state in the same manner herein provided for the service of the notice of determination, and shall list thereon the items of expense incurred in the casing, plugging or repairing the said gas well or test hole. Such claim shall be paid by the owner or operator, or surety, within 30 days, and if not paid within that time the supervisor of wells, acting for and in behalf of the state, may bring suit against such owner or operator, or surety, jointly or severally, for the collection of same in any court of competent jurisdiction in the county of Ingham.

HISTORY: CL 1948, 319.62;—Am. 1951, p. 306, Act 216, Eff. Sep. 28.

319.62a Wells and test holes; abandonment without plugging, penalty; owner or operator, definition.

Sec. 12a. Any person who shall abandon any gas well or test hole without properly plugging the same in accordance with this act or the rules and regulations promulgated thereunder, whether as principal, agent, servant or employee, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of \$100.00 and costs of prosecution, or imprisonment in the county jail for a period not exceeding 90 days, or both such fine and imprisonment in the discretion of the court. Nothing herein contained shall be construed as imposing any liability upon the owner of any land upon which any gas well or test hole is located, unless he be the owner or part owner of the said well or test hole. The words "owner or operator" as used in section

12 of this act shall refer to the person or persons who, by the terms of this act and the rules and regulations promulgated thereunder, are made responsible for the plugging of any well or test hole.

HISTORY: Add. 1951, p. 306, Act 216, Eff. Sep. 28.

319.63 Supervisor of wells; jurisdiction.

Sec. 13. The supervisor of wells is hereby given entire jurisdiction over the matter of conservation of natural dry gas in the state of Michigan, except for the authority given the public utilities commission of this state in connection therewith, being Act No. 9 of the Public Acts of 1929, as amended.

HISTORY: CL 1948, 319.63.

NOTE: Act 9, 1929, above referred to, is Compilers' § 483.101 et seq.

319.64 Supervisor of wells; powers as to hearings; rules and regulations.

Sec. 14. The supervisor shall prescribe rules of procedure in hearings or other proceedings before him and for giving notice thereof not inconsistent with the provisions of this act. All such rules of procedure with reference to notice so made by the supervisor shall be entered in a book to be kept by him for that purpose and shall be public record and open to inspection as such. A certified copy of any such rule or regulation shall be admissible in evidence in the courts in this state upon the same basis as such original rules and regulations.

HISTORY: CL 1948, 319.64.

319.65 Supervisor of wells; subpoena of witnesses; production of records.

Sec. 15. The supervisor is hereby empowered to subpoena witnesses and to require the production of books, papers, and records in any hearing before him. No person shall be excused from attending and testifying, or from producing books, papers and records, or other evidence at any such hearing, or in any case in court brought by or against the supervisor relative to matters within his jurisdiction on the ground that the testimony or evidence so required of him may tend to incriminate him or subject him to a penalty or forfeiture: Provided, however, That nothing herein contained shall be construed as requiring any person to produce books, papers or records or other evidence not pertinent to some question lawfully before such supervisor or court for determination. No natural person shall be subjected to criminal prosecution, or to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be required to testify, or produce evidence, documentary, or otherwise, over his objection, before said supervisor, or in such case in court. Provided, That no person testifying in such hearing or case shall be exempted from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 319.65.

319.66 Supervisor of wells; subpoena of witnesses; enforcement, circuit court, attachment; witness fees.

Sec. 16. In case of failure or refusal on the part of any person to comply with any subpoena issued by the supervisor or upon the refusal of any such witness to testify in any circuit court in this state, any judge thereof, on application of said supervisor, may issue an attachment for such person and compel him to attend before said supervisor and produce such documents, or other evidence, as may be lawfully required and to give his testimony upon such matters as may be properly involved in said hearing and such court or judge shall have the power to punish for contempt as in case of disobedience of a like subpoena issued by or from such court, or a refusal to testify therein.

Any witness summoned by subpoena and attending any hearing held before the supervisor shall be entitled to the same fees as are or may be provided by law for attending the circuit courts in any civil matter or proceedings, which fees as to witnesses subpoenaed by the supervisor shall be paid out of the general fund of the state treas-

ury upon proper voucher approved by the supervisor. The fees of witnesses subpoenaed at the instance of other interested parties shall be paid by such parties.

HISTORY: CL 1948, 319.66.

319.67 Witnesses; perjury, penalty.

Sec. 17. If any person of whom an oath shall be required under the provisions of this act, or by any rule, regulation or order of the supervisor, shall wilfully swear falsely in regard to any matter or thing respecting which such oath is required, or shall wilfully make any false affidavit required or authorized by the provisions of this act, or by any rule, regulation or order of the supervisor, such person shall be deemed guilty of perjury and shall be punished by imprisonment in the state penitentiary for not more than 5 years or by a fine of not more than 1,000 dollars, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 319.67.

319.68 Supervisor of wells; additional powers.

Sec. 18. Included in the power hereby given to the supervisor of wells, acting directly or through his authorized representatives, is that to collect data, make investigations and inspections; to examine properties, leases, papers, books and records; check, test and gauge gas wells; to regulate all transportation of natural gas, except such transportation as shall be under the jurisdiction of the public utilities commission of this state; to hold hearings; to provide for the keeping of records and making of reports, and for the checking of the accuracy thereof; to limit and prorate production of natural dry gas, such proration to be upon the basis of a minimum allowable take regardless of open flow and a further authorized take in proportion to tested open flow; to require reports showing the location of all gas wells and the keeping and filing of logs, well samples, drilling and operating records or reports: Provided, however, That all well data and samples furnished the supervisor shall upon request of the owner of the well, be held confidential for 90 days after the completion of a well or test hole and shall not be open to the inspection of the public during said period, except by written consent of the owner; to prevent fires, explosions, blow-outs and caving; to require wells to be drilled, cased, sealed, operated and produced in such manner as to prevent injury to neighboring leases or properties, or to life or property; to require surety bonds of owners, producers, operators, or their authorized representatives or well contractors, in such form, for such term and in such amount as will insure compliance with the rules, regulations, or orders of the supervisor, and the payment of damages for injury to or destruction of property; to identify the ownership of gas producing leases, properties, wells, pipe lines, plants, structures, transportation equipment and facilities and to fix the spacing of wells; and to establish drilling or prorating areas or units.

HISTORY: CL 1948, 319.68.

319.69 Supervisor of wells; allocation of allowable production.

Sec. 19. If and when the supervisor to prevent waste limits the total amount of gas to be produced in this state, he shall allocate the allowable production among the fields and pools of the state.

HISTORY: CL 1948, 319.69.

319.70 Supervisor of wells; pooling, order, notice, hearing.

Sec. 20. The pooling of properties or parts thereof shall be permitted, and, if not agreed upon, the supervisor may require such pooling in any case when and to the extent that the smallness or shape of a separately owned tract would, under the enforcement of a uniform spacing plan or prorating unit, otherwise deprive the owner of such tract of the opportunity to recover his just and equitable share of the gas in the pool: Provided, That the owner of any tract that is smaller than the drilling unit established

for the field, shall not be deprived of the right to drill on and produce from such tract, if the same can be done without waste, but in such case, the allowable production therefrom of such tract, as compared with the allowable production if such tract were a full unit, shall be in the ratio of the area of such tract to the area of a full unit. Such order for pooling shall be made only after due notice and hearing.

HISTORY: CL 1948, 319.70.

319.71 Legal and illegal gas; definition.

Sec. 21. Gas produced from a well within an allowable take, as fixed by the supervisor shall be known as legal gas and gas produced in excess thereof, as illegal gas. The sale, purchase, acquisition, transportation, processing, or handling in any other way of illegal gas is hereby prohibited.

HISTORY: CL 1948, 319.71.

319.72 Public hearings; notice; emergency ruling.

Sec. 22. Except as provided for herein, before any rule, regulation, or order shall be made under the provisions of this act, a public hearing shall be held at such time, place and in such manner as may be prescribed by the supervisor. The supervisor shall first give reasonable notice of such hearing at least 10 days in advance, except in case of an emergency and at any such hearing any person having an interest in the subject matter of the hearing shall be entitled to be heard. In case an emergency is found to exist by the supervisor which in his judgment requires the making of a rule, regulation or order without first having a hearing, such emergency rule, regulation or order shall have the same validity as if a hearing with respect to the same had been held after due notice. Such emergency rule, regulation or order shall remain in force no longer than 21 days from its effective date.

HISTORY: CL 1948, 319.72.

319.73 Violation of statute or rule; prosecution in Ingham county circuit court; authority of supervisor.

Sec. 23. Whenever it shall appear that any person is violating or threatening to violate, any statute of this state or any rule, regulation or order made thereunder, relating to the conservation of natural dry gas, the supervisor may bring suit against such person in the circuit court of Ingham county, or in the circuit court of the county of the residence of the defendant or of any defendant, if there be more than 1, for penalties, if any have been incurred, and to restrain such person, firm, association or corporation from such violation, or the continuance of such violation.

HISTORY: CL 1948, 319.73.

319.74 Violations of act; penalties.

Sec. 24. Any person who, for the purpose of evading this act, or evading any rule, regulation or order made hereunder, shall intentionally make, or cause to be made, false entry or statement of fact in any report required by this act or by any rule, regulation or order made hereunder; or who, for such purpose, shall make or cause to be made false entry in any account, record or memorandum kept by any person in connection with the provisions of this act, or of any rule, regulation or order made thereunder; or who, for such purpose, shall omit to make or cause to be omitted full, true and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the gas industry of such person as may be required by the supervisor under authority given in this act or by any rule, regulation or order made hereunder; or who, for such purpose, shall remove out of the jurisdiction of the state, or who shall mutilate, alter, or by any other means falsify, any book, record, or other paper pertaining to the transactions regulated by this act, or by any rule, regulation or order made hereunder, shall be deemed guilty of a felony and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of

not more than 1,000 dollars, or imprisonment for a term of not more than 3 years, or to both such fine and imprisonment.

Any person who violates any provision of this act or any rule, regulation or order of the supervisor made hereunder, and, in the event a penalty for such violation is not otherwise provided for herein, shall be subject to a penalty of not to exceed 1,000 dollars a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the circuit court of Ingham county, or in the circuit court of the county where the defendant resides, or in the county of the residence of any defendant if there be more than 1 defendant.

HISTORY: CL 1948, 319.74.

319.75 Drillholes for metallic minerals; construction of act.

Sec. 25. The provisions of this act shall not apply to drillholes for the exploration and the extraction of iron, copper or other metallic minerals, to water wells, to mine and quarry tests, drill and blast holes, to coal test holes not exceeding 3 inches in diameter or to test or other holes not exceeding 4 inches in diameter after reaching bed rock: Provided, That when any such well or hole penetrates salt or mineral water bearing formations, the owner or operator shall upon completion or abandonment plug such well or test holes in such manner and by such means as the supervisor shall prescribe or approve that will prevent migration of such brine or mineral water into the oil, gas and fresh water bearing formations or to the surface.

HISTORY: CL 1948, 319.75.

319.76 Gauging gas wells; basis.

Sec. 26. Every gas well shall be officially gauged whether for the purposes of proration, ratable taking or otherwise, upon the basis of a well of the same depth and at the same place with a casing 7 inches in outside diameter.

HISTORY: CL 1948, 319.76.

319.77 Transportation of natural gas by pipe line.

Sec. 27. Every corporation, association or person, now or hereafter claiming or exercising the right to carry or transport natural gas by pipe line or lines, for hire, compensation, or otherwise, within the limits of this state, as owner, lessee, licensee, or by virtue of any other right or claim, or now engaged or hereafter engaging in the business of purchasing and selling natural gas shall be a common purchaser thereof, and shall purchase all the natural gas in the vicinity of, or which may be reasonably reached by its pipe lines, or gathering branches, without discrimination in favor of 1 producer or 1 person as against another, and shall fully perform all the duties of a common purchaser but if it shall be unable to perform the same, or be legally excused from purchasing and transporting all the natural gas produced or offered, then it shall purchase and transport natural gas from each person or producer ratably, in proportion to the average production, and such common purchasers are hereby expressly prohibited from discriminating in price or amount for like grades of natural dry gas or facilities as between producers or persons; and in the event it is likewise a producer, it is hereby prohibited from discrimination in favor of its own production, or production in which it may be interested directly or indirectly, in whole or in part, and its own production shall be treated as that of any other person or producer.

HISTORY: CL 1948, 319.77.

319.78 Pipe line; authority of supervisor concerning regulations; price at well head.

Sec. 28. The supervisor of wells is hereby empowered and it is hereby made his duty to make regulations for the equitable purchasing, taking and collecting of all such gas, and for the metering and delivery thereof into pipe lines and for providing adequate facilities for the collection and metering of such gas which collection shall apply to all

persons, affected thereby in like manner; and he shall have authority to relieve any such common purchaser after due application, notice and hearing, from the obligation of purchasing gas of an inferior quality or grade or from purchasing gas from wells which for economic reasons are not at the time a practicable source of supply: Provided, however, That the price of gas in any field shall be the price at the well head.

HISTORY: CL 1948, 319.78.

319.79 Pipe line; maximum and minimum flow; authority of supervisor.

Sec. 29. All persons, firms, associations and corporations, whether producing gas or receiving gas from other producers, in any production field, are hereby prohibited from taking more than 25 per cent of the daily natural open flow of any gas well or wells, unless for good cause shown under the exigencies of the particular case the supervisor of wells shall establish a higher or lower per centum under rules and regulations to be by him prescribed: Provided, however, That except when it is necessary so to do in order to prorate a field, the supervisor of wells shall not make any order or regulation prohibiting the taking of at least 2 per cent of the daily natural open flow of any well.

HISTORY: CL 1948, 319.79.

319.80 Pipe line; production in excess of market demands; amount to be taken, basis; duty of supervisor.

Sec. 30. Whenever the full production from any common source or field of supply of natural gas in this state is in excess of the market demands, then any common purchaser of such natural gas as herein defined receiving production or output from such source or field shall take therefrom only such proportion of the available supply as may be marketed and utilized without waste, as the natural flow of the well or wells owned or controlled by such common purchaser bears to the total natural flow or production of such common source or field, having due regard to the minimum allowable provided in section 29 hereof and the provisions of section 26 and to the acreage drained by each well, so as to prevent any common purchaser from securing an unfair proportion therefrom; and it shall be the duty of the supervisor and he is hereby empowered to regulate and enforce the above provision: Provided, That the supervisor may by proper order permit the taking of a greater proportion by any common purchaser whenever or wherever he shall determine a taking of such greater proportion reasonable and equitable or conducive to public convenience or necessity.

HISTORY: CL 1948, 319.80.

319.81 Appeal board; creation, members; hearing, notice; appeal to courts.

Sec. 31. An appeal board is hereby created, consisting of the commission of conservation of this state and all persons, firms or corporations considering themselves aggrieved by any order, rule, regulation or requirement by the supervisor of wells, or his representatives, may within 10 days after the making of such order, serve written notice upon the supervisor of wells that an appeal is claimed from the order, rule, regulation, or requirement involved. The supervisor of wells shall forthwith set a day for hearing not more than 10 days after receipt of said claim of appeal and shall immediately notify said commission and said appealing party of such date, together with the time and place of hearing. At the said hearing the appealing party and the supervisor of wells and their witnesses shall be heard and any other person who may be affected by the decision of said board may be allowed to intervene. During the pendency of such appeal, the appealing party shall obey the order, rule, regulation or requirement, the validity of which is being questioned by the appeal, unless the interests sought to be protected by such order or regulation can be adequately protected by the bond in which event the supervisor of wells may accept a bond in an amount and upon such

conditions as he may prescribe in lieu of performance of such order or regulation by the appealing party. The order, finding or regulation made by the commission upon such hearing shall be subject to appeal to the courts of this state in the same manner and by the same process under the same legal limitations and like right and process of appeal as are now provided by section 11042 of the Compiled Laws of 1929.

HISTORY: CL 1948, 319.81.

319.82 Repeal.

Sec. 32. Act No. 15 of the Public Acts of 1929, as last amended by Act No. 185 of the Public Acts of 1931, being sections 5696 to 5712, inclusive, of the Compiled Laws of 1929, insofar as said act applies to dry natural gas, is hereby repealed.

HISTORY: CL 1948, 319.82.

NOTE: Act 15, 1929, above referred to, is repealed by Compilers' § 319.24.

Sec. 33. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 178, 1941, p. 269; Eff. Jan. 10, 1942.

AN ACT defining the rights of cotenants, joint owners, tenants in common and coparceners in lands; to provide for the development and operation of such lands for oil and gas mining purposes; to grant jurisdiction to the circuit court to authorize the exploration, development and operation of such lands for oil and gas mining purposes; to determine and quiet the title to said lands and to repeal all acts in conflict herewith.

The People of the State of Michigan enact:

319.101 Mineral rights in lands owned in undivided interest; right of majority to develop.

Sec. 1. Whenever lands, or oil and gas, or oil and gas mineral rights in lands in this state are owned by tenants in common, joint owners, cotenants or coparceners, whether such title is derived by purchase, devise or descent, or otherwise, or whether any or all of the owners are minors or of full age, such tenants in common, joint owners, cotenants or coparceners as hold a majority in interest in the title to such lands or the oil and gas rights in such lands, shall be authorized to explore, drill, mine, develop and operate such lands for oil and gas mining purposes and remove and transport oil and gas and other petroleum products from such lands, or store the same on said lands, and sell and dispose of the same in the manner hereinafter provided.

HISTORY: CL 1948, 319.101.

319.102 Gas and oil mining rights; definitions.

Sec. 2. Definitions. The following words and terms as used in this act shall each have the meaning ascribed to them in this section.

(a) "Person" means any natural person, corporation, association, partnership, receiver, trustee, judiciary or common law trust, guardian, executor, administrator or fiduciary of any kind.

(b) "Oil" means natural crude oil or petroleum or other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.

(c) "Gas" means dry or natural gas, casinghead gas or gas produced incidental to the production of oil.

(d) The phrase "oil and gas" shall not only refer to the oil and gas as such in combination with the other, but shall also have general reference to oil, gas, casinghead gas or other hydrocarbons or any combination or combinations thereof, or any 1 thereof,

which may be found in or produced from a natural reservoir or common source of supply of oil or gas or both.

(e) The term "royalty interest" means that share of the produce or profits which the owner of land, or the oil and gas rights in such land, reserves or is entitled to whether under a lease or under the provisions of this act in consideration of permitting the owner of the working interest to develop such oil and gas mineral rights.

(f) The term "working interest" means that share of the produce or profits to which the person who develops the oil and gas mineral rights is entitled by reason thereof pursuant to either the provisions of a lease providing therefor or to the provisions of this act.

(g) The singular shall include the plural and the plural shall include the singular. Each of the genders shall include each of the other genders.

HISTORY: CL 1948, 319.102.

319.103 Procedure; bill of complaint in circuit court in chancery.

Sec. 3. The owners of such majority in interest desiring to lease said lands or their oil and gas mineral rights therein for oil and gas purposes, or desiring to explore, drill, develop or operate said lands for oil and gas and to remove oil and gas therefrom, may file a bill of complaint in the circuit court in chancery of the county in which such lands, or some part thereof, are located, to obtain a decree of the court authorizing them to explore, drill, mine, develop and operate said lands for oil and gas mining purposes, and remove and transport the oil and gas therefrom, or store the same thereon, and sell and dispose of said minerals for the use and benefit of all of the owners thereof. Such bill of complaint shall set forth the relevant facts and the interests therein of all persons, so far as the same are known, to such plaintiffs.

HISTORY: CL 1948, 319.103.

319.104 Fiduciaries; right to prosecute and defend suits; parties.

Sec. 4. Executors, administrators and administrators with will annexed, receivers and trustees, may institute or defend such suits on behalf of their respective estates and trusts and the heirs, devisees, legatees, successors and assigns thereof. Infants and persons under legal disability may institute or defend suits by guardian or next of friend. Every person, including wives of owners, having any interest in such lands, whether in possession or otherwise, who is not a party plaintiff, shall be made a party defendant to such suit. In case of persons interested in such lands whose names are unknown, the bill of complaint shall so state, and such persons may be made parties to such suits by the name and description of "unknown owners."

HISTORY: CL 1948, 319.104.

319.105 Service of process upon defendants; manner.

Sec. 5. Known defendants shall be summoned or notified in the same manner as is provided for the summoning of known defendants in a suit in chancery to quiet title to real estate. Unknown defendants shall be summoned or notified in the same manner as is provided for the summoning of unknown defendants in a suit in chancery to quiet title to real estate.

HISTORY: CL 1948, 319.105.

319.106 Interplea; appearance by interested persons.

Sec. 6. Any person claiming to be interested in such lands may appear during the pendency of such suit and answer the bill of complaint and assert his rights by way of interplea. The court shall determine the rights of any person so appearing the same as though such person had been made a party in the first instance.

HISTORY: CL 1948, 319.106.

319.107 Quieting of titles.

Sec. 7. In all suits under this act, the court may investigate and determine all questions of conflicting or controverted titles, remove clouds therefrom, and quiet, establish and confirm the titles to such lands.

HISTORY: CL 1948, 319.107.

319.108 Decree to be granted if requested by majority in interest; minority interest holders, option to join in development, procedure; bond.

Sec. 8. If the court shall find that the material averments of the bill of complaint are true, and that the plaintiffs do in fact own a majority in interest of such lands, or of the oil and gas mineral rights therein, as joint tenants, tenants in common, cotenants, or coparceners, or that a majority in interest of such owners consent to the granting of the relief prayed in such bill of complaint, then the court shall enter a decree authorizing the plaintiffs to explore, drill, mine, develop and operate said lands for oil and gas mining purposes, and to remove oil and gas from such lands, and sell or dispose of same, so as to realize the full value thereof for the benefit of all the parties entitled thereto.

The defendants and minority interest holders, whether fee or royalty owners, or their lessees, shall have 15 days after the date upon which the decree becomes final in which to elect either to come in and join plaintiffs as producers or lessees in the exploration, drilling, mining, developing and operation of said lands for oil and gas mining purposes, and pay their proportionate part, based upon the interest which respective defendants own, of all expenses and costs in such undertaking, and receive their proportionate share of the net proceeds derived from the sale of the oil and gas produced from said lands, or the defendants may continue their position as fee or royalty owners and receive their proportionate proceeds derived from the sale of the royalty interest or portion of the oil and gas produced from such lands. Such royalty interest, unless otherwise fixed by lease, shall be 1/8 of the oil and gas produced from such lands.

If the defendants or any of them elect to join them as producers or operators of the lease and land involved, as above provided, then such defendants shall, within 15 days from the date upon which the decree of the court becomes final, file with the clerk a good and sufficient bond payable to the clerk of the court, with an authorized surety company as surety thereon. The amount of such bond shall be determined by the court as representing the proportionate share of such defendants based upon the interest which they own in such land of the estimated maximum reasonable cost of exploring, drilling, mining, developing and operating said lands for oil and gas purposes. Such bond shall be conditioned upon the payment when due of such proportionate share of such cost and shall be held by the clerk for the benefit of all interested persons. Said bond and the surety thereon shall be approved by the court prior to the filing of the same.

If the defendants or any of them, whether fee or royalty owners, or their lessees, file such bond within the time stated, they shall be entitled to their share of the proceeds from the sale of the working interest which, in the absence of contract or lease determining the same, shall be 7/8 of the oil and gas produced in addition to any royalty interest they may own. If, however, said defendants or any of them fail to file such bond within said period, then such defendants shall be treated and considered as royalty owners only and shall then receive only their proportionate share of the royalty interest which, in the absence of lease or contract determining the same, shall be 1/8 of the oil and gas produced.

The court shall also provide by decree for the disposition by the plaintiffs of the proportionate part of the proceeds from the sale of the defendants' portion of the oil and

gas produced, and provide for the payment and distribution of the net proceeds thereof to the defendants, as their respective interests may appear, after deduction of the proportionate costs of such proceedings and of exploring, mining, drilling, producing and operating said lands for oil and gas, and disposing of such oil and gas.

If the whereabouts of any of the defendants is unknown, the court may require the plaintiffs to deposit such defendants' share of the net proceeds from the sale of oil and gas with the clerk of the court, to be held for said defendants, as the court may direct.

HISTORY: CL 1948, 319.108.

319.109 Lessees under oil or gas lease; right to maintain or defend proceedings.

Sec. 9. In case a person or persons, holding a majority in interest in such lands, has or have executed an oil and gas lease or leases to any person, firm or corporation, such lessee or lessees may institute and maintain or defend any suit provided for by this act, either in the name of such lessee or in the name of his lessor.

HISTORY: CL 1948, 319.108.

319.110 Judicature act; provisions applicable.

Sec. 10. The provisions of Act No. 314 of the Public Acts of 1915, including the provisions for appeal, and all existing and future amendments to said act, and the applicable supreme court rules now or hereafter adopted shall apply to all proceedings hereunder, except as otherwise provided in this act.

HISTORY: CL 1948, 319.110.

NOTE: Act 314, 1915, above referred to, is Compilers' repealed § 600.1 et seq. See § 600.101 et seq.

Sec. 11. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 12. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 59, 1945, p. 55; Imd. Eff. Mar. 22.

AN ACT defining the rights of co-tenants, joint owners, tenants in common and co-parceners in lands; to provide for the development and operation of such lands for mining purposes other than oil and gas; to grant jurisdiction to the circuit court to authorize the exploration, development and operation of such lands for mining purposes except oil and gas; to determine and quiet the title to said lands; and to repeal all acts in conflict herewith.

The People of the State of Michigan enact:

319.151 Exploration of certain lands for mining purposes; authorization.

Sec. 1. Whenever lands or mineral rights in lands in this state are owned by tenants in common, joint owners, co-tenants or co-parceners whether such title is derived by purchase, devise or descent or otherwise or whether any or all of the owners are minors or of full age, such tenants in common, joint owners, co-tenants or co-parceners as hold not less than 3/4 interest in the title to such lands or mineral rights in such lands, shall be authorized to explore, drill, mine, develop and operate such lands for mining purposes except oil and gas and remove and transport the minerals or mineral products from such lands or store the same on said lands and sell and dispose of the same in the manner hereinafter provided.

HISTORY: CL 1948, 319.151.

319.152 Mineral rights; definitions.

Sec. 2. The following words and terms as used in this act shall each have the meaning ascribed to them in this section:

(a) "Person" means any natural person, corporation, association, partnership, receiver, trustee, judiciary or common law trust, guardian, executor, administrator or fiduciary of any kind.

(b) "Mineral"—the term mineral, when employed in a conveyance, is understood to include every inorganic substance that can be extracted from the earth for profit whether it be solid, as rock, fire clay, the various metals and coal, or fluid, as mineral waters except oil and gas.

(c) The term "royalty interest" means that share of the product or profit which the owner of the land or mineral rights in such land, reserves or is entitled to whether under a lease or under the provisions of this act in consideration of permitting the development of the mineral rights except oil and gas.

(d) The singular shall include the plural and the plural shall include the singular. Each of the genders shall include each of the other genders.

HISTORY: CL 1948, 319.152.

319.153 Decree of court to lease lands; bill of complaint.

Sec. 3. The owner or owners of not less than 3/4 in interest desiring to lease said lands or their mineral rights therein for mining purposes other than oil and gas or desiring to explore, drill, develop, or operate said lands for minerals or mineral products and to remove such minerals or mineral products therefrom, may file a bill of complaint in a circuit court in chancery of the county in which such lands, or some part thereof are located, to obtain a decree of the court authorizing them to lease said lands or their mineral rights or explore, drill, mine, develop and operate said lands for mining purposes except oil and gas and remove and transport minerals or mineral products therefrom or store the same thereon and sell and dispose of minerals and mineral products for use and benefit of all owners thereof. Such bill of complaint shall set forth the relevant facts and the interests therein of all persons, so far as the same are known to such plaintiffs.

HISTORY: CL 1948, 319.153.

319.154 Decree of court; distribution of proceeds.

Sec. 4. If the court shall find that the material averments of the bill of complaint are true, and that the plaintiffs do in fact own the required interest in such lands or mineral rights as joint tenants, tenants in common, co-tenants or co-parceners or that the required proportion in interest of such owners consent to the granting of the relief prayed in such bill of complaint, then the court shall enter a decree authorizing the plaintiffs to lease for exploring, drilling, mining and operating said lands for mining purposes except oil and gas and to remove such minerals or mineral products from such lands and sell or dispose of same so as to realize the full value thereof for the benefit of all parties entitled thereto. The defendants and minority interest holders, whether owner of fee or royalty interests or their lessees shall participate in their proportionate share of the proceeds derived from the sale of minerals or mineral products produced from said lands. In case the court finds that a lease of such royalty interest should be granted, the terms and conditions of such lease shall be fixed by the court in its decree but the royalty payable to such royalty interest shall not be less than 1/10 of the mineral or mineral products or the value thereof as produced and severed from such lands at the point of production. The court shall provide by decree for the disposition by the plaintiffs of the proportionate part of the proceeds from the sale of the defendants' portion of the minerals or mineral products produced and provide for the payment and distribution of the proceeds thereof to the defendants as their respective interests may appear after deduction of the proportionate costs of such proceedings and those other expenses incurred by the plaintiffs which are approved by the court.

HISTORY: CL 1948, 319.154.

319.155 Deposit with clerk of court when defendant is unknown.

Sec. 5. If the whereabouts of any of the defendants is unknown, the court may require the plaintiffs to deposit such defendants' share of the net proceeds from minerals or mineral products with the clerk of the court, to be held for said defendants, as the court may direct.

HISTORY: CL 1948, 319.155.

319.156 Suits by lessees.

Sec. 6. In case a person or persons, holding not less than a 3/4 interest in such lands, has or have executed a mineral lease or leases to any person, firm or corporation, such lessee or lessees may institute and maintain or defend any suit provided for by this act, either in the name of such lessee or in the name of his lessor.

HISTORY: CL 1948, 319.156.

Act 7, 1911, p. 9; Imd. Eff. Mar. 13.

AN ACT to repeal Act No. 9 of the Public Acts of 1877, entitled "An act to authorize the appointment of a commissioner of mineral statistics, and defining the duties and compensation of the same," approved February eighth, 1877, as amended, being sections 4630, 4631, 4632, 4633, 4634 and 4635 of the Compiled Laws of 1897; to abolish the office of commissioner of mineral statistics; and to provide for continuing the duties of said commissioner under the direction of the state board of geological survey.

The People of the State of Michigan enact:

Sec. 1. (This was a repeal section.)

HISTORY: CL 1915, 5633;—CL 1929, 5718;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 9, 1877, CL 1897; 4630-4635.

319.202 Commissioner of mineral statistics; transfer of duties to geological survey board.

Sec. 2. The duties of the commissioner of mineral statistics, as defined by said Act No. 9 of the Public Acts of 1877, are hereby transferred to the state board of geological survey, and it is hereby declared to be their duty to continue the collection of statistics, the conducting of investigations, the making of reports, and all other duties as specified in said Act No. 9 of the Public Acts of 1877.

HISTORY: CL 1915, 5634;—CL 1929, 5719;—CL 1948, 319.202.

BOARD OF GEOLOGICAL SURVEY: Abolished; powers and duties transferred to department of conservation, see Compilers' § 299.2.

319.203 Commissioner of mineral statistics; abolition of office; transfer of records; cessation of salary.

Sec. 3. The office of commissioner of mineral statistics, as provided for under said act, is hereby abolished, and the incumbent of said office is hereby directed and required to transfer and turn over to the state board of geological survey all the books, papers, maps and other documents of said office, upon the taking effect of this act, and the salary and emoluments of said commissioner of mineral statistics shall from that time cease.

HISTORY: CL 1915, 5635;—CL 1929, 5720;—CL 1948, 319.203.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 5636;—CL 1929, 5721;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

319.205 Declaration of necessity.

Sec. 5. The enactment of this act is necessary for the public peace and safety.

HISTORY: CL 1915, 5637; CL 1929, 5722;—CL 1948, 319.205.

Act 315, 1969, p. 623; Eff. Mar. 20, 1970.

AN ACT to provide control of the drilling, operating and abandoning of mineral wells to prevent surface and underground waste; to provide for a supervisor of mineral wells and prescribe his powers and duties; to provide for an advisory board and prescribe its duties; to provide for inspecting, repairing and plugging of mineral wells and for entering on private property for that purpose; to provide for the assessing of certain fees; to provide for the promulgation of rules and orders to enforce this act; and to prescribe penalties.

The People of the State of Michigan enact:

319.211 Mineral well act; short title.

Sec. 1. This act shall be known and may be cited as the "mineral well act".

HISTORY: New 1969, p. 623, Act 315, Eff. Mar. 20, 1970.

319.212 Mineral well act; definitions.

Sec. 2. As used in this act:

- (a) "Person" means any individual, corporation, company, association, joint venture, partnership, receiver, trustee, guardian, executor, administrator, personal representative or private organization of any kind.
- (b) "Owner" means the person who has the right to drill, convert or operate any well subject to this act.
- (c) "Operator" means the person, whether owner or not, supervising or responsible for drilling, operating, repairing, abandoning or plugging of wells subject to this act.
- (d) "Supervisor" means the supervisor of mineral wells.
- (e) "Board" means the advisory board appointed by the supervisor and approved by the director and commission.
- (f) "Director" means the director of natural resources.
- (g) "Commission" means the commission of natural resources.
- (h) "Natural brine" means naturally occurring mineralized water other than potable or fresh water.
- (i) "Artificial brine" means mineralized water formed by dissolving rock salt or other readily soluble rocks or minerals.
- (j) "Underground storage cavity" means a cavity formed by dissolving rock salt or other readily soluble rock or mineral, by nuclear explosion, or by any other method for the purpose of storage or disposal.
- (k) "Pollution" means damage or injury from the loss, escape or unapproved disposal of any substance at any well subject to this act.
- (l) "Waste product" means waste or byproduct resulting from municipal or industrial operations or waste from any trade, manufacture, business or private pursuit which could cause pollution and for which underground disposal may be feasible or practical.
- (m) "Mineral well" means any well subject to the provisions of this act.
- (n) "Brine well" means a well drilled or converted for the purpose of producing natural or artificial brine.
- (o) "Test well" means a well, core hole, core test, observation well or other well drilled from the surface to determine the presence of a mineral, mineral resource, ore, or rock unit, or to obtain geological or geophysical information or other subsurface data, but shall not include holes drilled in the operation of a quarry, open pit or underground mine.

(p) "Storage well" means a well drilled into a subsurface formation to develop an underground storage cavity for subsequent use in storage operations.

(q) "Disposal well" means a well drilled or converted for subsurface disposal of waste products or processed brine and its related surface facilities.

(r) "Exploratory purposes" means test well drilling for the specific purpose of discovering or outlining an orebody or mineable mineral resource.

(s) "Underground waste" means damage or injury to potable water, mineralized water, or other subsurface resources.

(t) "Surface waste" means damage to, injury to, or destruction of surface waters, soils, animal, fish and aquatic life or surface property from unnecessary seepage or loss incidental to or resulting from drilling, equipping, or operating a well or wells subject to this act.

HISTORY: New 1969, p. 623, Act 315, Eff. Mar. 20, 1970.

319.213 Waste prohibited.

Sec. 3. A person shall not cause surface or underground waste in the drilling, development, production, operation or plugging of wells subject to this act.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.214 Supervisor of mineral wells; designation, assistants, salaries and expenses.

Sec. 4. The state geologist shall serve as the supervisor of mineral wells. He shall appoint, with the approval of the director, such assistants as necessary to carry out the provisions of this act. The supervisor and assistants, in addition to salaries, shall receive reasonable traveling expenses while on business connected with their duties in accordance with standard travel regulations of the department of administration.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.215 Mineral well advisory board; members, appointment, qualifications.

Sec. 5. The supervisor, after conferring with and receiving recommendations from owners and operators subject to this act, shall appoint 7 persons, subject to the approval of the director and commission, who shall constitute a board known as the mineral well advisory board which shall be representative of the industries subject to this act. The members of the board shall be chosen from owners and operators, or their managing agents or representatives, having ownership, production or operations which are subject to the provisions of this act. There shall be only 1 representative of 1 company or its subsidiaries or affiliates.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.216 Mineral well advisory board; members, terms, vacancies; removal.

Sec. 6. The term of each member shall be 3 years. Of the first appointed board, 2 members shall serve for 1 year; 2 for 2 years; and 3 for 3 years. The supervisor, after conference with and receiving recommendations by owners and operators subject to this act, shall fill any vacancy in the membership subject to approval by the director and the commission. The supervisor may remove any member for good cause, after public hearing and approval by the commission. Each member of the board, unless removed as provided, shall serve until the appointment and qualification of his successor.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.217 Mineral well advisory board; organization, quorum, secretary.

Sec. 7. The board, after approval by the commission, shall immediately and annually thereafter meet with the supervisor and organize by electing a chairman and vice-

chairman. Four members of the board constitute a quorum for the transaction of business. A member of the staff of the supervisor shall be appointed by the board to serve as its secretary.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.218 Mineral well advisory board; meetings, time, place, calling.

Sec. 8. The board shall meet semi-annually and hold such other meetings as it and the supervisor may deem necessary. Meetings shall be held at the office of the supervisor or at other designated places in the state as may be fixed by the board and the supervisor. Meetings may be called by the chairman, or in his absence by the vice-chairman, by a majority of the members or by the supervisor.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.219 Mineral well advisory board; powers and duties.

Sec. 9. The board may consult with the supervisor or commission and perform such other duties as may be designated to it. The board shall participate in all public hearings provided by this act, shall meet promptly thereafter with the supervisor and shall advise and make recommendations with respect to any rules or orders which may be considered for adoption pursuant to the evidence and testimony submitted.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.220 Mineral well advisory board; duty of supervisor.

Sec. 10. The supervisor shall keep the board informed of his activities by minutes of meetings and other agreed means.

HISTORY: New 1969, p. 624, Act 315, Eff. Mar. 20, 1970.

319.221 Mineral well advisory board; members, compensation and expenses.

Sec. 11. The members of the board shall receive no compensation but shall be reimbursed for expenses in connection with their duties in accordance with the standard travel regulations of the department of administration.

HISTORY: New 1969, p. 625, Act 315, Eff. Mar. 20, 1970.

319.222 Appeal board; persons entitled to appeal, hearing, right to be heard, finality of appeal, action; court review.

Sec. 12. (1) The commission shall act as an appeal board. Whenever the advisory board or any owner or operator deems any rule or order made by the supervisor to be unduly burdensome, inequitable or unwarranted, the board, owner or operator may appeal to the appeal board for relief, giving notice to the supervisor. The chairman of the commission shall set a date and place to hear such appeal, which may be at any regular meeting or at any special meeting of the commission duly called for that purpose. The supervisor, members of the board, or any person interested in the matter shall have the right to be heard at such hearing.

(2) The action of the appeal board shall be final with respect to an appeal by the advisory board, but any person may seek relief in the courts and the filing of an appeal as provided in this section shall not be a prerequisite to seeking relief in the courts.

HISTORY: New 1969, p. 625, Act 315, Eff. Mar. 20, 1970.

319.223 Administration and enforcement of act; jurisdiction of supervisor.

Sec. 13. The supervisor shall have jurisdiction over the administration and enforcement of this act.

HISTORY: New 1969, p. 625, Act 315, Eff. Mar. 20, 1970.

319.224 Prevention of waste; rules, promulgation, enforcement.

Sec. 14. The supervisor shall prevent the wastes defined in and prohibited by this act. Acting directly or through his deputy or authorized representative, and with the advice and recommendations of the board following public hearing, the supervisor

shall promulgate rules subject to the approval of the commission and issue orders and instructions necessary to enforce these rules. Rules shall be adopted in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 625, Act 315, Eff. Mar. 20, 1970.

319.225 Emergency orders; promulgation, duration.

Sec. 15. The supervisor, acting directly or through his deputy or authorized representative, may promulgate emergency orders without a public hearing to carry out the provisions of this act. Such emergency orders shall remain in force and effect not more than 21 days.

HISTORY: New 1969, p. 625, Act 315, Eff. Mar. 20, 1970.

319.226 Supervisor of mineral wells; powers.

Sec. 16. The supervisor, acting directly or through his deputy or authorized representative, is specifically empowered to:

(a) Make inspections and provide for the keeping of records and checking on the accuracy thereof.

(b) Require the locating, drilling, deepening, reworking, reopening, casing, sealing, injecting, mechanical and chemical treating and plugging of wells subject to this act to be accomplished in a manner which is designed to prevent surface and underground waste.

(c) Designate after public hearing, and with the advice and recommendations of the board, those areas of the state in which there is no known or potential danger of surface or underground waste from test well drilling and in which permits to drill test wells will not be required.

(d) Require on all wells the keeping and filing of logs containing data which are appropriate to the purposes of this act. Logs on brine and test wells shall be held confidential for 10 years after completion and shall not be open to public inspection during that time except by written consent of the owner or operator. Logs for test wells drilled for exploratory purposes shall be held confidential until released by the owner or operator. The logs on all brine and test wells for exploratory purposes shall be opened to public inspection when the owner is no longer an active mineral producer, mineral lease holder, or owner of mineral lands in the state of Michigan.

(e) Require on storage and waste disposal wells, when specified by the supervisor, the keeping and filing of drillers' logs and sample logs, the running and filing of electrical and radioactivity logs, the keeping and filing of drill cuttings, cores, water samples, pilot injection test records, operating records and other reports.

(f) Release to the board or commission, for meetings and hearings, only data described in this section which are necessary to the administration of this act in the prevention or correction of surface or underground waste.

(g) Order through written notice the immediate suspension or prompt correction of any operation, condition or practice found to exist which is causing or resulting, or threatening to cause or result, in surface or underground waste.

(h) Require the filing of an adequate surety or security bond and provide for the release thereof.

(i) Qualify persons for blanket permits.

HISTORY: New 1969, p. 625, Act 315, Eff. Mar. 20, 1970.

319.227 Drilling or conversion permits; necessity, application, bond, fee; survey of site; hearing.

Sec. 17. (1) A person shall not drill, or begin the drilling, of any brine, storage or waste disposal well, or convert any well for these uses, until the owner directly or through his authorized representative files a written application for a permit to drill or convert a well, files a survey of the well site, files an approved surety or security bond, and receives a permit in accordance with the rules of the supervisor. A fee of \$50.00 shall be charged for a brine, storage or waste disposal well permit. Within 10 days after receiving the prescribed application and fee, and following investigation, inspection and approval, the supervisor shall issue the well permit. No permit shall be issued to any owner or his authorized representative who does not comply with the rules of the supervisor or who is in violation of this act or any rule of the supervisor. Upon completion of the drilling or converting of a well for storage or waste disposal and after necessary testing by the owner to determine that the well can be used for these purposes and in a manner that will not cause surface or underground waste, the supervisor, upon receipt of appropriate evidence, shall approve and regulate the use of the well for storage or waste disposal. These operations shall be in accordance with the provisions of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948. The supervisor may schedule a public hearing to consider the need or advisability of permitting the drilling or operating of a storage or waste disposal well, or converting a well for these uses, if the public safety or other interests are involved.

Test wells, application, fee.

(2) A person shall not drill a test well, except as provided in subdivision (c) of section 16, until the owner directly or through his authorized representative files a written application for a permit to drill, files an approved surety or security bond, and receives a permit in accordance with the rules of the supervisor. A fee of \$1.00 shall be charged for a permit to drill a test well. Within 10 days after receiving the prescribed application and fee, and following necessary investigation, inspection and approval, the supervisor shall issue the permit. No permit shall be issued to any owner or his authorized representative who does not comply with the rules of the supervisor or who is in violation of this act or any rule of the supervisor.

Exempt test wells; log.

(3) No permit shall be required to drill a test well in those areas of the state where rocks of Precambrian age directly underlie unconsolidated surface deposits or in those areas which have been designated in accordance with the provisions of subdivision (c) of section 16. However, within 2 years after completion of the drilling of the well, the owner shall advise the supervisor of the location of the well and file with the supervisor the log required under subdivision (d) of section 16. The provisions of this act pertaining to the prevention and correction of surface and underground waste shall have the same application to these test wells as to other wells defined herein.

Blanket permit for test wells.

(4) Upon request, the supervisor may issue a blanket permit to drill test wells within a limited or local area where a geological test program is intended, and issue a blanket permit to drill test wells to qualified persons.

Confidentiality of information.

(5) All information and records pertaining to the application for and issuance of permits for wells subject to this act shall be held confidential in the same manner as provided for logs and reports on these wells.

Disposition of fees.

(6) The supervisor shall deposit all fees in the state treasury to be credited to the general fund.

HISTORY: New 1969, p. 626, Act 315, Eff. Mar. 20, 1970.

319.228 Enforcement of act and rules; legal and equitable proceedings, parties.

Sec. 18. The supervisor may bring proceedings at law or in equity for the enforcement of this act and rules promulgated thereunder in the circuit court of Ingham county or in the circuit court of the county in which a violation shall have occurred. The attorney general shall represent the supervisor in all actions brought under this act.

HISTORY: New 1969, p. 627, Act 315, Eff. Mar. 20, 1970.

319.229 Suits against supervisor, board, commission, agent or employee; Ingham county circuit court, jurisdiction.

Sec. 19. The circuit court of Ingham county shall have exclusive jurisdiction of all suits brought against the supervisor, board or commission, or any agent or employee thereof, by or on account of any matter or thing arising under the provisions of this act.

HISTORY: New 1969, p. 627, Act 315, Eff. Mar. 20, 1970.

319.230 Hearings; notice, contents, publication, sufficiency, persons responsible; service.

Sec. 20. (1) Jurisdictional requirements of notice of time, place and issues involved in all hearings required by this act shall be satisfied by publication once each week for 2 weeks consecutively in a newspaper of general circulation in the area where a specific matter of concern is located, if the last date of publication is at least 3 days prior to the date set for hearing.

(2) If a listing of interested persons is a part of the petition for hearing, or if the names of these persons are on record with the supervisor, service in the form of notice by certified or registered mail shall be made by the petitioner.

(3) The publishing of notices of hearings and payment for the publishing, shall be the responsibility of the petitioner. The supervisor shall be responsible for the publishing, and payment for the same, on all hearings initiated by him.

HISTORY: New 1969, p. 627, Act 315, Eff. Mar. 20, 1970.

319.231 Persons authorized to conduct hearings and investigations; acts by supervisor's deputy or representative, effect.

Sec. 21. All hearings and other actions pertaining to these hearings or investigations may be conducted by the supervisor, his deputy or authorized representative, and all acts of his deputy or authorized representative shall have the same force and effect as if done by the supervisor.

HISTORY: New 1969, p. 627, Act 315, Eff. Mar. 20, 1970.

319.232 Supervisor of mineral wells; power to summon witnesses, administer oaths, require production of documents; noncompliance, contempt.

Sec. 22. (1) The supervisor may summon witnesses, administer oaths and, when necessary to carry out the provisions of this act, may require the production of appropriate records, books and documents.

(2) Upon failure or refusal of any person to comply with a subpoena issued by the supervisor, or upon the refusal of any witness to testify as to any matter on which he may be interrogated as being pertinent to the hearing or investigation, the person or witness may be subject to a court order compelling him to comply with such subpoena, and to appear before the supervisor and produce such records, books and docu-

ments for examination and to give his testimony. The court shall have the power to punish for contempt or for refusal to testify.

HISTORY: New 1969, p. 637, Act 315, Eff. Mar. 20, 1970.

319.233 Failure to case, seal, operate, repair or plug wells in accordance with act; rules or orders; notice; expense of repair or correction, collection.

Sec. 23. Whenever the supervisor, his deputy or his authorized representative has determined that an owner or operator has failed or neglected to case, seal, operate, repair or plug a well in accordance with the provisions of this act or the rules or orders adopted hereunder, notice of the determination shall be given to the owner or operator and to the surety executing the bond filed by such owner or operator. If the owner or operator, or surety, fails to correct the specified conditions in accordance with the rule or order of the supervisor within 60 days after service of notice, the supervisor may enter into or upon any private or public property on which the well is located, and across any private or public property to reach the well, and repair or correct the specified condition, and the owner, operator and surety shall be jointly and severally liable for all expenses incurred. The supervisor shall certify to the owner, operator and surety the claim of the state, listing therein the items of expense in making the repair or correction. The claims shall be paid by the owner or operator, or surety, within 30 days, and if not paid within that time the supervisor may bring suit in the circuit court of Ingham county against the owner, operator and surety, jointly and severally, for the collection.

HISTORY: New 1969, p. 628, Act 315, Eff. Mar. 20, 1970.

319.234 Offenses.

Sec. 24. It is unlawful for any person:

- (a) To wilfully violate any provision of this act or any rule or order of the supervisor.
- (b) To drill or convert any well subject to this act without first obtaining a permit or to operate a storage or waste disposal well without approval as provided herein.
- (c) To do any of the following for the purpose of evading or violating this act or any rule or order adopted hereunder:
 - (i) Make false entry or statement in any required report or record.
 - (ii) Omit or cause to be omitted from any required report or record full, true and correct entries as required by this act.
 - (iii) Remove from this state or destroy, mutilate, alter or falsify any required report or record.

HISTORY: New 1969, p. 628, Act 315, Eff. Mar. 20, 1970.

319.235 Violation of act; penalties.

Sec. 25. Any person in violation of this act shall be subject to a fine of not more than \$1,000.00 and each day that the violation shall continue shall constitute a separate offense. The penalty shall be recovered by suit brought by the supervisor. Any person aiding or abetting in the violation of this act or any rule or order promulgated hereunder shall be subject to the same penalties as prescribed herein.

HISTORY: New 1969, p. 628, Act 315, Eff. Mar. 20, 1970.

319.236 Construction of act.

Sec. 26. The provisions of this act shall not apply to wells drilled under the authority of Act No. 61 of the Public Acts of 1939, as amended, being sections 319.1 to 319.27 of the Compiled Laws of 1948; Act No. 326 of the Public Acts of 1937, as amended, being sections 319.51 to 319.82 of the Compiled Laws of 1948; Act No. 294 of the Public Acts of 1965, being sections 325.221 to 325.240 of the Compiled Laws of 1948; or Act No. 98 of the Public Acts of 1913, as amended, being sections 325.201 to 325.214 of

the Compiled Laws of 1948. This act shall not be construed to supersede or contravene any of the provisions of Act No. 245 of the Public Acts of 1929, as amended.

HISTORY: New 1969, p. 628, Act 315, Eff. Mar. 20, 1970.

Act 132, 1897, p. 153; Eff. Aug. 30.

AN ACT to regulate the mode of plugging abandoned salt wells, and providing a penalty for the violation thereof.

The People of the State of Michigan enact:

319.251 Abandoned salt wells; plugging required; method, supervision.

Sec. 1. That whenever any well shall have been put down for the purpose of exploring for and producing salt or salt brine, upon abandoning or ceasing to operate the same, the owner or operator shall for the purpose of excluding all fresh water from the salt bearing rock and before drawing and casing, fill up the well with sand or rock sediment to the depth of at least 20 feet above the second sand or salt bearing rock, and drive a round seasoned wooden plug at least 2 feet in length, equal in diameter to the diameter of the wall below the casing, to a point at least 5 feet below the bottom of the casing, and immediately after the drawing of the casing, shall drive a round seasoned wooden plug into the well at the point just below where the lower end of the casing shall have rested, which plug shall be at least 3 feet in length, tapering in form and to be of the same diameter at the distance of 18 inches from the smaller end as the diameter of the wall below the point at which it is to be driven; after it has been properly driven shall fill in on top of same with sand or rock sediment to the depth of at least 5 feet. In case the fresh water casing cannot be entirely removed from the offset at reasonable cost, or where wells have not been abandoned but the owner or operator has ceased to operate the same for 9 months, then said well shall be plugged before disturbing casing at a point 20 feet above said second sand stone or salt bearing rock with a round wooden seasoned plug not less than 20 inches long and full size of the well at that point; said plug to have a hole through the center from 1 1/2 to 2 inches in diameter, and said plug to be quarter sawed about 1/2 of its depth from outside to hole in center and full length of plug. When above described plug is in proper place a round seasoned wooden pin of proper size and taper shall be driven into hole in center of above described plug, thereby splitting and spreading said plug against wall of well. Then 5 feet of clay shall be put on top of said pin and plug and thoroughly packed. All such work to be done under the supervision of and approved by the state salt inspector or his appointed agents.

HISTORY: CL 1897, 5480;—CL 1915, 7199; CL 1929, 8927;—CL 1948, 319.251.

SALT INSPECTOR: Act 1 of 1913 repealed the act creating this office and no new act has been enacted in place thereof.

319.252 Violation of act; penalty, division.

Sec. 2. Any person, corporation, company or firm who shall violate the provisions of this act shall be liable to a penalty of 200 dollars, 1/2 to be for the use of the informer, and 1/2 to the use of the county in which such well may be situated, to be recovered as debts of like amount are by law recoverable.

HISTORY: CL 1897, 5481;—CL 1915, 7200;—CL 1929, 8928;—CL 1948, 319.252.

319.253 Violation of act; plugging by other well owners; applicability of act.

Sec. 3. Whenever any owner or operator shall neglect or refuse to comply with the provisions of section 1 of this act, the owner or operator of any salt well within said county within which such abandoned well may be, may enter, take possession of said abandoned well and plug the same as provided by this act at the expense of the owner

of the land on which abandoned well is located: Provided, however, that nothing in this act shall be so construed as to apply to any such abandoned or idle salt producing wells as are sunk to the rock salt strata, i.e. those salt producing wells into which fresh water is forced from the surface for the purpose of dissolving the rock salt and thus creating brine for the manufacture of salt, as described in volume 5 of the geological survey of Michigan of 1881 to 1893: Provided further, That the provisions of this act shall be applicable only to the salt wells of Saginaw and Bay counties.

HISTORY: CL 1897, 5482;—CL 1915, 7201;—CL 1929, 8629;—CL 1948, 319.253.

Act 138, 1947, p. 187; Eff. Oct. 11.

AN ACT enabling this state to cooperate with other states in producing oil and gas; ratifying and approving the interstate compact to conserve oil and gas as herein set out; authorizing and empowering the governor of this state to execute any agreement to enable this state to continue to be a member thereof; authorizing the governor of this state to execute agreements for the further extension of the expiration date thereof; authorizing and enabling the governor of this state to determine if and when it shall be to the best interest of this state to withdraw from the compact; designating the governor of this state as the authorized representative upon the interstate oil compact commission and authorizing and enabling the governor of this state to appoint assistant representatives.

The People of the State of Michigan enact:

319.301 Interstate compact for conservation of oil and gas; extension agreements; withdrawal.

Sec. 1. So that the state of Michigan can cooperate with other states in fostering and encouraging the production of oil and gas without waste, the governor of the state of Michigan is hereby authorized and empowered, for and in the name of the state of Michigan, now a member of the interstate oil compact commission, to execute agreements for the extension of the interstate compact to conserve oil and gas, originally executed at Dallas, Texas, on the 16th day of February 1935, and now deposited with the department of state of the United States, and which expires by its terms on September 1, 1947. The governor is further authorized and empowered to execute any necessary agreements for the further extension of the expiration date of said interstate compact to conserve oil and gas, and to determine if and when it shall be for the best interest of the state of Michigan to withdraw from said compact upon 60 days' notice as provided by its terms. In the event he shall determine that the state should withdraw, he shall have full power and authority to give notice and take any and all steps necessary and proper to effect the withdrawal of the state of Michigan from said compact.

HISTORY: CL 1948, 319.301.

319.302 Interstate oil compact; agreement.

Sec. 2. The interstate compact to conserve oil and gas referred to in the above section, and which it is hereby proposed to extend by agreement reads as follows:

“AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS”

“ARTICLE I.

“This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any 3 of the states of Texas, Oklahoma, California, Kansas, and New Mexico

have ratified and congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

“ARTICLE II.

“The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

“ARTICLE III.

“Each state bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

“(a) The operation of any oil well with an inefficient gas-oil ratio.

“(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas in paying quantities.

“(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

“(d) The creation of unnecessary fire hazards.

“(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

“(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

“The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

“ARTICLE IV.

“Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

“ARTICLE V.

“It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

“ARTICLE VI.

“Each state joining herein shall appoint 1 representative to a commission hereby constituted and designated as the interstate oil compact commission, the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

“The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said commission shall organize and adopt suitable rules and regulations for the conduct of its business.

"No action shall be taken by the commission except: (1) By the affirmative votes of the majority of the whole number of the compacting states, represented at any meeting, and (2) by a concurring vote of majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

"ARTICLE VII.

"No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

"ARTICLE VIII.

"This compact shall expire September 1, 1947, but any state joining herein may, upon 60 days' notice, withdraw herefrom.

"The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the department of state of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

"This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified and ratified.

"Done in the city of Dallas, Texas, this sixteenth day of February, 1935.

(Originally signed by the representatives of the following states: Oklahoma, Texas, New Mexico, Colorado, Illinois, Michigan, California, Arkansas and Kansas.)"

HISTORY: CL 1948, 319.302.

319.303 Interstate oil compact commission; governor as representative of state, powers and duties, assistant representatives.

Sec. 3. The governor shall be the official representative of the state of Michigan on "the interstate oil compact commission," provided for in the compact to conserve oil and gas, and shall exercise and perform for the state of Michigan all the powers and duties as a member of "the interstate oil compact commission": Provided, That he shall have the authority to appoint assistant representatives who shall act in his stead as the official representatives of the state of Michigan as a member of said commission. Said assistant representatives shall take the oath of office prescribed by the constitution, which shall be filed with the secretary of state.

HISTORY: CL 1948, 319.303.

Act 197, 1959, p. 275; Eff. Mar. 19, 1960.

AN ACT to provide for the unitized management, operation and development of common sources of supply of oil, gas, oil and gas, or gas distillate in this state; to prescribe the powers and duties of the supervisor of wells; to authorize the organization of units and prescribing the procedure therefor; to create an advisory board and an appeal board; to provide for the enforcement of this act; and to provide penalties for the violation thereof.

The People of the State of Michigan enact:

319.351 Michigan unitization law; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan unitization law".

HISTORY: New 1959, p. 275, Act 197, Eff. Mar. 19, 1960.

319.352 Michigan unitization law; definitions.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Oil and gas" means not only oil and gas as such in combination one with the other, but also oil, gas, casinghead gas, casinghead gasoline, gas distillate or other hydrocarbons, or any combination or combinations thereof, which may be found in or produced from a common source of supply of oil, gas, oil and gas or gas distillate.

(b) "Pool" or "common source of supply" means a natural underground reservoir containing or appearing to contain a common accumulation of oil and gas. Each productive zone of a general structure, which is completely separate from any other zone in the structure, or for the purposes of this act may be so declared by the supervisor, is included in the term "pool" or "common source of supply". Any reference to a separately owned tract, although in general terms broad enough to include the surface and all underlying common sources of supply of oil and gas shall have reference thereto only in relation to the common source of supply or portion thereof embraced within the unit area of a particular unit.

(c) "Field" means the same general surface area which is underlaid or appears to be underlaid by 1 or more pools, and includes underground reservoirs containing oil and gas. "Field" and "pool" mean the same thing when only 1 underground reservoir is involved; however, "field" unlike "pool" may relate to 2 or more "pools".

(d) "Unit expense" means any and all cost, expense or indebtedness incurred by the unit in the establishment of its organization, or incurred in the conduct and management of its affairs or the operations carried on by it.

(e) "Lessee" means not only lessees under oil and gas leases but also the owners of unleased lands or mineral rights having the right to develop them for oil and gas.

(f) "Unit production" means all indigenous oil and gas produced and saved from a unit area after the effective date of the order of the supervisor creating the unit regardless of the well or tract within the unit area from which it is produced.

(g) "Supervisor" or "supervisor of wells" means the state director of conservation as provided in Act No. 61 of the Public Acts of 1939, as amended, being sections 319.1 to 319.27 of the Compiled Laws of 1948.

(h) "Board" means the advisory board appointed by the director of conservation as provided for in Act No. 61 of the Public Acts of 1939, as amended.

(i) "Waste", in addition to its ordinary meaning, means physical waste as that term is generally understood in the oil and gas industry. "Waste" includes (1) the inefficient, excessive or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating, producing or plugging of any oil and gas well or wells in a manner which results or tends to result in reducing the quantity of oil and gas ultimately recoverable from any pool in the state under good oil and gas field practice; (2) the inefficient production of oil and gas in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of oil and gas; and (3) the locating, spacing, drilling, equipping, operating, producing or plugging of a well or wells in a manner causing or tending to cause unnecessary or excessive loss or destruction of oil and gas.

HISTORY: New 1959, p. 275, Act 197, Eff. Mar. 19, 1960.

319.353 Supervisor of wells; general duties; fees.

Sec. 3. Subject to the limitations of this act the supervisor shall make and enforce such orders, rules and regulations and do such things as may be necessary or proper to carry out and effectuate the purposes of this act, including adoption of a schedule of fees to be paid upon the filing of petitions, amendments thereto, and other instruments in connection therewith which shall bear reasonable relation to the cost of examining, inspectional and supervisory services required under this act.

HISTORY: New 1959, p. 276, Act 197, Eff. Mar. 19, 1980.

319.354 Petition for unit operations; contents.

Sec. 4. Any interested lessee may file a petition with the supervisor requesting an order for the unit operation of a pool, pools or parts thereof. The petition shall contain:

(a) A description of the pool, pools or parts thereof to be so operated, termed the unit area.

(b) The names of all persons owning or having an interest in oil and gas in the proposed unit area, as disclosed by the records in the office of the register of deeds for the county in which the unit area is situated and their addresses, if known. If the address of any person is unknown, the petition shall so indicate.

(c) A statement of the type of the operations contemplated in order to effectuate the purposes of this act.

(d) A recommended plan of unitization applicable to the proposed unit area which the petitioner considers fair, reasonable and equitable.

HISTORY: New 1959, p. 276, Act 197, Eff. Mar. 19, 1980.

319.355 Order for unit operations; findings.

Sec. 5. Upon the filing of a petition therefor, and after notice and hearing, the supervisor shall make an order providing for the unit operation of a unit area if he finds after consulting with the board and considering its recommendations that:

(a) The unitization requested is reasonably necessary to substantially increase the ultimate recovery of oil and gas from the unit area.

(b) The type of operations contemplated by the plan are feasible, will prevent waste and will protect correlative rights.

(c) The estimated additional cost of conducting such operations will not exceed the value of the additional oil and gas so recovered.

HISTORY: New 1959, p. 276, Act 197, Eff. Mar. 19, 1980.

319.356 Order for unit operations; terms and conditions; plan for operations.

Sec. 6. The order of the supervisor shall be upon terms and conditions that are fair, reasonable and equitable and shall prescribe a plan for unit operations that includes:

(a) A description of the unit area.

(b) A statement in reasonable detail of the operations contemplated.

(c) An allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, excepting that production which is used in the conduct of operations on the unit area or unavoidably lost. A separately owned tract's fair, reasonable and equitable share of production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of all tracts in the unit.

(d) The manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms and conditions on which the cost and expense thereof shall be apportioned among and assessed against the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to such operations.

(e) Provisions for carrying or otherwise financing any person who elects to be carried or otherwise financed, allowing a reasonable interest and service charge payable out of the person's share of production.

(f) The procedure and basis upon which wells, equipment and other properties of the several lessees within the unit area are to be taken over and used for unit operations including the method of arriving at the compensation therefor.

(g) Provisions for supervision and conduct of the unit operations, in respect to which each person shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of the person.

(h) The time when the plan of unitization shall become effective and when unit operations shall commence.

(i) The time when and conditions under which and the method by which the unit shall be dissolved and its affairs wound up.

(j) Such additional provisions that are found to be appropriate for carrying on the unit operations and for the protection and adjustment of correlative rights.

HISTORY: New 1959, p. 276, Act 197, Eff. Mar. 19, 1960.

319.357 Plan for unit operations; approval.

Sec. 7. No order of the supervisor providing for unit operations shall be declared or become effective until the plan for unit operations prescribed by the supervisor has been approved in writing by those persons who are under the supervisor's order will be required to pay at least 75% of the costs of unit operation; and also those persons who are owners of record of at least 75% of the production or proceeds thereof that will be credited to interests which are free of cost such as but not limited to royalties, overriding royalties and production payments; and until the supervisor has made a finding, either in the order providing for unit operations or in a supplemental order as hereinafter provided, that the plan for unit operations has been so approved in writing.

HISTORY: New 1959, p. 277, Act 197, Eff. Mar. 19, 1960.

319.358 Supplemental hearings and orders; order ineffective, time.

Sec. 8. If no finding is made as set forth in section 7 at the time the order for unit operations is made, the supervisor on his own motion or the motion of any interested person after notice shall hold supplemental hearings to determine if the plan for unit operations has been so approved. If the written approval is found, then the supervisor shall make a supplemental order declaring the plan effective and setting forth the date for the commencement of unit operations. If the written approval is not found within a period of 6 months from the date on which the order providing for unit operations is made, the order shall be ineffective and shall be revoked by the supervisor unless for good cause shown the supervisor after consulting with the board and considering its recommendations shall extend the time for an additional period not to exceed 1 year.

HISTORY: New 1959, p. 277, Act 197, Eff. Mar. 19, 1960.

319.359 Amendment of orders; approval; limitations.

Sec. 9. An order providing for unit operations may be amended by an order made by the supervisor in the same manner and subject to the same conditions as an original order for unit operations. If an amendment affects only the rights and interests of those persons responsible for the payment of the costs of unit operations, only 75% of these persons shall be required to effectuate amendment. If an amendment in whole or in part changes the percentage of allocation of cost, then the consent of all these

persons is required. No amendment shall change the percentage for the allocation of oil and gas as established for any separately owned tract without the consent of all persons entitled to receive the allocation.

HISTORY: New 1959, p. 277, Act 197, Eff. Mar. 19, 1960.

319.360 Signed writings; admissible as evidence.

Sec. 10. Writings containing signatures which are witnessed and acknowledged in a form acceptable for recording under the laws of this state shall be admissible under this act and shall be deemed prima facie evidence in fulfillment of requirements of this act calling for written approval.

HISTORY: New 1959, p. 277, Act 197, Eff. Mar. 19, 1960.

319.361 Unit area embracing previously established area.

Sec. 11. The supervisor by order may provide for the unit operation of a unit area which embraces a unit area established by a previous order. The order in providing for the allocation of unit production first shall treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in the previously established unit area in the same proportions as those specified in the previous order.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1960.

319.362 Unit area less than whole pool.

Sec. 12. An order may provide for a unit area less than the whole of a pool where the unit area is of such size or shape as may be reasonably adaptable to unit operation and where the conduct thereof will have no substantially adverse effect upon other portions of the pool, whether unitized or not.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1960.

319.363 Operations upon unit area deemed operation on separate tracts.

Sec. 13. All operations including but not limited to the commencement, drilling or operation of a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations upon each separately owned tract itself, and the portion of the unit production allocated to a separately owned tract shall be deemed for all purposes to have been actually produced from the tract by a well drilled thereon.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1960.

319.364 Lease obligations; effect on unit operation.

Sec. 14. Operations conducted pursuant to an order of the supervisor for unit operations shall constitute a fulfillment of all the express and implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with the obligations cannot be had because of the order of the supervisor.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1960.

319.365 Order for unit operation not to affect title; property; acquisition.

Sec. 15. Except to the extent that the parties specifically so agree, no order for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations shall be acquired for the account of the persons to whom its cost is allocated, and in that proportion subject to any lien the unit may have thereon to secure payment of unit expense.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1960.

319.366 Unit; legal powers; operator of unit, powers.

Sec. 16. Each unit created under the provisions of this act shall, through its operator, be capable of suing, being sued, and contracting as such in its own right if the plan so provides. The operator of the unit, on behalf and for the account of all owners of interest within the unit area, without profit to the unit, may supervise, manage and con-

duct further development and operations for the production of oil and gas from the unit area under the authority and limitations of the order creating it.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1980.

319.367 Operation of well without authority prohibited.

Sec. 17. After the effective date of the order of the supervisor creating at unit, the operation of any well within the unit area except by authority of and in accordance with the order of the supervisor shall be unlawful and is hereby prohibited.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1980.

319.368 Property rights deemed amended or modified.

Sec. 18. Property rights, leases, contracts and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of the act and to any valid and applicable plan of unitization or order of the supervisor made pursuant to this act.

HISTORY: New 1959, p. 278, Act 197, Eff. Mar. 19, 1980.

319.369 Lien of unit; priority; primary and secondary liability; subrogation.

Sec. 19. Subject to reasonable limitations as set out in the plan of unitization, the unit shall have a first and prior lien for costs incurred pursuant to the plan of unitization upon the leasehold estate and other oil and gas rights, exclusive of a 1/8 share of gross production which is attributable to a lessor's royalty interest, in and to each separately owned tract, and the interest of the owners thereof in and to the unit production and equipment in possession of the unit, in the form and manner as provided in Act No. 147 of the Public Acts of 1937, as amended, being sections 570.251 to 570.266 of the Compiled Laws of 1948. The interest of the person who by lease, contract or otherwise would be responsible for the cost of developing and operating a given portion of the unit area in the absence of unitization shall be primarily responsible for costs as allocated by the plan of unitization, and resort may be had to the entire 7/8 of gross production, including but not by limitation overriding royalties, oil and gas payments and royalty interests in excess of 1/8 of gross production but which would not otherwise be responsible for allocated costs, only if the person primarily responsible fails to pay the allocated costs in accordance with the unit plan. Persons whose allowable share of production is made secondarily responsible under the provisions of this section to the extent that their interest is foreclosed shall become subrogated to all of the rights of the unit to the interest or interests primarily responsible.

HISTORY: New 1959, p. 279, Act 197, Eff. Mar. 19, 1980.

319.370 Lessee's obligation; extent.

Sec. 20. The obligation or liability of each lessee in the several separately owned tracts for the payment of unit expense at all times shall be several and not joint or collective and a lessee of the oil or gas rights in the separately owned tract shall not be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in the separately owned tract pursuant to the plan of unitization.

HISTORY: New 1959, p. 279, Act 197, Eff. Mar. 19, 1980.

319.371 Allocation of unit production.

Sec. 21. The portion of the unit production allocated to any tract and the proceeds from the sale thereof shall be the property and income of the several persons to whom or to whose credit the same are allocated or payable under the order for unit operations.

HISTORY: New 1959, p. 279, Act 197, Eff. Mar. 19, 1980.

319.372 Division order or contract not affected by unit order.

Sec. 22. No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order for unit operations, but shall remain in force and apply to oil and gas allocated to the tract until terminated in accordance with the provisions of such division order or contract.

HISTORY: New 1959, p. 279, Act 197, Eff. Mar. 19, 1960.

319.373 Unit production or proceeds not income of unit; unit as administrative agent only.

Sec. 23. Neither the unit production or proceeds from the sale thereof nor other receipts shall be treated, regarded or taxed as income or profits of the unit; but instead all receipts shall be the income of the several persons to whom or to whose credit the same are payable under the plan of unitization. To the extent the unit may receive or disburse the receipts, it shall do so only as a common administrative agent of the person to whom the same are payable.

HISTORY: New 1959, p. 279, Act 197, Eff. Mar. 19, 1960.

319.374 Agreements in restraint of trade prohibited.

Sec. 24. No agreement between or among lessees or other owners of oil and gas rights in oil and gas properties entered into pursuant to this act, or with a view or for the purpose of bringing about the unitized development or operation of the properties, shall violate any of the statutes of this state prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.

HISTORY: New 1959, p. 279, Act 197, Eff. Mar. 19, 1960.

319.375 Governmental units; consent, participation.

Sec. 25. The conservation commission or other proper board or officer of the state having the control and management of state land and the proper board or officer of any political, municipal or other subdivision or agency of the state, on behalf of the state or of such political, municipal or other subdivision or agency thereof, with respect to land or oil and gas rights subject to the control and management of such respective board, body or officer, may consent to or participate in any plan or program of unitization initiated or adopted pursuant to this act.

HISTORY: New 1959, p. 280, Act 197, Eff. Mar. 19, 1960.

319.376 Rules, regulations and orders; public hearings, notice.

Sec. 26. No rules, regulations or orders shall be made, promulgated, put into effect, revoked, changed, renewed or extended, unless public hearings are held thereon. Public hearings shall be held at such time, place and manner and upon such notice, not less than 10 days, as is prescribed by rules adopted in conformity with this act.

HISTORY: New 1959, p. 280, Act 197, Eff. Mar. 19, 1960.

319.377 Hearings; jurisdictional requirement for notice, satisfaction.

Sec. 27. Jurisdictional requirements of notice of time, place and issues involved for all hearings required by this act, except proceedings for criminal or civil enforcement of same, shall be deemed satisfied by:

(a) Publication once each week for 2 weeks consecutively in a newspaper of general circulation in the county wherein the unit area or any portion thereof is situated if the date of last publication is at least 2 days prior to the date set for the hearing.

(b) Publication at least 10 days prior to the date set for the hearing in a trade journal, periodical or newsletter or paper, or commercially available scout report, in general circulation in exploratory and developmental branches of the oil and gas industry in Michigan.

HISTORY: New 1959, p. 280, Act 197, Eff. Mar. 19, 1960.

319.378 Personal service; when required as public policy.

Sec. 28. If a listing of interested persons is a part of the petition which is the subject matter for the hearing being noticed, it is hereby required as public policy but not as a requirement of jurisdiction that personal service in the form of notice by certified mail be made.

HISTORY: New 1959, p. 280, Act 197, Eff. Mar. 19, 1960.

319.379 Administrative procedure act; application; hearings, conduct.

Sec. 29. Except as otherwise expressly provided in this act, all proceedings under this act, including the filing of petitions, the giving of notices, the conduct of hearings and other action taken by the supervisor or appeal board, their agents or representatives, shall be in accordance with Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. All hearings and other actions in connection with said hearings may be conducted by the supervisor, his deputy, or by any authorized representative duly designated by the supervisor, and all acts of his deputy or authorized representative shall have the same force and effect as if done by the supervisor.

HISTORY: New 1959, p. 280, Act 197, Eff. Mar. 19, 1960.

319.380 Appeal board; membership; effect of interest of member.

Sec. 30. An appeal board is hereby created consisting of the supervisor and the advisory board. Any member of the board interested in, or who is an officer, employee or agent of any person interested in, the oil and gas rights of the field or pool, of which the unit area concerned in the appeal is a part, may sit with the appeal board during hearings before it, but shall not otherwise take part in its decision. The appeal board shall not be deemed to lack a quorum by reason of the inability of members of the board to take part in a decision by reason of interest.

HISTORY: New 1959, p. 280, Act 197, Eff. Mar. 19, 1960.

319.381 Further hearings; scope.

Sec. 31. All persons aggrieved by any order, rule, regulation or requirement by the supervisor under this act within 10 days after the making of the order may serve written notice upon the supervisor requesting further hearing and setting forth briefly the specific grounds for same. The further hearing shall be limited to the grounds stated.

HISTORY: New 1959, p. 281, Act 197, Eff. Mar. 19, 1960.

319.382 Appeal; notice of hearing.

Sec. 32. The supervisor shall set a day for hearing which shall be not later than 15 days after receipt of the notice of appeal and immediately notify the appeal board, the appealing party and the persons who initiated the petition for the order subject to the appeal, of the date, time and place of hearing.

HISTORY: New 1959, p. 281, Act 197, Eff. Mar. 19, 1960.

319.383 Appeal; who may be heard.

Sec. 33. At the hearing the appealing party and the supervisor and their witnesses, and witnesses on behalf of any other person who may be affected by the decision of the appeal board, shall be heard.

HISTORY: New 1959, p. 281, Act 197, Eff. Mar. 19, 1960.

319.384 Appellant to comply with order; bond.

Sec. 34. During the pendency of the appeal, the appealing party shall obey the order, rule or regulation appealed unless the interests sought to be protected by the order, rule or regulation can be adequately protected by a bond, in which case the supervisor may accept a bond in the amount and on the conditions he may prescribe in lieu of immediate performance of the order, rule or regulation by the appealing party.

HISTORY: New 1959, p. 281, Act 197, Eff. Mar. 19, 1960.

319.385 Appeal board; powers; effect of evenly divided board.

Sec. 35. The appeal board may affirm or reverse the order of the supervisor or remand the same with recommendations. If the opinion of the voting members of the appeal board is evenly divided, the appeal board shall be deemed to have affirmed the order of the supervisor as made.

HISTORY: New 1959, p. 281, Act 197, Eff. Mar. 19, 1980.

319.386 Judicial review.

Sec. 36. The action of the appeal board shall be final with respect to jurisdiction for an appeal before any regulatory agency of this state, but any person may seek relief in the courts as provided under the laws of the state, and the taking of an appeal as provided in this act shall not be a prerequisite to seeking relief in the courts. The place of initiation of proceedings for review shall be limited to the circuit court of the county of Ingham, which shall have exclusive jurisdiction of all suits brought against the supervisor, the board, or any agent or employee thereof, on account of any matter arising under the provisions of this act. No temporary restraining order or injunction shall be granted in any such suit except after due notice and for good cause shown.

HISTORY: New 1959, p. 281, Act 197, Eff. Mar. 19, 1980.

319.387 Witnesses; attendance; immunity.

Sec. 37. The supervisor, the appeal board and the conservation commission may compel by subpoena the attendance of witnesses, the production of books, papers, records or articles necessary in any proceeding before the supervisor or the appeal board. No person shall be excused from obeying any subpoena for the reason that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a penalty or forfeiture. Nothing in this act shall be construed as requiring any person to produce anything or to testify in response to inquiry not pertinent to some question lawfully before the supervisor, the appeal board, the conservation commission, or any court for determination within the purposes of this act. Any incriminating evidence, documentary or otherwise, shall not thereafter be used against such witness in a prosecution or action for forfeiture. No person testifying shall be exempted from prosecution and punishment for perjury in so testifying.

HISTORY: New 1959, p. 281, Act 197, Eff. Mar. 19, 1980.

319.388 Witnesses; failure to obey subpoena, refusal to testify, penalties.

Sec. 38. In case of failure or refusal on the part of any person to comply with any subpoena issued by the supervisor, or the refusal of any witness to testify or answer as to any matters regarding which he may be lawfully interrogated, any circuit court in this state or any judge thereof on application of the supervisor may issue an attachment for the person and compel him to comply with such subpoena and to attend before the supervisor, the appeal board, the conservation commission or any court and produce such documents and give his testimony upon such matters as may be lawfully required, and the court or judge may punish for contempt as in case of disobedience of a like subpoena issued by or from such court or a refusal to testify therein.

HISTORY: New 1959, p. 282, Act 197, Eff. Mar. 19, 1980.

319.389 Witnesses; fees and expenses.

Sec. 39. Any witness summoned by subpoena or by written request of the supervisor and attending any hearing called by the supervisor shall be entitled to the same fees and travel expense as provided by law for attending the circuit court in any civil matter or proceeding. The fees and travel expense of witnesses subpoenaed at the instance of the supervisor, the appeal board or the conservation commission shall be paid by the persons filing the petition.

HISTORY: New 1959, p. 282, Act 197, Eff. Mar. 19, 1980.

319.390 Witnesses; false swearing or affidavit, penalty.

Sec. 40. If any person of whom an oath is required under the provisions of this act, or by any rule, regulation or order of the supervisor wilfully swears falsely in regard to any matter or thing respecting which the oath is required, or wilfully makes any false affidavit required or authorized by the provisions of this act, or by any rule, regulation or order of the supervisor, the person is guilty of perjury.

HISTORY: New 1959, p. 282, Act 197, Eff. Mar. 19, 1960.

319.391 Enforcement of act.

Sec. 41. The supervisor may bring proceedings at law or in equity for the enforcement of the provisions of this act and all rules and regulations promulgated thereunder or for the prevention of the violation thereof, and the attorney general shall represent the supervisor in all actions brought under this act. The circuit court of Ingham county shall have concurrent jurisdiction thereof.

HISTORY: New 1959, p. 282, Act 197, Eff. Mar. 19, 1960.

319.392 Violation of act; penalty.

Sec. 42. Any person who violates any provision of this act or any rule, regulation or order promulgated hereunder shall be subject to a penalty of not more than \$1,000.00, and each day a violation continues after notice by the supervisor constitutes a separate offense. The penalty shall be recovered by suit brought by the supervisor. Any penalty assessed hereunder shall be credited to the general fund.

HISTORY: New 1959, p. 282, Act 197, Eff. Mar. 19, 1960.

319.393 Violation of act; aiding or abetting, penalty.

Sec. 43. Any person aiding or abetting in the violation of any provision of this act, or any rule, regulation or order made thereunder, shall be subject to the same penalties as are prescribed herein.

HISTORY: New 1959, p. 282, Act 197, Eff. Mar. 19, 1960.

319.394 Orders of supervisor; recording, notice.

Sec. 44. A certified copy of any order of the supervisor issued under any provisions of this act shall be entitled to be recorded in the office of the register of deeds for the counties where all or any portion of the unit area is located, and such recordation shall constitute notice to all persons in interest, their heirs, successors and assigns.

HISTORY: New 1959, p. 282, Act 197, Eff. Mar. 19, 1960.

CHAPTER 320. CONSERVATION—FORESTS

FOREST PRESERVATION AND FOREST FIRES

Act 143 of 1923

320.1-320.13a Repealed.

320.14 Repealed.

FOREST PROTECTION AND FOREST FIRES

Act 329 of 1969

320.21 Forest protection and forest fires; definitions.

320.23 Department of natural resources director; authority; assistants, appointment.

320.24 Burning permits; necessity; conditions.

320.25 Acts prohibited.

320.26 Refuse disposal facilities; devices, conditions, rules.

320.27 Locomotives and other rolling stock; spark arresters, requirement; railroad rights-of-way, clearing; violation of section, liability.

320.28 Violation of act causing forest or grass fires; liability.

320.29 Extreme fire hazard conditions; proclamation by governor as to use of fire, acts prohibited.

320.30 Emergency assistance; persons subject to call, compensation; refusal, penalty.

320.31 Fire suppression expenses; liability; determination, collection of claim, actions, limitation.

320.32 Intentionally causing fire.

320.33 Department of natural resources officer, agent or employee; right of entry, exceptions.

320.34 Violation of act; penalty.

320.35 Department of natural resources director; administration of act; investigations, surveys; construction of act as to other law enforcement agencies and local ordinances and regulations.

320.36 Rules; adoption, provisions governing.

320.37 Forest fire control; interstate and federal assistance agreements authorized; employee training deemed work within state.

320.38 Repeal.

SLASH DISPOSAL LAW

Act 35 of 1955

320.41 Slash disposal law; short title.

320.42 Forest cutting, slash and debris; disposal specifications.

320.43 Forest cutting, slash and debris; public utilities, responsibility for disposal.

320.44 Forest cutting, slash and debris; time for disposal; burning permit required.

320.45 Forest cutting, slash and debris; non-compliance, disposal by director; statement of expenditures; reimbursement, neglect, action; moneys collected, disposition.

320.46 Violation of act; penalty; civil liability.

320.47 Rules, regulations and specifications; provisions governing.

320.48 Repeal.

CUTTINGS OF FOREST GROWTH

Act 26 of 1927

320.51-320.55 Repealed.

REFORESTATION FUND

Act 268 of 1945

320.71 Forest management fund; credits from sale of forest products; expenditures.

TIMBER FROM STATE LANDS

Act 178 of 1935

320.81 Timber from state lands; disposal under control of department.

FORESTRY RESERVE

Act 175 of 1903

320.101 Forestry reserve; creation, location; Michigan forestry commission, control, powers and duties.

320.102 Forestry warden; appointment, term, compensation, powers and duties; deputies, appointment, compensation.

320.103 Forestry commission; powers as to sale of forest products and lands; moneys received, disposition.

320.104 Forestry reserve lands; tax assessment, approval by state land office commissioner, limitations, payment by state.

320.106 Forestry reserve lands; provisions governing; short title; forestry reserve act.

320.107 Restoration of certain state lands.

MUNICIPAL FORESTS

Act 217 of 1931

320.201 Municipal forests; definitions.

320.202 Municipality; right to acquire and use lands for forestry.

320.203 Municipal forestry commission; members, appointment, terms, vacancies.

320.204 Forestry commission; powers and duties.

320.205 Forestry commission; reports, contents, filing.

320.206 Department of conservation director; authority to sell state lands to municipalities for forestry; reversion.

320.207 Forestry commissions and department of conservation; cooperation.

320.208 Municipality; appropriation for forestry, limitation.

320.209 Forestry funds; accounting.

320.210 Special forestry fund; creation; payments in lieu of property taxes.

PRIVATE FORESTRY

Act 135 of 1911

320.251-320.262 Repealed.

Act 86 of 1917

320.271 Private forest reservations; establishment, proportion of acreage; description, filing.

320.272 Private forest reservations; tree quota per acre.

320.273 Private forest reservations; spacing of trees.

320.274 Private forest reservations; pasturage, restriction.

320.275 Private forest reservations; maintenance of stock of forest trees.

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| <p>320.276 Private forest reservations; restocking.</p> <p>320.277 Forest trees; varieties.</p> <p>320.278 Private forest reservations; records of county treasurer, certification of descriptions to assessor.</p> <p>320.279 Private forest reservations; records of township assessor; oath of owner.</p> <p>320.280 Private forest reservations; application and contract, form.</p> <p>320.281 Private forest reservations; examination by assessor, exemption from taxation; timber license, issuance, fee, collection.</p> <p style="text-align: center;">COMMERCIAL FOREST RESERVES</p> <p style="text-align: center;">Act 94 of 1925</p> <p>320.301 Commercial forests; establishment and maintenance; rules.</p> <p>320.301a Intent of act.</p> <p>320.302 Commercial forest; definition.</p> <p>320.303 Commercial forest; application for listing; contents.</p> <p>320.304 Commercial forest; application, hearing; notice, conduct; approval; record.</p> <p>320.305 Commercial forest; exemption from property tax; annual specific tax, computation, collection, disposition.</p> <p>320.306 Acreage; certification; payment to county, amount; distribution.</p> <p>320.307 Application for withdrawal; fees, disposition; return to tax roll.</p> <p>320.308 Permit to cut forest products; stumpage rates, determination, deposit; appeal.</p> <p>320.309 Commercial forest; report of forest products cut, time; yield tax, disposition.</p> <p>320.310 Use of land; conditions.</p> <p>320.311 Applications and statements under oath.</p> <p>320.312 Permit to cut; alteration or revocation.</p> <p>320.312a Transfer of title; withdrawal.</p> <p>320.313 Declassification; cause; notice; hearing; fee.</p> <p>320.313a New laws; effect; withdrawal, fee.</p> | <p>320.313b Appeals; venue; procedure; intervenors; order.</p> <p>320.313c Department of conservation representatives; right of entry on commercial forest reserve lands; access to books and papers.</p> <p>320.314 Violation of act; penalty.</p> <p style="text-align: center;">FIRING OF WOODS AND PRAIRIES</p> <p style="text-align: center;">Ch. 45, R.S. 1846</p> <p>320.392 Fires in woods and prairies; emergency assistance by inhabitants, duty of public officers.</p> <p>320.393 Failure to obey order; penalty.</p> <p>320.394 Forest fire prevention; township board, rules and regulations.</p> <p>320.396 Fires; notice to adjoining landowner; neglect, penalty.</p> <p style="text-align: center;">CHRISTMAS TREES, BOUGHS, PLANTS AND OTHER TREES</p> <p style="text-align: center;">Act 124 of 1933</p> <p>320.401-320.407 Repealed.</p> <p style="text-align: center;">Act 182 of 1962</p> <p>320.411 Christmas trees, shrubs, vines and native plants; removal, bill of sale required.</p> <p>320.412 Trees, shrubs, vines and plants; prerequisites to removal, identification.</p> <p>320.413 Trees, shrubs, vines and plants; sale, evidence of title, record of transaction.</p> <p>320.414 Trees, shrubs, vines and plants; shipping, evidence of title exhibited to common carrier.</p> <p>320.415 Law enforcement officers; inspection of shipment.</p> <p>320.416 Construction of act.</p> <p>320.417 Enforcement of act.</p> <p>320.418 Violation of act; forgery; misdemeanor.</p> <p>320.419 Christmas trees; transportation during December.</p> <p>320.420 Repeal.</p> |
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320.1-320.13a Repealed. 1969, p. 747, Act 329, Imd. Eff. Oct. 27.

Sections related to forest preservation and forest fires; chief fire warden; district and assistant wardens; supervision, reports, suppression of fires; warning placards; duties of wardens, assistance, compensation, penalty; enforcement; permits, precautions, penalty; governor's authority, railroad companies; liability for damages and costs.

320.14 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section provided that director of conservation make annual report to governor including statistics obtained from fire wardens and suggestions relative to preservation of forests and extinguishment of forest fires.

Act 329, 1969, p. 744; Imd. Eff. Oct. 27.

AN ACT to provide for the protection of forests and forest values in the exercise of the police powers of this state; to assign the responsibility for the prevention and suppression of fires on or endangering forests; to regulate the use of fires; to provide penalties for violation of any of the provisions of this act or any rules adopted thereunder; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

320.21 Forest protection and forest fires; definitions.

Sec. 1. As used in this act:

(a) "Person" means an individual, corporation, partnership, association, municipality or other public body or legal entity, or any officer, employee or agent of the foregoing.

(b) "Forest land" means timbered land, potential timber-producing land, cutover or burned timber land or grass lands not including lands devoted to agriculture.

(c) "Flammable material" means any substance that will burn, including, but not limited to refuse, debris, waste forest material, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, slash, crops or crop residue.

(d) "Domestic purposes" means any fire within the curtilage of a dwelling where the material being burned has been properly placed in a debris burner constructed of metal or masonry with metal covering device with openings no larger than 3/4 of an inch, or a campfire, or any fire within a building.

(e) "Director" means the director of the department of natural resources.

HISTORY: New 1969, p. 744, Act 329, Imd. Eff. Oct. 27.

320.23 Department of natural resources director; authority; assistants, appointment.

Sec. 3. The director shall have charge of the prevention and suppression of forest fires and shall appoint such assistants as needed to carry out the provisions of this act.

HISTORY: New 1969, p. 744, Act 329, Imd. Eff. Oct. 27.

320.24 Burning permits; necessity; conditions.

Sec. 4. (1) At any time the ground is not snow-covered, a person shall not burn any flammable material on or adjacent to forest land, except for domestic purposes, without a permit from the director or his authorized representative.

(2) The director or his representative shall set the times of day and, consistent with the provisions of this act, the conditions under which burning for other than domestic purposes on or adjacent to forest land shall be permitted.

(3) Any person doing any burning on or adjacent to forest land for other than domestic purposes, prior to such burning operations, and at all times during the continuance thereof, shall do such work in and around the area in which the burning is done so as to prevent the spread of fire therefrom as may be required by the director or his representative.

HISTORY: New 1969, p. 744, Act 329, Imd. Eff. Oct. 27.

320.25 Acts prohibited.

Sec. 5. A person shall not:

(a) Dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substances or any other substance or thing that is likely to ignite a forest, brush, grass or woods fire; or throw or drop from a moving vehicle any such objects or substances.

(b) Set fire, or cause, or procure the setting on fire of any flammable material on or adjacent to forest land without taking reasonable precautions, both before and after lighting the fire, and at all times thereafter to prevent escape thereof or leave the fire before it is extinguished.

(c) Set a backfire or cause a backfire to be set, except under the direct supervision of an established fire control agency or unless it can be established that the setting of such backfire is necessary for the purpose of saving life or valuable property.

(d) Destroy, break down, mutilate or remove any fire control sign or poster erected

by an established fire control agency in the administration of its lawful duties and authorities.

(e) Use or operate on or adjacent to forest land, a welding torch, tar pot, or other device which may cause a fire, without clearing flammable material surrounding the operation or without taking such other reasonable precautions necessary to ensure against the starting and spreading of fire.

(f) Operate or cause to be operated any engine, other machinery or powered vehicle not equipped with spark arresters, or other suitable devices to prevent the escape of fire or sparks.

(g) Discharge or cause to be discharged a gun firing incendiary or tracer bullets or tracer charge onto or across any forest land.

HISTORY: New 1969, p. 744, Act 329, Imd. Eff. Oct. 27.

320.26 Refuse disposal facilities; devices, conditions, rules.

Sec. 6. Any municipality, public institution or agency or other entity maintaining or operating a refuse disposal facility shall provide such devices and conditions as will promote the safe operation and guard against the escape of fire. The director may make rules for the implementation of this section. Nothing in this act shall be construed as giving the director authority to allow burning of garbage and refuse disposal facilities contrary to Act No. 87 of the Public Acts of 1965, being sections 325.291 to 325.298 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 745, Act 329, Imd. Eff. Oct. 27.

320.27 Locomotives and other rolling stock; spark arresters, requirement; railroad rights-of-way, clearing; violation of section, liability.

Sec. 7. A locomotive or other rolling stock shall not be operated unless it is equipped with and uses adequate devices to arrest the escape of glowing or burning materials or substances and is maintained in good working order to protect against the start and spread of fires along the right of way. A railroad shall keep its right of way cleared of all flammable material to a distance of 50 feet on each side of the center of the track. The railroad and any officer, employee, agent, or independent contractor are jointly and severally liable for any violation of this section.

HISTORY: New 1969, p. 745, Act 329, Imd. Eff. Oct. 27.

320.28 Violation of act causing forest or grass fires; liability.

Sec. 8. Any person, who in violating any provision of this act, causes a forest or grass fire, is liable for all damages resulting therefrom, including the cost of any governmental unit fighting the fire. Nothing in this act shall be construed as affecting any other right of action for damages.

HISTORY: New 1969, p. 745, Act 329, Imd. Eff. Oct. 27.

320.29 Extreme fire hazard conditions; proclamation by governor as to use of fire, acts prohibited.

Sec. 9. (1) Whenever the governor finds that conditions of extreme fire hazard exist and that it is necessary in the public interest and for the preservation of the public peace, health and safety, he may forbid, by proclamation, the use of fire by any person entering forest lands or lands adjacent to forest lands in such parts of the state as he deems the public interest requires. The proclamation shall be in full force and effect 24 hours after notice is given by the governor.

(2) During such periods, and in such areas as the governor shall proclaim, a person shall not:

(a) Build a campfire of any nature, except within containers at authorized campgrounds or places of habitation.

(b) Smoke a pipe, cigarette or cigar, except at places of habitation, authorized improved campgrounds or in any automobile or truck.

(c) Burn or cause to be burned any flammable material unless he first obtains a permit, in writing, to do so as provided in this act.

HISTORY: New 1969, p. 745, Act 329, Imd. Eff. Oct. 27.

320.30 Emergency assistance; persons subject to call, compensation; refusal, penalty.

Sec. 10. The director or anyone appointed by him may call to his assistance in emergencies any able-bodied male person who has reached his eighteenth birthday who, unless the person is an inmate of a state or county correctional institution, shall be paid for his services in accordance with the minimum wage law of this state and if the person refuses to assist without reasonable justification, he is guilty of a misdemeanor.

HISTORY: New 1969, p. 745, Act 329, Imd. Eff. Oct. 27.

320.31 Fire suppression expenses; liability; determination, collection of claim, actions, limitation.

Sec. 11. Any person, who sets fire on any land and negligently allows the fire to escape and become a forest or grass fire, is liable for all expenses incurred by the state in the suppression of the fire. The director shall certify, in writing, to the person the claim of the state and shall list the items of expense incurred in the suppression of the fire. The claim shall be paid within 60 days and if not paid within that time the director may bring suit against the person in a court of competent jurisdiction in the county of the residence of the defendant or of any defendant if there is more than 1, for the collection of the claim at any time within 2 years thereafter. Where the amount of such claim is cognizable by a circuit court, the director may file the suit in the circuit court of Ingham county, or in the circuit court of the county of the residence of the defendant or any defendant if there is more than 1.

HISTORY: New 1969, p. 746, Act 329, Imd. Eff. Oct. 27.

320.32 Intentionally causing fire.

Sec. 12. A person shall not:

(a) Wilfully, maliciously or wantonly set fire or cause or procure to be set on fire any forest land, lands adjacent thereto or flammable material on such land.

(b) Wilfully, maliciously or wantonly set, throw or place any device, instrument, paraphernalia or substance, in or adjacent to any forest land with intent to set fire to the land or which in the natural course of events would result in fire being set to the forest land.

HISTORY: New 1969, p. 746, Act 329, Imd. Eff. Oct. 27.

320.33 Department of natural resources officer, agent or employee; right of entry, exceptions.

Sec. 13. Any duly authorized officer, employee or agent of the department of natural resources, in the performance of his duty, may enter upon or enter into any premises on or in which he has reasonable cause to believe a violation of this act is occurring. For purposes of this section, premises shall not include buildings or dwellings.

HISTORY: New 1969, p. 746, Act 329, Imd. Eff. Oct. 27.

320.34 Violation of act; penalty.

Sec. 14. Any person who violates any provision of this act or any rule adopted hereunder is guilty of a misdemeanor. Any person convicted of violating any provision of section 12 is guilty of a felony and upon conviction shall be fined not more than \$10,000.00 or imprisoned for a term of not more than 10 years or both.

HISTORY: New 1969, p. 746, Act 329, Imd. Eff. Oct. 27.

320.35 Department of natural resources director; administration of act; investigations, surveys; construction of act as to other law enforcement agencies and local ordinances and regulations.

Sec. 15. The director shall administer this act and shall adopt rules necessary to implement this act. The director may make, conduct or participate in any investigations and surveys designed to establish the cause of a responsibility for a particular forest fire or forest fire conditions generally. Nothing in this act shall be construed to limit or otherwise impair the jurisdiction or powers of any other department, agency or officer of this state, to investigate, apprehend and prosecute violators of this law nor to obviate local ordinances or to prevent enactment of local regulations which are as restrictive or more restrictive than this act.

HISTORY: New 1969, p. 746, Act 329, Imd. Eff. Oct. 27.

320.36 Rules; adoption, provisions governing.

Sec. 16. All rules promulgated under this act shall be adopted in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 746, Act 329, Imd. Eff. Oct. 27.

320.37 Forest fire control; interstate and federal assistance agreements authorized; employee training deemed work within state.

Sec. 17. The director may enter into agreements with other states and the federal government to provide assistance and to accept assistance in the control of forest fires which may include training of personnel. Any employee of the department of natural resources assigned to fire control duties or training programs outside this state shall be considered the same as working inside this state for purposes of compensation and any other employee benefits.

HISTORY: New 1969, p. 746, Act 329, Imd. Eff. Oct. 27.

320.38 Repeal.

Sec. 18. Act No. 143 of the Public Acts of 1923, as amended, being sections 320.1 to 320.13a of the Compiled Laws of 1948, is repealed.

HISTORY: New 1969, p. 747, Act 329, Imd. Eff. Oct. 27.

Act 35, 1955, p. 39; Eff. Oct. 14.

AN ACT to provide for the abatement of forest fire hazards and better protection against the spread of forest fires; to provide for the reduction of fire hazards resulting from right-of-way clearance and maintenance of public roads, telephone, telegraph, and other communication lines, power lines, oil and gas lines, railroads, that are common carriers, or any other utility; to provide a penalty for a violation of any of the provisions of this act; to provide for the disposal of fire hazards from such clearings and maintenance and collection of costs of such disposal; to authorize an action for damages by the owner of property damaged; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

320.41 Slash disposal law; short title.

Sec. 1. This act shall be known and may be cited as "the slash disposal law."

HISTORY: New 1955, p. 39, Act 35, Eff. Oct. 14.

320.42 Forest cutting, slash and debris; disposal specifications.

Sec. 2. Any person, firm, association or corporation or any agent or employee thereof who shall cut any forest growth within any public road or highway, or on land

bordering on any public road or highway in the state of Michigan, shall dispose of all cutting, slash and debris resulting therefrom, and dead stubs and windfalls from the area cut over in such manner that such inflammable material shall not constitute a fire hazard within the limits of such road or highway nor within 50 feet of the edge of the cleared portion thereof. The director of conservation or his authorized representative shall approve the type of disposal and the elimination of fire hazards and shall prescribe disposal specifications.

HISTORY: New 1955, p. 39, Act 35, Eff. Oct. 14.

320.43 Forest cutting, slash and debris; public utilities, responsibility for disposal.

Sec. 3. All cuttings of forest growth, slash and debris resulting from the construction and maintenance of any railroad, that is a common carrier, telephone, telegraph, power, oil and gas line, or other public utility shall be disposed of by the person, firm, association or corporation either directly or indirectly responsible for creating such cuttings, slash and debris, in a manner approved by the director of conservation or his authorized representative.

HISTORY: New 1955, p. 39, Act 35, Eff. Oct. 14.

320.44 Forest cutting, slash and debris; time for disposal; burning permit required.

Sec. 4. All cuttings of forest growth, slash and debris referred to in sections 2 and 3 of this act shall be disposed of within 30 days after cutting the same in such manner as prescribed by the director of conservation or his authorized representative. Such disposal shall not be injurious to or endanger public or private property. Any burning of such cuttings of forest growth, slash and debris shall be done under permit only and at a time when forest and grass lands shall not be endangered by such fire.

HISTORY: New 1955, p. 39, Act 35, Eff. Oct. 14.

320.45 Forest cutting, slash and debris; noncompliance, disposal by director; statement of expenditures; reimbursement, neglect, action; moneys collected, disposition.

Sec. 5. In case such cuttings of forest growth, slash and debris shall not be disposed of as provided under section 4, the director of conservation or his authorized representative shall notify, by registered mail, the person, firm, association, corporation, or their agent, agents or employees responsible for such cuttings of the requirements imposed for such removal or elimination of fire hazards. If such responsible party or parties shall fail to comply with the provisions made in the notification, the Michigan department of conservation may cause the same to be eliminated and it shall not be liable in any action or trespass therefor. The Michigan department of conservation shall pay for the disposal or elimination of fire hazards resulting from cuttings of forest growth, slash, and debris from the forest fire control appropriation and said Michigan department of conservation shall keep an accurate account of the expenditures incurred by it in carrying out the provisions made under authority of this act and shall present a full and complete statement thereof, verified by oath, requiring said person, firm, association or corporation to pay to the state the amount therein set forth; in case the offender shall refuse or neglect to pay same within 30 days after such notice and demand, the said Michigan department of conservation, as represented by the director acting for and in behalf of the state, may bring suit against such person, firm, association or corporation in a court of competent jurisdiction in the county where such forest growth cuttings, slash and debris were not disposed of as required by the Michigan department of conservation, or in the county of the residence of the defendant or of any defendant if there be more than one. All moneys collected as result of action un-

der this section shall be paid to the state treasurer and credited to the forest fire control appropriation from which the expenditures were made.

HISTORY: New 1955, p. 39, Act 35, Eff. Oct. 14.

320.46 Violation of act; penalty; civil liability.

Sec. 6. Any person, firm, association, or corporation or any agent, agents or employee thereof violating any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not to exceed \$100.00 or by imprisonment in the county jail for a period not to exceed 90 days or by both such fine and imprisonment at the discretion of the court. If through the violation of this act any damage or injury is suffered by the owner of any property, the person, firm, association, or corporation or their agent or employee guilty of such violation shall be liable in an action for damages to be recovered in an action of trespass on the case for the benefit of the owner suffering such damage.

HISTORY: New 1955, p. 40, Act 35, Eff. Oct. 14.

320.47 Rules, regulations and specifications; provisions governing.

Sec. 7. All rules, regulations and specifications prescribed under this act shall be prescribed in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1955, p. 40, Act 35, Eff. Oct. 14.

320.48 Repeal.

Sec. 8. Act No. 26 of the Public Acts of 1927, being sections 320.51 to 320.55 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1955, p. 40, Act 35, Eff. Oct. 14.

320.51-320.55 Repealed. 1955, p. 40, Act 35, Eff. Oct. 14.

Sections provided for disposal of slash from strips of land along public highways or other public utility right of way, prescribed penalty, and authorized action for damages by owner of damaged property.

Act 268, 1945, p. 416; Eff. Sep. 6.

AN ACT relative to the disposition of the proceeds received by the department of conservation from the sale of forest products, and to repeal all acts and parts of acts inconsistent with this act.

The People of the State of Michigan enact:

320.71 Forest management fund; credits from sale of forest products; expenditures.

Sec. 1. Hereafter any moneys or proceeds received by the department of conservation from the sale of forest products from state tax reverted lands under the jurisdiction of the department of conservation shall be credited to a special forest management fund, and shall be expended by the department of conservation for reforestation, forest protection and timber stand improvement projects.

HISTORY: Am. 1947, p. 138, Act 105, Eff. Oct. 11;—CL 1948, 320.71;—Am. 1962, p. 385, Act 178, Imd. Eff. May. 22.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 178, 1935, p. 281; Eff. Sep. 21.

AN ACT authorizing and empowering the director of conservation to dispose of timber from state lands under the control of the department of conservation under

rules and regulations prescribed by the conservation commission, and to repeal Act No. 194 of the Public Acts of 1903 and all other acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

320.81 Timber from state lands; disposal under control of department.

Sec. 1. The director of conservation is hereby authorized to dispose of timber from any of the state lands under the control of the department of conservation under such rules and regulations as may be prescribed by the conservation commission.

HISTORY: CL 1948, 320.81.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 194, 1903.

Act 175, 1903, p. 234; Eff. Sep. 17.

AN ACT to create a forestry reserve, to provide for its maintenance, management and regulation, by restoring for sale or homestead entry, lands heretofore reserved in certain counties in this state, to make an appropriation therefor, and to provide for a tax to meet the same.

The People of the State of Michigan enact:

320.101 Forestry reserve; creation, location; Michigan forestry commission, control, powers and duties.

Sec. 1. All delinquent state tax, homestead, swamp and primary school lands now belonging or which shall hereafter be added to and belong to the state in towns 21 north, range 3 and 4 west; the north half of town number 24 north, range 4 west, and the south half of town number 25 north, range 4 west, are hereby withdrawn from sale and entry, set apart for the creation of a forestry reserve, and for that purpose placed under the control of the Michigan forestry commission created by Act No. 227 of the Public Acts of 1899. It shall be the duty of said Michigan forestry commission, first, to investigate and determine what part or portion of the lands belonging to the state, thus withdrawn from sale and entry and set aside, it will be for the best interests of the state and public to retain and devote to the purpose of forestry, having regard both to the soil and natural characteristics and conditions of said lands and their relative fitness for cultivation and forestry, and also the location of the various descriptions of the same with respect to each other, so that the lands to be devoted to such forestry reserve shall be composed of contiguous territory, or territory as nearly contiguous as possible, so as to render practicable and desirable, the establishment and maintenance of forestry reserves embracing the same. Second, to have care, custody, control and superintendence of the lands herein or hereafter set apart for or becoming a part of the forestry reserve, and to provide for the reforestation of the denuded lands so set apart and belonging to the state, by planting and preserving forest trees, establishing and maintaining fire lines and a system of fire patrol in the forestry reserve thus created.

HISTORY: CL 1915, 746;—CL 1929, 5728;—CL 1948, 320.101.

NOTE: Act 227 of 1899, above referred to, is CL 1929, 5723 et seq., repealed as obsolete by Act 29, 1st Ex. Ses. 1944.

FORESTRY COMMISSION: Powers and duties transferred to the public domain commission which in turn has been abolished and its powers and duties transferred to the department of conservation, see Compilers' §§ 322.204 and 299.2 respectively.

DEPARTMENT OF CONSERVATION: Supervisory control, see Compilers' § 299.3.

320.102 Forestry warden; appointment, term, compensation, powers and duties; deputies, appointment, compensation.

Sec. 2. The forestry commission shall have power to appoint a forestry warden who shall hold office for the term of 4 years from the first day of January in the year in which appointed, unless sooner removed by the forestry commission. The said forestry warden shall receive an annual salary of not to exceed 1,000 dollars, payable in the same manner as the salaries of state officers are now paid, and he shall be subject to the orders and directions of the said forestry commission, which shall prescribe his powers and duties and he shall have general charge, control and supervision of all deputy wardens or other persons appointed or employed for the performance of duties or services in respect to forestry lands or forest fires. The said forestry warden may appoint, upon recommendation of the forestry commission, a sufficient number of competent persons as forestry wardens, to hold office at the pleasure of the said commission, who shall be entitled to receive a sum not to exceed 2 dollars per day for each day actually and necessarily spent under the direction of the chief warden in the discharge of duties under this act. Said compensation to be paid by the auditor general on the approval of the president and secretary of the said forestry commission.

HISTORY: CL 1915, 747;—CL 1929, 5729;—CL 1948, 330.102.

PUBLIC DOMAIN COMMISSION: Powers and duties of state game, fish and forestry warden transferred to this commission, see note to Compilers' § 299.2.

320.103 Forestry commission; powers as to sale of forest products and lands; moneys received, disposition.

Sec. 3. The said forestry commission shall have power to cut, remove or sell, (or to sell to any person with the power to cut, sell or remove, upon such terms and under such conditions and restrictions as it may deem advisable), any trees, timber or other forest products upon or derived from the said lands so set apart as forestry reserve lands, and shall have power to lease or sell any lands within such forestry reserve, the lease or deed therefor to be executed for and on behalf of the state by the commissioner of the state land office. The said forestry commission shall likewise have authority to purchase such lands within the limits of said forestry reserve as it may deem advisable in order to connect and render contiguous separate tracts. All moneys received by or payable to the said forestry commission on account of or arising from revenues from said lands, or from any other source, shall be paid to and received by the secretary of said commission, whose official bond as commissioner of the state land office shall be responsible therefor, and shall be paid by him into the state treasury and the receipt of the state treasurer, countersigned by the auditor general, shall be taken therefor.

HISTORY: CL 1915, 748;—CL 1929, 5730;—CL 1948, 330.103.

LAND OFFICE COMMISSIONER: Office abolished; powers and duties transferred to the public domain commission which in turn has been abolished and its powers and duties transferred to the department of conservation, see Compilers' §§ 332.221 and 299.2 respectively.

320.104 Forestry reserve lands; tax assessment, approval by state land office commissioner, limitations, payment by state.

Sec. 4. All forestry reserve lands set aside under or pursuant to the provisions of this act shall be exempt from taxation, except as herein otherwise provided. Said lands shall be assessed in the same manner as are the similar lands of individuals situated within the townships in which the same are situated. Within 10 days after the final meeting of the board of review of each township, the supervisor of such township shall file in the office of the commissioner of the state land office at Lansing, a certified copy of the assessment roll of his township, with the several assessments completed thereon and reviewed, said roll to specify which of the lands appearing thereon are forestry reserve lands and the valuation placed upon each description, and also the lands owned by private individuals, and the valuation of such lands; the several matters appearing in said assessment roll to be verified by the supervisor on oath. No as-

assessment of forestry reserve lands shall be valid, nor shall any tax be spread thereon, until such assessment is approved by the commissioner of the state land office, such approval to be attached to and become a part of the original assessment roll of the township. No tax shall be levied upon such lands except for the maintenance of schools and roads and no tax shall be imposed upon any of the forestry reserve lands for the support of any school or the building of any school house or the building or maintenance of any road which is not at present in existence, unless the same shall have been first approved in writing by the forestry commission. All taxes lawfully levied upon said lands in accordance with the provisions of this section shall, in each year, be paid by the state treasurer to the township treasurer of the township in which the same are situate, by a warrant in favor of the said township, said warrant to be issued upon the filing with the auditor general by the said forestry commission of a certificate that such taxes have been levied in accordance with the provisions of this act. No fee shall be allowed to the township treasurer or other official for the collection of such tax or taxes.

HISTORY: CL 1915, 749;—CL 1929, 5731;—CL 1948, 320.104.

Sec. 5.

HISTORY: CL 1915, 750;—CL 1929, 5732;—Rep. 1933, p. 6, Act 6, Imd. Eff. Feb. 13.

This section provided for an annual appropriation of \$7,500.

320.106 Forestry reserve lands; provisions governing; short title; forestry reserve act.

Sec. 6. The lands hereby set aside shall be subject to the protection of the provision of the several acts relating to the cutting, removing or destroying in any manner whatsoever, timber on said lands. This act shall be known and may be cited for any purpose in legal proceedings or otherwise, as the forestry reserve act.

HISTORY: CL 1915, 751;—CL 1929, 5733;—CL 1948, 320.106.

TRESPASS: On state lands, see Compilers' § 322.131 et seq.

320.107 Restoration of certain state lands.

Sec. 7. All other lands heretofore reserved from sale or homestead entry in Roscommon and Crawford counties either by Act No. 227 of the session laws of 1899, or concurrent resolution number 17 of the session laws of 1901, are hereby restored for sale or homestead entry as provided for other state lands.

HISTORY: CL 1915, 752;—CL 1929, 5734;—CL 1948, 320.107.

NOTE: Act 227 of 1899, above referred to, is CL 1929, 5723 et seq., repealed as obsolete by Act 29, 1944, 1st Ex. Ses.

Act 217, 1931, p. 379; Eff. Sep. 18.

AN ACT to provide for the establishment and maintenance of county, township, city, village and school district forests; to provide for commissions to supervise such work; to provide for the sale of state lands for such purposes; and to provide a limitation on the expense of such work.

The People of the State of Michigan enact:

320.201 Municipal forests; definitions.

Sec. 1. As used in this act:

"Municipality" shall mean any county, township, city, village or school district.

"Legislative body" shall mean any board of supervisors, township board, city or village legislative body, or school district board.

HISTORY: CL 1948, 320.201.

320.202 Municipality; right to acquire and use lands for forestry.

Sec. 2. Any municipality may acquire by purchase, gift or devise, or may provide lands already in its possession, and use such lands for forestry purposes, either within or without the territorial limits of such municipality, and may carry on forestry on such lands. Any municipality may also receive and expend or hold in trust gifts of money or personalty for forestry purposes.

HISTORY: CL 1948, 320.202.

320.203 Municipal forestry commission; members, appointment, terms, vacancies.

Sec. 3. The legislative body of any municipality desiring to proceed under this act may appoint a forestry commission for the municipality to consist of 3 members, only 1 of whom shall be a member of the legislative body making such appointment. The members of such commission shall hold office for a term of 4 years and until their successors are appointed and have qualified, except that when first appointed 1 shall be appointed for a term of 4 years, 1 for a term of 3 years, and 1 for a term of 2 years. Any vacancy shall be filled by appointment by the legislative body at any regular session.

HISTORY: CL 1948, 320.203;—Am. 1953, p. 58, Act 62, Eff. Oct. 2.

320.204 Forestry commission; powers and duties.

Sec. 4. It shall be the duty of such commission to supervise and manage all lands of the municipality devoted to forestry and to provide for the performance of such labor therein by foresters and others as may be necessary for the proper care and maintenance of such lands as forest producing areas, to make reasonable rules and regulations concerning such lands, and to expend such moneys as may be appropriated or received for such purposes.

HISTORY: CL 1948, 320.204.

320.205 Forestry commission; reports, contents, filing.

Sec. 5. Every forestry commission created hereunder shall annually at a time to be designated by the legislative body make a report to such body showing the activities of the commission and embracing a detailed statement of its receipts and expenditures during the preceding year. The commission shall also file a copy of such report with the board of supervisors in case it is not a county commission and a copy with the department of conservation.

HISTORY: CL 1948, 320.205.

320.206 Department of conservation director; authority to sell state lands to municipalities for forestry; reversion.

Sec. 6. The director of conservation with the approval of the conservation commission, the auditor general or other state officer having charge of state lands, is hereby authorized to sell homestead, tax, swamp or primary school lands to municipalities for forestry purposes, at such price as shall be fixed by said director with the approval of the conservation commission, auditor general or other state officer: Provided, That the said officers shall not sell for any such purpose any land in excess of the amount which may be necessary for any such municipality: Provided further, That any land so sold shall be suitable for, and used solely for the above purpose, and when the same ceases to be used for such purpose, it shall revert to the state.

HISTORY: CL 1948, 320.206.

320.207 Forestry commissions and department of conservation; cooperation.

Sec. 7. It shall be the duty of municipal forestry commissions and the department of conservation to cooperate with each other in all matters pertaining to the establish-

ment and maintenance of public forests. The department of conservation may inspect municipal forests as often as it deems necessary.

HISTORY: CL 1948, 320.207.

320.208 Municipality; appropriation for forestry, limitation.

Sec. 8. The legislative body of any county, city or village or the electors of any township or school district in which a forestry commission has been created may appropriate money to be used by said commission to carry out the purposes of this act: Provided, That where such legislative body desires to spend an amount in excess of 1/10 mill per dollar assessed valuation and/or in excess of 5,000 dollars in any 1 year for the purposes of this act, such sum shall not be appropriated unless the electors of the county, city or village shall agree thereto at any general or special election, by a 3/5 vote.

HISTORY: CL 1948, 320.208.

320.209 Forestry funds; accounting.

Sec. 9. A separate account of all revenue and expense of all funds appropriated and/or invested to the forestry commission shall be kept by the financial officer of the municipality and such funds may be expended upon the warrant of 2 members of the commission.

HISTORY: CL 1948, 320.209.

320.210 Special forestry fund; creation; payments in lieu of property taxes.

Sec. 10. Any income from forest lands shall be paid into the general fund of the municipality and may be set up in a special forestry fund by such municipality. A forestry commission and the townships and school districts in which its municipal forest lies by agreement shall determine a formula under which the commission shall make payments to the townships and school districts in lieu of general property taxes which would otherwise be levied against such lands and forests comprising the municipal forest.

HISTORY: CL 1948, 320.210;—Am. 1963, p. 58, Act 62, Eff. Oct. 2;—Am. 1964, p. 92, Act 93, Imd. Eff. May. 11.

320.251-320.262 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for private forest reservations and exemption thereof from taxation.

Act 86, 1917, p. 155; Eff. Aug. 10.

AN ACT to encourage private forestry, care and management thereof and to provide for exemption from taxation of such private forest reserves, and to repeal all acts or parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

320.271 Private forest reservations; establishment, proportion of acreage; description, filing.

Sec. 1. Upon any tract of land not exceeding 160 acres, where at least 1/2 is improved and devoted to agricultural purposes in this state, there may be selected by the owner or owners thereof, as a private forest reservation, a portion thereof not exceeding 1/4 of the total area of said tract, upon filing with the treasurer of the county in which it is located a description of such forest reservation as is hereinafter provided.

HISTORY: CL 1929, 5747;—CL 1948, 320.271.

320.272 Private forest reservations; tree quota per acre.

Sec. 2. If any land owner shall plant not less than 1,200 trees on each acre of selected private forest reservation, then it shall become subject to this act as herein provided.

HISTORY: CL 1929, 5748;—CL 1948, 320.272.

320.273 Private forest reservations; spacing of trees.

Sec. 3. Upon any tract selected as a private forest reservation which is partially stocked with forest trees, the owner may plant a sufficient number of forest trees to assure a spacing of approximately 6x6 feet on the open areas, when the same shall become subject to this act as in section 2.

HISTORY: CL 1929, 5749;—CL 1948, 320.273.

320.274 Private forest reservations; pasturage, restriction.

Sec. 4. No land owner shall receive the benefit of this act who shall permit cattle, horses, sheep, hogs or goats to pasture upon such reservation until at least 90% of the trees are 2 inches in diameter, and then only under such rules and regulations as may be made by the state conservation commission.

HISTORY: CL 1929, 5750;—CL 1948, 320.274;—Am. 1960, p. 138, Act 122, Eff. Aug. 17.

320.275 Private forest reservations; maintenance of stock of forest trees.

Sec. 5. The forest reservation shall at all times be kept fully stocked with forest trees under such rules and regulations as may be made from time to time by the conservation commission, and shall at all times be maintained as a woodlot.

HISTORY: CL 1929, 5751;—CL 1948, 320.275;—Am. 1960, p. 138, Act 122, Eff. Aug. 17.

320.276 Private forest reservations; restocking.

Sec. 6. Whenever any trees are removed from such private forest reservation, provision shall be made for complete restocking with forest trees under such rules and regulations as may be made by the conservation commission.

HISTORY: CL 1929, 5752;—CL 1948, 320.276;—Am. 1960, p. 138, Act 122, Eff. Aug. 17.

320.277 Forest trees; varieties.

Sec. 7. The varieties of ash, hemlock, beech, maple, pine, oak, hickory, basswood, elm, locust, walnut, butternut, ironwood, cedar, larch, tulip-tree, mulberry, osage orange, sassafras, catalpa and such other trees as the conservation commission may recommend shall be considered forest trees within the meaning of this act.

HISTORY: CL 1929, 5753;—CL 1948, 320.277;—Am. 1960, p. 138, Act 122, Eff. Aug. 17.

320.278 Private forest reservations; records of county treasurer, certification of descriptions to assessor.

Sec. 8. It shall be the duty of the treasurer of each county to keep a record of all private forest reservations within such county as the same may be selected by the owner or owners thereof under this act; and said treasurer shall, on or before the first Monday in April in each year, certify to the supervisor or assessor of each township a description of the selected private forest reservations therein, and the name of the owner or owners thereof.

HISTORY: CL 1929, 5754;—CL 1948, 320.278.

320.279 Private forest reservations; records of township assessor; oath of owner.

Sec. 9. It shall be the duty of the supervisor or assessor in each township to keep a record of all private forest reservations within his township as certified to him by the

treasurer of said county, and he shall require the owner or his agent to subscribe under oath the extent and description of the land selected as private forest reservation and that the number of trees is as required by this act and that he will maintain the same according to the intent of this act.

HISTORY: CL 1929, 5755;—CL 1948, 390.379.

320.280 Private forest reservations; application and contract, form.

Sec. 10. The conservation commission shall also prescribe the form of application and contract to be filed with the treasurer of the county wherein such application shall be made, and form of notice by treasurer to supervisor or other assessing officer.

HISTORY: CL 1929, 5756;—CL 1948, 390.290;—Am. 1980, p. 138, Act 122, Eff. Aug. 17.

320.281 Private forest reservations; examination by assessor, exemption from taxation; timber license, issuance, fee, collection.

Sec. 11. It shall be the duty of the supervisor or assessor to personally examine the various private reservations when the real estate is assessed for taxation, and to note upon his return, the condition of the trees, and that same are properly planted and continuously cared for, in order that the intent of this act may be complied with. If the said private reservation is properly planted and continuously cared for in accordance with the provisions of this act, such part of its value as is over and above 1 dollar per acre shall be exempt from all taxation: Provided, When any owner of a forest reservation provided for in this act shall desire to cut and harvest trees in said reservation, except for firewood or building material for the domestic use of said owner or his tenant, he shall notify the tax assessor of his district of his said intention and after such trees are cut, and before their removal from the land, the owner shall make an accurate measurement or count of all the trees cut, and file with the assessor a true and accurate return of such measurement or count and of the variety and value of the trees so cut. The assessor shall forthwith assess the stumpage value of the timber so cut and shall issue a license to remove said timber, which license shall be in effect upon payment to the collector of taxes of the district of a fee of 5 per cent of such appraised valuation. The assessor shall notify the clerk and the tax collector of his district of the issuance of such license. If any such timber is removed without payment of such license fee, it shall be the duty of the tax collector to levy upon such timber for collection of such license fee in the manner provided by law for the collection of personal taxes. If the owner of any such forest reservation desires at any time to withdraw his land from such classification, or fails to comply with the provisions of this act, the tax assessor of his district shall estimate the cash value of the timber on the stump and the owner shall pay a fee of 5 per cent of such appraised valuation; and, on his refusal or neglect to make such payment, the tax collector shall levy upon such timber for collection in such fee in the manner provided by law for the collection of personal taxes.

HISTORY: CL 1929, 5757;—CL 1948, 390.281.

Sec. 12. (This was a repeal section.)

HISTORY: CL 1929, 5758;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 94, 1925, p. 126; Eff. Aug. 27.

AN ACT to provide for the establishment of commercial forests and for the administration and taxation of them. Am. 1970, p. 597, Act 218, Eff. Apr. 1, 1971.

The People of the State of Michigan enact:

320.301 Commercial forests; establishment and maintenance; rules.

Sec. 1. The department of natural resources is authorized and charged with certain duties in connection with the establishment and maintenance of commercial forests

and shall have authority to make such rules not herein specifically provided for as may be necessary to accomplish the intent and purpose of this act. All expense to be incurred and help to be employed shall be with the approval of the state administrative board.

HISTORY: CL 1929, 5759;—CL 1948, 320.301;—Am. 1970, p. 597, Act 218, Eff. Apr. 1, 1971.

320.301a Intent of act.

Sec. 1-a. It is the intent and purpose of this act to encourage reforestation and proper forest management on lands chiefly valuable therefor.

HISTORY: Add. 1939, p. 449, Act 241, Eff. Sept. 29;—CL 1948, 320.301a.

320.302 Commercial forest; definition.

Sec. 2. A commercial forest, within the meaning and purpose of this act, is defined as a tract of land containing no material natural resources other than forest growth, no portion of which is used for agricultural, mineral, grazing, industrial, recreational or resort purposes, and upon which the owner proposes to develop and maintain a forest either through planting or natural reproduction or both. Such land must be capable of producing a thrifty forest growth and must at the time of listing as a commercial forest actually carry sufficient forest growth of suitable character and so distributed as to give assurance that a stand of merchantable timber will be developed within a reasonable period of time. The intent and purpose of this section is to exclude from classification as a commercial forest land carrying any merchantable trees in excess of the growing stock required by good forestry practice to promote optimum growth and development of a fully stocked forest as well as land used for other purposes than for the production of forest products and to exclude land not sufficiently stocked with young growth either by planting or natural reproduction to promise to become a satisfactory stand of merchantable timber, but not to exclude from such classification land selectively logged or land carrying a stand of forest growth well advanced toward maturity but still requiring a period of years in which to become sufficiently mature to produce high grade forest products, nor to exclude land not sufficiently stocked with young growth where such land is essential to the proper development of a forest property accepted for listing under the provisions of this section.

HISTORY: CL 1929, 5760;—Am. 1931, p. 326, Act 199, Eff. Sept. 18;—Am. 1939, p. 449, Act 241, Eff. Sept. 29;—CL 1948, 320.302;—Am. 1970, p. 598, Act 218, Eff. Apr. 1, 1971.

320.303 Commercial forest; application for listing; contents.

Sec. 3. The owner of any land within this state, which complies substantially with the requirements specified in section 2, may make application to the department of natural resources to have such land determined and listed a commercial forest, specifying in such application the legal description and acreage of such land and such additional information as may be called for by said department. The applicant shall furnish such information under oath and upon blanks provided for the purpose.

HISTORY: CL 1929, 5761;—CL 1948, 320.303;—Am. 1970, p. 598, Act 218, Eff. Apr. 1, 1971.

320.304 Commercial forest; application, hearing; notice, conduct; approval; record.

Sec. 4. Upon receipt of such application establishing prima facie the right of any land to be classed as a commercial forest the department of natural resources shall determine the character of the land offered and fix a date for a public hearing upon the eligibility of such land for listing as a commercial forest. The hearing shall be held in the county where the land is located not later than November 1 following receipt of the application, and all applications offering lands in the same county may be heard on the same day and at the same place. The department shall cause a notice of such hearing and a list of the descriptions of land to be considered for classification as commercial forests to be published in a newspaper published and circulated in said county,

and at least 20 days shall elapse between the date of publication of said notice and the date of the hearing. At the same time that the notice is sent to the newspaper for publication, the department shall send a copy of the notice and a list of descriptions of land in each township to be considered for classification to each township supervisor in whose township the lands are located. Any township supervisor or other person desiring to testify as to eligibility for the listing as a commercial forest of any of the descriptions offered, may appear and be heard at such hearing. Such hearing may be conducted by the director or any employee of the department designated for the purpose.

In case the department shall determine that the descriptions listed, or any of them, comply with the requirements as to commercial forests specified in section 2 and that the owner has declared his intention to devote the land to the development and maintenance thereon of a commercial forest, and that there are no unpaid valid taxes against such land, the department shall forthwith report such determination to the applicant and also to the supervisor of the township and shall record with the register of deeds in the county in which said commercial forest is located, the application of the owner and the approval of the department endorsed thereon.

HISTORY: CL 1929, 5762;—Am. 1931, p. 327, Act 190, Eff. Sep. 18;—CL 1948, 320.304;—Am. 1956, p. 29, Act 27, Eff. Sep. 13;—Am. 1970, p. 598, Act 218, Eff. Apr. 1, 1971.

320.305 Commercial forest; exemption from property tax; annual specific tax, computation, collection, disposition.

Sec. 5. Lands offered by the owner and approved as commercial forests and certified as such by the department of natural resources to the supervisor of the township in which located shall not thereafter be subject to the ad valorem general property tax except as to such taxes as may have been previously levied, but shall be subject to an annual specific tax of 15 cents per acre. The supervisor of the township shall remove from the list of land descriptions assessed and taxed under the ad valorem general property tax the land descriptions certified to him by the department as being commercial forests and shall enter such land descriptions on a roll separate from lands assessed and taxed the ad valorem general property tax and shall spread against such commercial forest lands the specific tax hereinbefore provided, and the township treasurer shall collect such specific tax at the same time and in the same manner as ad valorem general property taxes are collected and subject to the same collection charges. Lands listed and taxed as commercial forests shall be subject to return and sale for non-payment of taxes in the same manner, at the same time, and under the same penalties as lands returned and sold for non-payment of taxes levied under the ad valorem general property tax laws. No valuation shall be determined for descriptions listed as commercial forests and such lands shall not be considered by the county board of supervisors or by the state board of equalization in connection with county or state equalization for taxation purposes. All sums collected because of the annual tax as hereinbefore provided shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

HISTORY: Am. 1927, p. 855, Act 356, Eff. Sep. 5;—CL 1929, 5763;—Am. 1935, p. 256, Act 163, Eff. Sep. 21;—CL 1948, 320.305;—Am. 1956, p. 30, Act 27, Eff. Sep. 13;—Am. 1970, p. 598, Act 218, Eff. Apr. 1, 1971.

320.306 Acreage; certification; payment to county, amount; distribution.

Sec. 6. On December 1 of each year, the department of natural resources shall certify to the auditor general the number of acres of land determined and listed as commercial forests in each county and the auditor general shall transmit to the treasurer of each county in which such lands are situate a warrant on the state treasurer for an amount equal to 25 cents per acre upon each acre of land certified and listed as commercial forest in such county. The county treasurer of each county shall distribute

such tax in the same proportions between the various funds as the ad valorem general property tax is distributed by the township treasurer in each township for the specific tax paid by the owner of such land, as hereinbefore provided.

HISTORY: Am. 1927, p. 121, Act 86, Eff. Sep. 5;—Am. 1927, p. 856, Act 356, Eff. Sep. 5;—CL 1929, 5764, Act 86 of 1929 was approved Apr. 30, Act 356 on Jun. 2;—CL 1948, 320.306;—Am. 1958, p. 31, Act 27, Eff. Sep. 13;—Am. 1970, p. 599, Act 218, Eff. Apr. 1, 1971.

320.307 Application for withdrawal; fees, disposition; return to tax roll.

Sec. 7. Any owner of land listed as a commercial forest desiring to withdraw his land in whole or in part from the operations of this act shall make written application to the department of natural resources. The application shall be granted only on payment to the department of a fee of 3 cents per acre for each and every year the land has been registered as a commercial forest, but not to exceed the first 20 years, together with a fee equivalent to 10% of the full stumpage value of the merchantable forest products upon the land, as determined by the department. Such fees shall be paid to the department before the application to withdraw is granted. The department shall deposit the fee of 3 cents per acre and the fees received from the stumpage value of the merchantable forest products with the state treasurer to the credit of the general fund of the state. Whenever application to withdraw land from classification as a commercial forest is granted, the department shall at once notify the applicant, the supervisor of the township and the register of deeds of the county in which the lands are located of such action and shall file with those officials a list of the lands withdrawn. The lands shall forthwith be removed from the list of lands paying specific taxes and shall thereafter be assessed and taxed under the ad valorem general property tax the same as though never listed under this act. If application to withdraw is filed after January 1 in any year, the specific tax and not the ad valorem general property tax shall be paid for that year.

HISTORY: CL 1929, 5765;—Am. 1931, p. 327, Act 199, Eff. Sep. 18;—Am. 1935, p. 256, Act 163, Eff. Sep. 21;—Am. 1939, p. 449, Act 241, Eff. Sep. 29;—Am. 1947, p. 92, Act 85, Eff. Oct. 11;—CL 1948, 320.307;—Am. 1951, p. 132, Act 100, Eff. Sep. 28;—Am. 1956, p. 31, Act 27, Eff. Sep. 13;—Am. 1970, p. 599, Act 218, Eff. Apr. 1, 1971.

320.308 Permit to cut forest products; stumpage rates, determination, deposit; appeal.

Sec. 8. The owner of land registered as a commercial forest shall be entitled to a permit to cut forest products on such land without withdrawing it from classification as a commercial forest and without payment of any fee or tax other than the annual specific tax and the stumpage tax hereinafter provided. Any owner desiring to cut and remove merchantable forest products from land that has been listed as a commercial forest shall make application to the department of natural resources for a permit to cut, stating in his application the description or descriptions of land from which forest products are to be cut, and the class, the approximate amount and the unit stumpage value, as near as may be, of each such forest products proposed to be cut at the place of cutting. The department shall thereupon verify the unit stumpage value of each of the classes of forest products proposed to be cut and shall issue a permit indicating the unit stumpage values to be used in computing the yield tax to be paid for the forest products cut and removed under the terms of the permit as hereinafter provided. Any owner to whom a permit is issued and who is dissatisfied with the determination of the department as to the stumpage rates indicated in such permit may file a protest with the department within 20 days after receipt of the permit. For the purpose of determining the stumpage values the department shall conduct a hearing and may compel the attendance of witnesses. At the hearing the owner shall be given opportunity to be heard and to produce witnesses. The department in its discretion may then amend the

permit as to stumpage values to be used in computing the yield tax to be paid. It shall be unlawful to cut or remove forest products from land listed as a commercial forest until such permit has been issued.

HISTORY: CL 1929, 5766;—Am. 1931, p. 320, Act 199, Eff. Sep. 18;—CL 1948, 320.306;—Am. 1958, p. 31, Act 27, Eff. Sep. 13;—Am. 1970, p. 600, Act 218, Eff. Apr. 1, 1971.

320.309 Commercial forest; report of forest products cut, time; yield tax, disposition.

Sec. 9. On or before May 15 and November 15 succeeding any time in which any forest products were cut under a permit issued by the department of natural resources, the owner shall certify and submit a report to the department, for the 6 months preceding the first day of the calendar month, the actual quantity of each kind and class of forest products so cut, as determined by the scale or measurement thereof made on the ground as cut, skidded or loaded as the case may be, and at the same time shall pay to the department a yield tax of 10% of the total stumpage value of the forest products so reported as computed from the stumpage rates indicated in the cutting permit. If any forest products cut during any 6 months' period are not scaled during the same period, then such forest products shall be reported with the forest products cut during the period immediately following. The department shall deposit the stumpage or yield tax with the state treasurer to the credit of the general fund of the state. No yield tax shall be paid on any forest material cut for domestic use of the owner of such lands, or on materials necessarily used in harvesting the forest crop.

HISTORY: CL 1929, 5767;—Am. 1931, p. 328, Act 199, Eff. Sep. 18;—Am. 1939, p. 450, Act 241, Eff. Sep. 29;—CL 1948, 320.309;—Am. 1958, p. 32, Act 27, Eff. Sep. 13;—Am. 1970, p. 600, Act 218, Eff. Apr. 1, 1971.

320.310 Use of land; conditions.

Sec. 10. The owner of any land listed as a commercial forest shall not make such use of said land as will be prejudicial to its development as a commercial forest and shall not use said land for industrial, recreational or other commercial purposes, nor enjoy any exclusive privileges as to hunting and fishing upon such land. However, the general public shall be accorded the privilege of hunting and fishing on all lands listed as commercial forest except as such lands are closed to hunting or fishing or both by order of the natural resources commission or by an act of the legislature.

HISTORY: CL 1929, 5766;—Am. 1931, p. 329, Act 199, Eff. Sep. 18;—CL 1948, 320.310;—Am. 1970, p. 600, Act 218, Eff. Apr. 1, 1971.

320.311 Applications and statements under oath.

Sec. 11. All applications, statements and information if required by the department of natural resources in the administration of this act shall be under oath.

HISTORY: CL 1929, 5769;—CL 1948, 320.311;—Am. 1970, p. 600, Act 218, Eff. Apr. 1, 1971.

320.312 Permit to cut; alteration or revocation.

Sec. 12. On application of the owner, the department of natural resources shall have power when emergency or other just cause exists to extend or shorten the period specified in cutting permits when forest products may be harvested in case of fraud or for other proper cause, may revoke a permit to cut.

HISTORY: CL 1929, 5770;—CL 1948, 320.312;—Am. 1970, p. 601, Act 218, Eff. Apr. 1, 1971.

320.312a Transfer of title; withdrawal.

Sec. 12a. The transfer of title of any land listed as a commercial forest shall not affect the status of such land as a commercial forest. The withdrawal procedure hereinbefore provided shall be made to apply to the new owner in like manner as to the original owner.

HISTORY: CL 1929, 5771;—CL 1948, 320.312a;—Am. 1970, p. 601, Act 218, Eff. Apr. 1, 1971.

320.313 Declassification; cause; notice; hearing; fee.

Sec. 13. In the event of the use of any portion or all of the land included in any commercial forest for purposes contrary to the provisions of section 2, the department may

upon notice to the owner and hearing thereon, declassify such portion or all of said lands so used and require the payment of fees as in the case of voluntary withdrawal. If the department as the outcome of the hearing shall find that any portion or all of such lands are being used contrary to the requirements set forth in section 2, then the department shall serve a notice of declassification of such lands upon the owner, and upon the supervisor of the township and record a copy thereof in the office of the register of deeds of the county in which such lands are situate, and from the date of recording such notice, said lands shall cease to be classified as commercial forests and shall thereafter, be subject to the ad valorem property tax: Provided, That if notice of declassification is served after January 1 in any year, the specific tax and not the ad valorem general property tax shall be paid for that year. Within 90 days after the service of such declassification notice the owner shall make payment to the department exactly as if said lands had been voluntarily withdrawn by the owner under the terms of this act.

HISTORY: CL 1929, 5772;—Am. 1931, p. 329, Act 190, Eff. Sep. 18;—CL 1948, 320.313;—Am. 1951, p. 132, Act 100, Eff. Sep. 26;—Am. 1970, p. 801, Act 218, Eff. Apr. 1, 1971.

320.313a New laws; effect; withdrawal, fee.

Sec. 13a. Changes in the terms, fees, taxes or other provisions of this act as from time to time enacted into law shall apply to all lands which are listed at the time such enactments become effective. Any owner may, without penalty of payment of withdrawal or stumpage fees, withdraw said lands from the operation of this act in event of any change by law in the terms, fees, taxes or other provisions of this act, which would materially increase the burden of the owner. The owner shall not have the right to withdraw lands without penalty unless he makes application to do so within 1 year after the enactments become effective. When any owner elects to withdraw the lands he shall withdraw all such lands as may be listed by him at that time. If any application to withdraw lands from classification as a commercial forest is initiated by any owner or by the department of natural resources prior to the time that such changes in terms, fees, taxes or other provisions of this act become effective, the withdrawal and stumpage fees in effect prior to the enactment of the changes shall be paid in the same manner and at the same rates as though no such changes had been enacted.

HISTORY: CL 1929, 5773;—Am. 1931, p. 329, Act 190, Eff. Sep. 18;—CL 1948, 320.313a;—Am. 1958, p. 32, Act 27, Eff. Sep. 13;—Am. 1970, p. 801, Act 218, Eff. Apr. 1, 1971.

320.313b Appeals; venue; procedure; intervenors; order.

Sec. 313b. Any owner of lands who has applied for the listing thereof or whose lands have been listed under the provisions of this act or any taxpayer affected by any action or determination of the department taken or made under the provisions thereof and who is dissatisfied with any order or determination of the department may commence action in the circuit court of the county in which the lands affected, or any part thereof, are situated, against the department and other interested parties as defendants to review and vacate or set aside such determination in whole or in part. Such action shall be commenced within 60 days after such order or determination. A determination adverse to the owner shall be deemed to have been made if the department fails to act thereon within the time specified in this act. Such action shall be commenced by the filing of a petition which shall state briefly the nature of the proceeding before the department and shall set forth the determination complained of and the grounds on which it is claimed that said determination is erroneous. A copy of said petition shall be served upon the director or secretary of the department. The department shall file an answer and serve a copy thereof upon the petitioner within 15 days after service of such petition upon the department. Any person whose rights may be directly affected by said determination may appear and become a part and the court may upon proper notice order any such person to be joined as a party. Said petition

may be brought on for hearing as in a suit in equity upon 10 days' notice to the opposite party after issue has been joined. Upon the hearing of said petition the court shall take evidence upon all questions relating to the matter in issue and shall make such order and determination as should have been made by the department and such order of the court when made and entered shall operate in all respects as is herein provided for with reference to the determinations of the department.

HISTORY: Add. 1931, p. 329, Act 199, Eff. Sept. 18;—CL 1948, 320.313b;—Am. 1970, p. 601, Act 218, Eff. Apr. 1, 1971.

320.313c Department of conservation representatives; right of entry on commercial forest reserve lands; access to books and papers.

Sec. 13-c. It shall be lawful at any and all times for any duly authorized representatives of the department to go upon any and all lands classified hereunder; and such representatives, for the purpose of ascertaining the correctness of any return or report made pursuant to this act by any owner or agent, shall have the power to examine or cause to be examined any books, papers, records or memorandum bearing upon the amounts of timber products cut from said lands.

HISTORY: Add. 1931, p. 330, Act 199, Eff. Sept. 18;—CL 1948, 320.313c.

320.314 Violation of act; penalty.

Sec. 14. Any person violating any of the provisions of this act shall be deemed guilty of a felony and upon conviction shall be liable to a fine of not more than 2,000 dollars or to imprisonment in the state prison for not more than 3 years or to both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 5774;—CL 1948, 320.314.

Sec. 15. (This was a repeal section.)

HISTORY: CL 1929, 5775;—Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Sec. 16. (This was a severing clause section.)

HISTORY: Add. 1931, p. 330, Act 199, Eff. Sept. 18;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

R.S. 1846, Ch. 45.

FIRING OF WOODS AND PRAIRIES.

Sec. 1.

HISTORY: CL 1857, 5924;—CL 1871, 7790;—How. 9402;—CL 1897, 11653;—CL 1915, 15424;—CL 1929, 16942;—Rep. 1931, p. 738, Act 325, Eff. Sept. 18.

This section provided penalties and double damages for firing of woods, prairies or grounds of another. For present law, see Compilers' § 750.78.

320.392 Fires in woods and prairies; emergency assistance by inhabitants, duty of public officers.

Sec. 2. Whenever the woods and prairies in any township shall be on fire, so as to endanger property, it shall be the duty of the justices of the peace, the supervisor, and the commissioners of highways of such township, and each of them, to order such, and so many of the inhabitants of such township, liable to work on the highways, and residing in the vicinity of the place where such fire shall be, as they shall severally deem necessary, to repair to the place where such fire shall prevail, and there to assist in extinguishing the same, or in stopping its progress.

HISTORY: CL 1857, 5925;—CL 1871, 7791;—How. 9403;—CL 1897, 11654;—CL 1915, 15425;—CL 1929, 16943;—CL 1948, 320.392.

320.393 Failure to obey order; penalty.

Sec. 3. If any person shall refuse or wilfully neglect to comply with such order, he shall forfeit a sum not less than 5, nor more than 50 dollars.

HISTORY: CL 1857, 5926;—CL 1871, 7792;—How. 9404;—CL 1897, 11655;—CL 1915, 15426;—CL 1929, 16944;—CL 1948, 320.393.

320.394 Forest fire prevention; township board, rules and regulations.

Sec. 4. The township boards of the several townships of this state are hereby authorized and it shall be their duty to prohibit the setting of forest fires or fires for the purpose of clearing lands, and disposing by burning, of refuse material and waste matter

within their respective jurisdictions, whenever, in the judgment of a majority of the members of each of said boards, it shall be deemed necessary to prevent the spreading of such fires over the territory of such township, or any part thereof. Each of such boards may make such rules and regulations as they may deem proper for the purpose of carrying this act into effect, which rules and regulations shall be published by posting notices thereof, together with a copy of this act, in 5 of the most public places in such township.

HISTORY: Add. 1897, p. 245, Act 189, Eff. Aug. 30;—CL 1897, 11656;—CL 1915, 15427;—CL 1929, 16945;—CL 1948, 320.394.

Sec. 5.

HISTORY: Add. 1897, p. 245, Act 189, Eff. Aug. 30;—CL 1897, 11657;—CL 1915, 15428;—CL 1929, 16946;—Rep. 1931, p. 738, Act 328, Eff. Sept. 18.

This section provided penalties for violation of order of township board. For present law see Compilers' § 750.79.

320.396 Fires; notice to adjoining landowner; neglect, penalty.

Sec. 6. Hereafter it shall be the duty of every person residing north of parallel 44 of north latitude before setting fire for any of the above mentioned purposes, to serve a notice in writing on every resident owner or occupant of lands or grounds immediately adjoining the tract upon which such fires are to be set, at least 1 full day previous to the setting of such fires, personally, or by leaving the same at the residence of such adjoining owner or occupant, in the presence of some member of the family of suitable age and discretion, who shall be informed of the contents, and neglecting to give such notice shall be deemed prima facie evidence of negligence on the part of the person so offending.

HISTORY: Add. 1897, p. 245, Act 189, Eff. Aug. 30;—CL 1897, 11658;—CL 1915, 15429;—CL 1929, 16947;—CL 1948, 320.396.

320.401-320.407 Repealed. 1962, p. 391, Act 182, Eff. Mar. 28, 1963.

Sections prohibited cutting, removal, transportation or sale of Christmas or other trees, shrubs, vines or certain native plants without proof of ownership, and prescribed penalties.

Act 182, 1962, p. 389; Eff. Mar. 28, 1963.

AN ACT to prohibit the cutting, removal, transportation or sale within this state, for any purpose, of Christmas trees, evergreen boughs or other trees, shrubs or vines, or certain native plants, without a bill of sale or other proof of ownership from the owner of the land on which the same are grown; to provide for the enforcement of this act; to prescribe penalties for violation thereof; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

320.411 Christmas trees, shrubs, vines and native plants; removal, bill of sale required.

Sec. 1. No person shall cut, remove or transport, without having in possession a bill of sale from the owner, in form prescribed by and available from the department of agriculture, any Christmas trees, evergreen boughs or other trees, shrubs or vines or any of the following native plants: Trailing arbutus, bird's foot violet, climbing bitter-sweet, club mosses, flowering dogwood, all Michigan holly, North American lotus, pipsissewa, and all native orchids, trilliums and gentians.

HISTORY: New 1962, p. 389, Act 182, Eff. Mar. 28, 1963.

320.412 Trees, shrubs, vines and plants; prerequisites to removal, identification.

Sec. 2. No person shall transport within this state any of the trees, boughs, shrubs, vines or plants listed in section 1:

(a) If the same have been removed from property owned by the person, unless he has in possession a current tax receipt or deed with respect to said property; or

(b) If the same have been removed from property not owned by the person, unless:

(1) Each tree, bough, shrub, vine or plant bears a tag placed thereon by and identifying the person and his address and stating from whom the same was acquired; or

(2) The person has in his possession a bill of sale or other evidence of title acquisition in form to be prescribed by the department of agriculture.

HISTORY: New 1962, p. 390, Act 182, Eff. Mar. 28, 1963.

320.413 Trees, shrubs, vines and plants; sale, evidence of title, record of transaction.

Sec. 3. No person shall sell or offer for sale any of the trees, boughs, shrubs, vines or plants listed in section 1 without having in his possession the evidence of title prescribed by section 2, nor without furnishing the purchaser a bill of sale or other evidence of title acquisition in form to be prescribed by the department of agriculture. Vendors shall maintain and keep for such period of time such records of their transactions as the department of agriculture shall by regulation prescribe.

HISTORY: New 1962, p. 390, Act 182, Eff. Mar. 28, 1963.

320.414 Trees, shrubs, vines and plants; shipping, evidence of title exhibited to common carrier.

Sec. 4. No common carrier shall accept for shipment any of the trees, boughs, shrubs, vines or plants listed in section 1 unless the consignor, whose name and address shall be recorded, shall at the time of consignment exhibit the evidence of title prescribed by section 2.

HISTORY: New 1962, p. 390, Act 182, Eff. Mar. 28, 1963.

320.415 Law enforcement officers; inspection of shipment.

Sec. 5. Any law enforcement officer having probable cause to believe that any section of this act is being violated, including authorized employees of the department of conservation and the department of agriculture, shall have the power to make inspections to determine whether any provisions of this act have been violated, which power shall include the right to stop any vehicle at any time, to inspect and make copies of bills of sale or other evidences of title prescribed by the department of agriculture, to arrest persons found to have any of the trees, boughs, shrubs, vines or plants prescribed in section 1 in possession in violation of the terms of this act, and to seize and hold any such trees, boughs, shrubs, vines or plants subject to the order of the court. Failure to exhibit a bill of sale or other evidence of title prescribed by the department of agriculture shall be prima facie evidence that no such bill of sale or other evidence of title exists.

HISTORY: New 1962, p. 390, Act 182, Eff. Mar. 28, 1963.

320.416 Construction of act.

Sec. 6. Nothing in this act shall be construed to interfere with the provisions of Act No. 189 of the Public Acts of 1931, as amended, being sections 286.201 to 286.226 of the Compiled Laws of 1948.

HISTORY: New 1962, p. 390, Act 182, Eff. Mar. 28, 1963.

320.417 Enforcement of act.

Sec. 7. The director of agriculture, in cooperation with the department of conservation and law enforcement agencies, shall enforce the provisions of this act. The director of agriculture shall make such rules and regulations as he deems necessary for the

enforcement of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1962, p. 390, Act 182, Eff. Mar. 28, 1963.

320.418 Violation of act; forgery; misdemeanor.

Sec. 8. Violation of any of the provisions of this act is a misdemeanor. The forgery of any bill of sale or other evidence of title prescribed by the department of agriculture is a misdemeanor.

HISTORY: New 1962, p. 390, Act 182, Eff. Mar. 28, 1963.

320.419 Christmas trees; transportation during December.

Sec. 9. The provisions of this act shall not apply to the sale of or the transportation by any one person of not more than 2 Christmas trees between November 30 and December 31 of the same year.

HISTORY: New 1962, p. 391, Act 182, Eff. Mar. 28, 1963.

320.420 Repeal.

Sec. 10. Act No. 124 of the Public Acts of 1933, as amended, being sections 320.401 to 320.407 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1962, p. 391, Act 182, Eff. Mar. 28, 1963.

CHAPTER 321. CONSERVATION—GEOLOGICAL AND OTHER SURVEYS

GEOLOGICAL SURVEY Act 65 of 1869		321.27	Board of geological survey; right of entry on private property.
321.1	Board of geological survey; membership; powers and duties; assistants.	321.30	Annual appropriation; unexpended funds, disposition; reduction through federal aid.
321.3	Board of geological survey; assistants, salaries and expenses, reports.	321.31	Board of geological survey; reports to legislature, contents.
321.4	Geological survey; character and scope.	CONTOUR TOPOGRAPHICAL SURVEY MAP Act 392 of 1925	
321.5	Geological survey; collection of specimens for exhibition.	321.51, 321.53	Repealed.
321.6	Board of geological survey; annual report; character, contents.	BIOLOGICAL SURVEY Act 250 of 1905	
321.8	Notes, compilations and specimens; state property.	321.71-321.73	Repealed.
321.9	Geological survey; annual appropriation for expenses.	AERIAL PHOTOGRAPHY Act 247 of 1929	
SOIL AND ECONOMIC SURVEY Act 373 of 1917		321.101-321.103	Repealed.
321.21	Soil and economic survey; duty of board of geological survey.	SURVEY OF ISLE ROYAL Act 209 of 1929	
321.22	Soil and economic survey; purpose; board of geological survey, direction and control; assistants, compensation; members, reimbursement.	321.121-321.123	Repealed.
321.23	Soil and economic survey; completion, report by board of geological survey, copies, printing.	AERIAL PHOTOGRAPHING AND BASE MAPS Act 248 of 1937	
321.24	Soil and economic survey; report, contents, maps, distribution.	321.151	Aerial photographs and ground control surveys for preparation of base maps; authorization.
321.25	Soil and economic survey; payment of expenses; statement of unexpended funds.	321.152	Preparation of base maps; authority of state department of conservation; contents; right of entry on private lands.
321.26	Board of geological survey; cooperation with other agencies, authorization; not to affect purpose of act.	321.154	Preparation of base maps; payment of expenses.

Act 65, 1869, p. 109; Imd. Eff. Mar. 26.

AN ACT to provide for the further geological survey of the state.

The People of the State of Michigan enact:

321.1 Board of geological survey; membership; powers and duties; assistants.

Sec. 1. That the governor, superintendent of public instruction, and the president of the state board of education shall constitute a board of geological survey. They shall control and supervise the continuance and completion of the geological survey of the state; and for that purpose they may from time to time appoint such person or persons to assist in making said survey as may be deemed necessary; the length of time, and the location and locations where said persons shall be employed, shall be determined by said board.

HISTORY: Am. 1871, p. 296, Act 179, Imd. Eff. April 17;—CL 1871, 821;—How. 5468;—CL 1897, 1519;—CL 1915, 784;—CL 1929, 566;—CL 1948, 321.1.

FORMER ACTS: J.R. 26 of 1846, Act 206 of 1850; J.R. 26 of 1859, Act 212 of 1863; J.R. 10 of 1863; J.R. 3 of 1872, Act 251 of 1905, Secs. 2, 3 and 4. These sections provided for appropriations and the method of paying the same.

BOARD OF GEOLOGICAL SURVEY: Abolished; powers and duties transferred to department of conservation, see Compilers' § 299.2.

Sec. 2.

HISTORY: Rep. 1871, p. 300, Act 179, Imd. Eff. April 17.

This section related to the appointment of assistants, which provision was added to Sec. 1 by the amendment of 1871.

321.3 Board of geological survey; assistants, salaries and expenses, reports.

Sec. 3. The salary of the persons employed in the survey, shall be fixed by the board, and shall be payable only for services actually rendered. Such board shall regulate all expenses incident to the survey, and may require such frequent reports as they may think useful.

HISTORY: Am. 1871, p. 298, Act 179, Imd. Eff. April 17;—CL 1871, 822;—How. 5469;—CL 1897, 1520;—CL 1915, 785;—CL 1929, 5668;—CL 1948, 321.3.

321.4 Geological survey; character and scope.

Sec. 4. It shall be the duty of said board to make or cause to be made, a thorough geological and mineralogical survey of the state, embracing a determination of the succession and arrangement, thickness, and position of all strata and rocks; their mineral character and contents, and their economical uses; an investigation of soils and sub-soils, and the determination of their character and agricultural adaptation; the investigation of all deposits of brines, coal, marl, clay, gypsum, lime, petroleum, and metals and metallic ores, building stone, marble, gritstone, materials for mortar and cement, mineral paint, and all other productions of the geological world within the limits of this state capable of being converted to the uses of man.

HISTORY: Am. 1871, p. 299, Act 179, Imd. Eff. April 17;—CL 1871, 823;—How. 5470;—CL 1897, 1521;—CL 1915, 786;—CL 1929, 5669;—CL 1948, 321.4.

321.5 Geological survey; collection of specimens for exhibition.

Sec. 5. It shall be the duty of said board to cause ample materials to be collected for the illustration of every department of the geology and mineralogy of the state, and to label, arrange and prepare the same for exhibition in suitable cases in the museums of the state university, agricultural college, and state normal school and in each of the incorporated colleges of the state, and in a room in connection with the state library.

HISTORY: Am. 1871, p. 299, Act 179, Imd. Eff. April 17;—CL 1871, 824;—How. 5471;—CL 1897, 1522;—CL 1915, 787;—CL 1929, 5670;—CL 1948, 321.5.

321.6 Board of geological survey; annual report; character, contents.

Sec. 6. It shall be the duty of said board to furnish an annual report of the progress of the survey, and as often as possible, a condensed statement of important and interesting facts for general circulation; and, as soon as the progress of the work will permit, to begin, and on the completion of the survey, to furnish [finish] a complete memoir upon the geology of the state, embracing such an account of all its mineral and agricultural resources as is usual in works of that character, and a delineation of its geology on the map of the state, and such other diagrams and illustrations as may be needed to set forth in a creditable, intelligible and, as far as possible, popular manner, the nature, location and extent of the geological and agricultural resources of the state: Provided, That said report shall not contain in any considerable extent, compilations and extracts of or from books heretofore published.

HISTORY: Am. 1871, p. 299, Act 179, Imd. Eff. April 17;—CL 1871, 825;—Am. 1881, p. 43, Act 48, Imd. Eff. March 26;—How. 5472;—CL 1897, 1523;—CL 1915, 788;—CL 1929, 5671;—CL 1948, 321.6.

Sec. 7.

HISTORY: Rep. 1871, p. 300, Act 179, Imd. Eff. April 17.

This section provided that half of all appropriations made should be spent in the upper peninsula.

321.8 Notes, compilations and specimens; state property.

Sec. 8. All notes, memoranda, compilations, collections, specimens, diagrams, and illustrations that may be made in the progress of such survey by the person or persons engaged therein, shall be the property of the state; shall be under the control of the

board, and in case of the death, or termination of connection with such survey of any such person or persons, shall be deposited in the office of the superintendent of public instruction, subject to the order of the board.

HISTORY: Am. 1871, p. 300, Act 179, Imd. Eff. April 17;—CL 1871, 826;—How. 5473;—CL 1897, 1524;—CL 1915, 790;—CL 1929, 5672;—CL 1948, 321.8.

321.9 Geological survey; annual appropriation for expenses.

Sec. 9. To carry into effect the provisions of this act, the sum of 8,000 dollars for each year until the completion of said survey is hereby appropriated to be drawn from the treasury as needed. The accounts of the members of the board for official services and all other expenses authorized by law shall first be certified to be correct by said board, and shall be paid out of the state treasury upon the warrant of the auditor general from the fund appropriated for that purpose: Provided, No part of said appropriation shall be used for printing reports.

HISTORY: Am. 1871, p. 300, Act 179, Imd. Eff. April 17;—CL 1871, 827;—How. 5474;—Am. 1895, p. 262, Act 133, Eff. Aug. 30;—CL 1907, 1525;—CL 1915, 790;—CL 1929, 5673;—CL 1948, 321.9.

Act 373, 1917, p. 899; Imd. Eff. May 11.

AN ACT to provide for a soil and economic survey of certain lands in this state, to require the making of reports thereon, and to provide an appropriation therefor.

The People of the State of Michigan enact:

321.21 Soil and economic survey; duty of board of geological survey.

Sec. 1. As soon as the appropriation hereinafter provided shall become available, it shall be the duty of the board of geological survey of the state to proceed with the work of causing a soil and economic survey to be made of all lands in the state. Such work shall be carried on as herein prescribed and for the purposes herein designated.

HISTORY: CL 1929, 5674;—CL 1948, 321.21.

COMPILERS' NOTE: Division of land and economic survey is a division of the department of conservation which operates on the basis of biennial legislative appropriation. Its powers and duties are set forth by departmental rules and regulations. See Compilers' § 299.2.

BOARD OF GEOLOGICAL SURVEY: Abolished; powers and duties transferred to department of conservation, see Compilers' § 299.2.

321.22 Soil and economic survey; purpose; board of geological survey, direction and control; assistants, compensation; members, reimbursement.

Sec. 2. The survey hereby contemplated shall be conducted by counties; and the order thereof shall be determined by said board. The purpose of the work shall be to procure and render available for public use information and data as to the character of the lands surveyed; their adaptability to agricultural purposes, or to similar uses; their various crops, if any, that may be profitably raised thereon; and such other and kindred matters as may be deemed desirable and advantageous. The details of the work shall be, in all respects, subject to the direction and control of the board of geological survey, which is hereby empowered and directed to employ such assistants as may be found necessary. The compensation of all persons so employed shall be fixed by the board, and paid as hereinafter provided. No member of the board of geological survey shall be entitled to compensation for any services performed under this act; but such members and the employes of the board may be reimbursed for money actually and necessarily expended in the performance of their duties hereunder, such reimbursement to be made out of the fund created by this act.

HISTORY: CL 1929, 5675;—CL 1948, 321.22.

321.23 Soil and economic survey; completion, report by board of geological survey, copies, printing.

Sec. 3. As soon as may be after the completion of the survey in any county, the said board shall cause a full and detailed report thereof to be made. It shall be the duty of

the board of state auditors to cause as many copies of said report to be printed as the said board of geological survey may certify to be necessary. The expense of such printing shall be paid out of the general fund in the same way that other state printing is, by law, required to be paid for.

HISTORY: CL 1929, 5676;—CL 1948, 321.23.

321.24 Soil and economic survey; report, contents, maps, distribution.

Sec. 4. The report required by the preceding section to be made upon the survey in each county, subject to the provisions of this act, shall set forth such information and data as will fulfill the general purpose defined in section 2 hereof: Provided, That said report shall in no wise state or represent the money value of lands so surveyed. Insofar as is possible and expedient, the lands surveyed shall be classified as to their agricultural adaptability, general character and uses to which they may be put. Such maps shall be prepared and incorporated therein as may be deemed necessary for the public information and convenience. A copy of such report shall be sent to every public library in the state, and the remainder shall be kept for distribution, subject to such rules and regulations pertaining thereto as the board of geological survey may, from time to time, adopt.

HISTORY: CL 1929, 5677;—CL 1948, 321.24.

321.25 Soil and economic survey; payment of expenses; statement of unexpended funds.

Sec. 5. Payments shall be made out of the fund hereby created, only on the warrant of the auditor general. In no case, however, shall any such payment be made until the board of geological survey has approved the claim or account, and has certified to the correctness thereof. At the request of said board, it shall be the duty of the auditor general to furnish a statement at any time, as to the amount of money remaining in the fund to be expended for the purposes of this act.

HISTORY: CL 1929, 5678;—CL 1948, 321.25.

321.26 Board of geological survey; cooperation with other agencies, authorization; not to affect purpose of act.

Sec. 6. In carrying on the work hereby contemplated, the said board is hereby empowered to cooperate with the various counties of the state, with development bureaus, with any department, officer, bureau, or institution established and maintained by the United States government, and with any other institution, board, society, or association, either within or without this state. No such agreement for cooperation, however, shall be permitted to have the effect of changing or modifying, in any way, the purpose of this act, as defined in section 2.

HISTORY: CL 1929, 5679;—CL 1948, 321.26.

321.27 Board of geological survey; right of entry on private property.

Sec. 7. For the purpose of performing their respective duties hereunder, and carrying on the work of the survey, the members of the said board, their assistants and employes, shall have the right to enter and be on private property. Such property shall, however, not be injured or damaged in any way.

HISTORY: CL 1929, 5680;—CL 1948, 321.27.

Secs. 8-9. (These were appropriation and tax clause sections.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

321.30 Annual appropriation; unexpended funds, disposition; reduction through federal aid.

Sec. 10. Any portion of the annual appropriation herein provided for, remaining unexpended at the close of any fiscal year, shall be carried forward into the next fiscal year, to the credit of the board of geological survey, for the purposes hereof, and shall

be subject to expenditure accordingly, it being the intention to make the entire amount hereby appropriated available for the purposes of this act. Any sum remaining in the appropriation on the completion of the survey, herein provided for, and after the making of the final report thereon, shall be and remain a part of the general fund of the state and subject to the incidents pertaining thereto: Provided, That in case the federal government or any department thereof renders aid to this state for the general purposes covered by this act, the appropriation hereby made shall be reduced by a like amount, which amount shall revert to the general fund of this state.

HISTORY: CL 1929, 5081;—CL 1948, 321.30.

321.31 Board of geological survey; reports to legislature, contents.

Sec. 11. The said board of geological survey shall make a report to each legislature, covering the work of the preceding 2 years. Such report shall indicate specifically the lands that have been surveyed, the general progress and condition of the work, the expenditures that have been made, and the cooperative agreements, if any, that have been entered into. On the completion of the work, a detailed financial report shall be made to the legislature, together with such recommendations and suggestions as the said board of geological survey shall deem expedient.

HISTORY: CL 1929, 5082;—CL 1948, 321.31.

321.51, 321.53 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections authorized conservation department to cooperate with authorized federal agency to prepare contour topographical survey map of Michigan and provided for payment of part of expense.

321.71-321.73 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for biological survey of Michigan, stated powers and duties of board of geological survey relative to survey expenses.

321.101-321.103 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for aerial photographing of parts of state and preparation of base maps.

321.121-321.123 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for survey of Isle Royal by University of Michigan.

Act 248, 1937, p. 390; Imd. Eff. Jul. 22.

AN ACT to provide for and authorize aerial photographing and preparing of base maps of certain portions of the state; to authorize cooperation with the federal government and joint contract therewith for certain purposes; to provide for making an appropriation to meet the expenses of the same; and to provide regulations for paying necessary expenses incident to such work.

The People of the State of Michigan enact:

321.151 Aerial photographs and ground control surveys for preparation of base maps; authorization.

Sec. 1. Base maps; authorization, federal cooperation. That the state department of conservation or its duly authorized representative, on behalf of the state of Michigan, is hereby authorized to confer with the director of the geological survey of the United States or his representatives, and to accept the cooperation of the federal government with this state in making aerial photographs and necessary ground control surveys of such portions of the state of Michigan as may be mutually agreed upon by the cooperating governments, for the preparation of (utility) base maps of such portions of the state, which work is hereby authorized to be made.

HISTORY: CL 1948, 321.151.

FORMER ACT: Act 105 of 1931 which had conferred like powers upon the state highway commissioner was superseded by the act here set forth and is omitted from the compilation.

321.152 Preparation of base maps; authority of state department of conservation; contents; right of entry on private lands.

Sec. 2. Same; features shown; share of expense, right of entry on private lands. The state department of conservation (or its representative) shall have power, on behalf of the state of Michigan, to contract with the United States government acting by its duly authorized agency therefor, for the aerial photographing and mapping, scale of photographs and maps, determining the method, form, and execution of maps, and all other details of the work necessary to prepare such base maps of such portions of the state as may be agreed upon. The state of Michigan shall receive negatives of all aerial photographs and copies of all base maps prepared, which maps shall be so prepared as to show the location of roads, railroads, streams, canals, lakes and rivers, timbered areas, and all other natural and artificial features capable of being mapped by the methods to be mutually agreed upon by the geological surveys of the state of Michigan and the federal government. The state of Michigan shall not contract to pay more than the sums paid by the federal government for these purposes. For the purpose of making these surveys herein provided for, it shall be lawful for the persons employed in making the same to enter at reasonable times upon all parts of all lands within the boundaries of this state, but this act shall not be construed as authorizing any unnecessary interference with private rights, nor the doing of any act not necessary for the preparation of such base maps.

HISTORY: CL 1948, 321.152.

Sec. 3. (This was an appropriation section.)

HISTORY: Rep. 1945, p. 413, Act 367, Imd. Eff. May 25;—Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

321.154 Preparation of base maps; payment of expenses.

Sec. 4. Payment. The sums authorized to be paid by the provisions of this act shall be first certified to be correct by the state department of conservation and shall be paid out of the state treasury upon warrant of the auditor general.

HISTORY: CL 1948, 321.154.

CHAPTER 322. CONSERVATION—STATE LANDS

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Act 230 of 1941

- 322.1 Real estate acquired by state; sale or lease, authorization.
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- 322.111 Conveyance of lands; approval; record, admissible as evidence.

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- 322.121 Deeds of conveyance to state; recording, registration.
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- 322.151 Swamp lands; adoption of notes of surveys on file.
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- 322.231** Commissioner of state land office; delivery of records as to land titles and surveys, certified copies admissible as evidence.
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EASEMENTS FOR PUBLIC UTILITIES

Act 10 of 1953

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GREAT LAKES SUBMERGED LANDS ACT
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322.701	Great Lakes submerged lands act; short title.		Agreements for lands or water areas with local units. Flood control, shore erosion control, drainage and sanitation control. Leases or agreements for marina purposes; definition.
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		322.714	Application for permit; copies, local units, adjacent riparian owners; objections; hearing, time, notice.
		322.715	Permit; issuance; conditions; waterways, maintenance.

Act 230, 1941, p. 346; Imd. Eff. Jun. 16.

AN ACT to authorize the auditor general of the state of Michigan to sell or lease real estate, the title to which is vested in the state of Michigan by grant, devise or gift, or in payment for care or medical treatment rendered in any Michigan state hospital or institution.

The People of the State of Michigan enact:

322.1 Real estate acquired by state; sale or lease, authorization.

Sec. 1. Whenever the title to any real estate has vested in the state of Michigan by grant, devise or gift, or in payment for care or medical treatment rendered in any Michigan state hospital or institution, such real estate or any part thereof may be sold or leased by the auditor general of this state, with the approval of the state administrative board.

HISTORY: CL 1948, 322.1.

322.2 Appraisal of real estate; sale to highest bidder, notice.

Sec. 2. The auditor general shall cause such real estate to be appraised by 2 disinterested and qualified appraisers, residents of the county in which such real estate is located, and then he shall receive bids on the same and it shall be sold to the highest bidder but in no case at less than the appraised value: Provided, That the same shall not be sold until advertisement offering said property for sale shall have been published at least 3 successive weeks prior to said sale in some newspaper printed and circulated in the county in which the real estate is situated. If there be no newspaper printed and circulated in the county where such real estate is situated, then and in that case said notice shall be published in a newspaper printed and circulated nearest to where such real estate is situated.

HISTORY: CL 1948, 322.2.

322.3 Terms of sale; credit, limitation, security.

Sec. 3. On such sale, the auditor general may give such length of credit, not to exceed 5 years, and for not more than 3/4 of the purchase money, as he shall deem best calculated to produce the highest price, and shall require the money for which credit is given to be secured by a mortgage on the real estate sold.

HISTORY: CL 1948, 322.3.

322.4 Notice of sale; deed of conveyance, documents attached; quitclaim deed.

Sec. 4. An affidavit of the publisher of the notice of sale shall be attached to the deed of the auditor general conveying such real estate, together with a copy of such notice of sale, showing the dates of publication of such notice. A copy of the resolution of the state administrative board approving such sale, certified by the secretary of such board, shall also be attached to such deed of conveyance. The conveyance of such property shall be by quitclaim deed, executed by the auditor general of the state of Michigan for and on behalf of the people of the state of Michigan.

HISTORY: CL 1948, 322.4.

322.5 Proceeds of sale; disposition.

Sec. 5. The money derived from such lease or sale, after the payment of the costs and expenses of such lease or sale, shall be paid into the state treasury and credited to the account of the general fund or to such other fund as the same would be credited had the amount been received as reimbursement directly from the person or persons liable for the care or medical treatment rendered in any Michigan state hospital or institution.

HISTORY: CL 1948, 322.5.

Act 37, 1848, p. 30; Imd. Eff. Feb. 11.

AN ACT to provide for recording the evidences of the approval by the general government of the selections of lands made by this state under act of congress, and for other purposes.

Be it enacted by the senate and house of representatives of the state of Michigan:

322.101 Approval of selections of lands; recording by secretary of state.

Sec. 1. That the certificates of the secretary of the treasury of the United States, of his approval, or the certificates and letters of the commissioner of the general land office of the United States of the approval by the secretary of the treasury of the selection of any lands heretofore granted, or which hereafter may be granted by the congress of the United States to this state, and which certificates and letters have been or hereafter may be received by the secretary of state, shall, together with their accompanying lists or descriptions of land be recorded by him in a book kept for that purpose.

HISTORY: CL 1857, 152;—CL 1871, 217;—How. 5218;—CL 1897, 1269;—CL 1915, 406;—CL 1929, 5797;—CL 1948, 322.101.

This act was listed in Act 211 of 1927 to repeal obsolete and inoperative laws. Act 211 of 1927 was held to have repealed nothing in *C. N. Ray Corp. v. Secy. of State*, 241 Mich. 457, 217 N.W. 334. This act was not repealed by Act 309 of 1929, being CL 1929, 121, enacted to repeal obsolete and inoperative laws.

322.102 Record or certified copy; evidence of title.

Sec. 2. Such record or a transcript thereof, certified by the secretary of state, under his seal of office, shall be received in any court of this state, as evidence of title in the state, to any of the lands therein mentioned.

HISTORY: CL 1857, 153;—CL 1871, 218;—How. 5219;—CL 1897, 1270;—CL 1915, 409;—CL 1929, 5798;—CL 1948, 322.102.

Act 87, 1873, p. 121; Imd. Eff. Apr. 15.

AN ACT to provide for recording certain evidence concerning titles to land.

The People of the State of Michigan enact:

322.111 Conveyance of lands; approval; record, admissible as evidence.

Sec. 1. When by any treaty or law of the United States it shall have been, or shall hereafter be required that permission or consent or approval of the United States be given to the lease, sale, alienation, or conveyance of any lands situate in this state, such permission, consent, or approval by the president of the United States to such sale, lease, alienation or conveyance, and the petition or prayer in writing soliciting that the consent, permission, or approval be made, may be recorded in the office of the register of deeds of the county in which the lands or any of them may be situated; and the record or a transcript of the record, certified by the register in whose office the same may have been recorded, may be read in evidence in any court within this state without further proof thereof; but the effect of such evidence may be rebutted by other competent evidence.

HISTORY: How. 5220;—CL 1897, 1271;—CL 1915, 410;—CL 1929, 5799;—CL 1948, 322.111.

This act was listed in Act 211 of 1927 to repeal obsolete and inoperative laws. Act 211 of 1927 was held to have repealed nothing in *C. N. Ray Corp. v. Secy. of State*, 241 Mich. 457, 217 N.W. 334. This act was not repealed by Act 309 of 1929, being CL 1929, 121, enacted to repeal obsolete and inoperative laws.

Act 12, 1843, p. 12; Eff. Mar. 4.

AN ACT for the better security of the titles of lands belonging to the state.

Be it enacted by the senate and house of representatives of the state of Michigan:

322.121 Deeds of conveyance to state; recording, registration.

Sec. 1. That all deeds of conveyance to the state of any lands situated in this state or elsewhere, shall be recorded in the counties where the lands lie, and shall be duly registered and kept in the office of secretary of state of this state.

HISTORY: CL 1857, 146;—CL 1871, 211;—How. 5212;—CL 1897, 1272;—CL 1915, 411;—CL 1929, 5800;—CL 1948, 322.121.

This act was listed in Act 211 of 1927 to repeal obsolete and inoperative laws. Act 211 of 1927 was held to have repealed nothing in *C. N. Ray Corp. v. Secy. of State*, 241 Mich. 457, 217 N.W. 334. This act was not repealed by Act 309 of 1929, being CL 1929, 121, enacted to repeal obsolete and inoperative laws.

COMPILER'S NOTE: Photostatic copies of the records required to be kept by the secretary of state under this act are kept by the lands division of the department of conservation.

322.122 Confirmation of locations; recording.

Sec. 2. All confirmations of university locations, of school lands for filling up fractional sections of state lands of every description that may require confirmations, and sections for salt springs and the use of salt springs, shall be also kept and recorded in the office of secretary of state.

HISTORY: CL 1857, 147;—CL 1871, 212;—How. 5213;—CL 1897, 1273;—CL 1915, 412;—CL 1929, 5801;—CL 1948, 322.122.

322.123 Acts granting lands to state; collection, recording.

Sec. 3. All acts and parts of acts by which any grants of lands have been, or hereafter may be made to this state, shall be collected and recorded in the record book aforesaid.

HISTORY: CL 1857, 148;—CL 1871, 213;—How. 5214;—CL 1897, 1274;—CL 1915, 413;—CL 1929, 5802;—CL 1948, 322.123.

322.124 Other evidences of title; recording.

Sec. 4. All other evidences of title, by which this state holds any lands shall be in like manner recorded in the office of the secretary of state, so that his office shall contain the whole collection of all the land titles of the state of Michigan.

HISTORY: CL 1857, 149;—CL 1871, 214;—How. 5215;—CL 1897, 1275;—CL 1915, 414;—CL 1929, 5803;—CL 1948, 322.124.

322.125 Plat of titles; secretary of state.

Sec. 5. When the titles aforesaid are fully collected and arranged, the secretary of state shall cause the same to be platted, in such a manner as to show them accurately and distinctly on such plats.

HISTORY: CL 1857, 150;—CL 1871, 215;—How. 5216;—CL 1897, 1276;—CL 1915, 415;—CL 1929, 5904;—CL 1948, 322.125.

322.126 New locations of state lands; record and plat.

Sec. 6. All new locations of state lands, for any purpose, shall be immediately entered of record and platted as aforesaid.

HISTORY: CL 1857, 151;—CL 1871, 216;—How. 5217;—CL 1897, 1277;—CL 1915, 416;—CL 1929, 5905;—CL 1948, 322.126.

Act 126, 1939, p. 237; Eff. Sep. 29.

AN ACT to provide for the protection of state owned and tax delinquent lands; to prohibit the unauthorized removal of forest products or other property therefrom; to provide penalties for the violation of any of the provisions of this act; and to repeal certain acts relating thereto.

The People of the State of Michigan enact:

322.131 State-owned or tax delinquent lands; removal of forest products, minerals and buildings prohibited; unlawful purchase.

Sec. 1. It shall be unlawful for any person not thereto lawfully authorized, to enter upon or induce or direct any person to enter upon any state owned land or lands offered at tax sale and bid in by the state of Michigan for the non-payment of taxes and on which there is a tax lien by virtue of such tax sale, and cut, or induce or direct to be cut, or to remove or to induce or direct to be removed, any logs, posts, poles, ties, shrubs or trees for decoration, or any other forest products whatever, from the same; and it shall be unlawful for any person to injure or remove, or to induce or direct any other person to injure or remove any buildings, fences, improvements, sand, gravel, marl or other minerals, or other property belonging or appertaining to the lands referred to above. It shall also be unlawful for any person to accept and receive by purchase or otherwise any forest products, improvements or other property so unlawfully cut and/or removed, knowing the same to have been so unlawfully cut and/or removed, and such person shall be punished in the same manner as if charged with the offense or offenses first mentioned in this section.

HISTORY: CL 1948, 322.131.

WASTE: See also Compilers' §§ 211.157 and 211.511.

322.132 Violation of preceding section; penalty.

Sec. 2. When any person shall violate any of the provisions of section 1 of this act and when such trespass is found by the enforcing officer to have been casual and involuntary, such officer may adjust and collect from said person the amount of damages caused by said trespass.

HISTORY: CL 1948, 322.132.

322.133 Wilful trespass upon state-owned or tax delinquent lands; liability; wilful, definition.

Sec. 3. When any person shall violate any of the provisions of section 1 of this act and when such trespass is found by the court or jury to have been wilful, such person shall be liable to the state of Michigan for 3 times the damages caused by such unlawful act, or the material or other property so cut or removed may be seized by the state and title thereto shall be in the state. The word "wilful" as used in this act, in addition to its ordinary meaning, shall include the failure on the part of any person to exercise

ordinary care in determining the true boundaries of the state land which he has entered upon contrary to the provisions of section 1 of this act.

HISTORY: CL 1948, 322.133;—Am. 1951, p. 296, Act 211, Eff. Sep. 28.

322.134 Wilful trespass upon state-owned or tax delinquent lands; value of property \$200 or less; misdemeanor, penalty.

Sec. 4. When any person shall violate any of the provisions of section 1 of this act, and when such trespass is found by the court or jury to have been wilful and the amount of damages does not exceed \$200.00, such person shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$100.00 and costs of prosecution or by imprisonment in the county jail for a period not to exceed 90 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 322.134;—Am. 1951, p. 296, Act 211, Eff. Sep. 28.

322.135 Wilfull trespass upon state-owned or tax delinquent lands; value of property exceeds \$200; felony, penalty.

Sec. 5. When any person shall violate the provisions of this act, and when such trespass is found by the court or jury to have been wilful, and the amount of damages exceeds \$200.00, such person shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not less than \$100.00 and not exceeding \$500.00 or imprisonment in the state prison for not more than 2 years, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 322.135;—Am. 1951, p. 296, Act 211, Eff. Sep. 28.

322.136 State police and conservation officers; powers and duties; affidavit, writ of attachment.

Sec. 6. It shall be the duty of the Michigan state police and director of conservation, and any special assistants or conservation officers appointed by said director, to enforce the provisions of this act and said director, special assistants or conservation officers shall have the same power to serve criminal process as deputy sheriffs, and shall have the same right as deputy sheriffs to require aid in executing such process.

Any of said officers may arrest, without warrant, any person who is or has been observed in the act of violating the provisions of section 1 hereof. Such officers may seize in the name of the people of the state of Michigan any of the aforementioned forest products unlawfully cut or removed or any other property unlawfully removed wherever same may be found within the jurisdiction of the state when in their discretion such action is deemed advisable or necessary to safeguard the interests of the state. Property so seized may be disposed of to the best advantage of the state. Whenever any of said officers shall make an affidavit that any person has committed trespass on any of the lands mentioned in section 1 of this act or has in any other manner violated the provisions of said section 1, stating the approximate amount of damages occasioned thereby, and that said person is either not a resident of this state, or has absconded therefrom, or is about to abscond to avoid service of process, and such affidavit is presented to a court having jurisdiction, a writ of attachment shall be issued, and such affidavit attached thereto, as the commencement of suit against such alleged trespasser.

HISTORY: CL 1948, 322.136.

322.137 Reports and records.

Sec. 7. Complete and detailed reports of all field activities and apprehensions under this act, together with moneys collected hereunder, shall be submitted to the director

of conservation, who shall keep a complete and itemized record thereof. All moneys so collected shall be paid over to the state treasurer for the benefit of the fund to which same may properly belong.

HISTORY: CL 1948, 322.137.

322.138 Damages; definition.

Sec. 8. Damages as used in this act shall be construed to mean the fair market value on the stump of the forest products cut and/or removed or the fair and actual value of any other property removed in trespass plus any and all damages caused by such removal.

HISTORY: CL 1948, 322.138.

Sec. 9. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 287, Imd. Eff. May 25.

ACTS REPEALED: Secs. 60, 62-66, Ch. 60, R.S. 1846, CL 1929, 5944, 5946-5950; Act 100, 1857, CL 1929, 5888-5897; Act 201, 1897, CL 1929, 5882; Act 145, 1903, CL 1929, 5896-5899; Act 226, 1903, CL 1929, 5883-5887; Sec. 552, Act 328, 1931.

Sec. 10. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 287, Imd. Eff. May 25.

Act 187, 1851, p. 322; Imd. Eff. Jun. 28.

AN ACT to provide for the sale and reclaiming of swamp lands granted to the state, and for the disposition of the proceeds.

The People of the State of Michigan enact:

322.151 Swamp lands; adoption of notes of surveys on file.

Sec. 1. That they adopt the notes of the surveys on file in the surveyor general's office, as the basis upon which they will receive the swamp lands granted to the state by an act of congress of September 28, 1850.

HISTORY: CL 1857, 2538;—CL 1871, 3912;—How. 5381;—CL 1897, 1279;—CL 1915, 418;—CL 1929, 5907;—CL 1948, 322.151.

Secs. 2-5.

HISTORY: Rep. 1857, p. 384, Act 140, Eff. May 19.

322.156 Swamp lands; sale, restrictions.

Sec. 6. Said lands shall only be sold, in the same legal subdivisions, in which they shall be received by the state, nor shall any of said lands be subject to private entry, until the same shall have been offered for sale at public auction as herein above provided.

HISTORY: CL 1857, 2539;—CL 1871, 3913;—How. 5382;—CL 1897, 1280;—CL 1915, 419;—CL 1929, 5908;—CL 1948, 322.156.

322.157 Swamp lands; commissioner of state land office, procurement of records.

Sec. 7. The commissioner of the land office is hereby authorized to procure all necessary books, maps, or plats of such lands as may be required for the speedy and systematic transaction of the business of the office, and all proper charges for the same shall be paid out of the fund aforesaid.

HISTORY: CL 1857, 2540;—CL 1871, 3914;—How. 5383;—CL 1897, 1281;—CL 1915, 420;—CL 1929, 5909;—CL 1948, 322.157.

NOTE: The fund referred to arose from the sale of lands under this act.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

Act 76, 1853, p. 116; Eff. Jul. 5.

AN ACT to authorize the state treasurer to receive from the general government certain moneys arising from the sale of swamp lands, and to authorize the commissioner of the state land office to take an assignment of all warrants received for any of

the swamp lands sold in this state since the act of congress, approved September twenty-eighth 1850.

The People of the State of Michigan enact:

322.161 Swamp lands; interest of state, release.

Sec. 1. That the state treasurer be and he is hereby authorized to receive from the general government any moneys that may have been received, or that may hereafter be received for any of the swamp lands donated to this state and that the commissioner of the state land office be authorized to take an assignment of all bounty land warrants received for any swamp lands sold in this state since the act of congress approved September twenty-eighth 1850, and to release the interest of the state in any lands sold or entered with said warrants to purchasers or their assigns.

HISTORY: CL 1857, 2536;—CL 1871, 3910;—How. 5384;—CL 1897, 1282;—CL 1915, 421;—CL 1929, 5810;—CL 1948, 322.161.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.162 Swamp lands; right of pre-emption secured to occupant, limitation.

Sec. 2. That in case any person at the time of the passage of the act of congress granting to the state of Michigan the swamp lands in this state was in actual possession of any of said lands, and had made improvements thereon, with the intention of securing a pre-emption right, by virtue of the laws of congress, or in case of actual purchase of the United States his heirs or assigns, he shall be entitled to purchase said lands at the minimum price of \$1.25 per acre, within 1 year after this act takes effect; Provided satisfactory evidence of such possession, improvements and intention be filed with the commissioner of the state land office before said lands are offered for sale, or before said lands are sold to any other person; And provided also, That no person shall be entitled to claim by pre-emption right, more than 160 acres.

HISTORY: CL 1857, 2537;—CL 1871, 3911;—How. 5385;—CL 1897, 1283;—CL 1915, 422;—CL 1929, 5811;—CL 1948, 322.162.

Act 140, 1863, p. 201; Imd. Eff. Mar. 18.

AN ACT to provide for the selection, care and disposition of the lands donated to the state of Michigan, by act of congress, approved July second, 1862, for the endowment of colleges for the benefit of agriculture and the mechanic arts.

The People of the State of Michigan enact:

322.171 Agricultural college lands; control and management.

Sec. 1. The state board of agriculture shall have the control and management of the care and disposal of the lands granted to this state by act of congress approved July second, 1862 providing for the endowment of colleges for the benefit of agriculture and the mechanic arts.

HISTORY: CL 1871, 3927;—How. 5368;—Am. 1893, p. 305, Act 189, Imd. Eff. June 1;—CL 1897, 1434;—CL 1915, 648;—CL 1929, 5812;—CL 1948, 322.171.

AGRICULTURAL COLLEGE LANDS: Acceptance of grant, see Act 46, 1863, CL 1929, 5806, which provided as follows: Sec. 1. The People of the State of Michigan enact, That the grant of land accruing to the state of Michigan, under and by virtue of an act of congress, donating public lands to the several states and territories, which may provide colleges for the benefit of agriculture and the mechanic arts, "approved July second 1862," be and the same is hereby accepted, in accordance with all the conditions and provisions in said act contained.

Act 299 of 1907 withdrew agricultural college lands from sale in Iosco and Alcona counties and set them apart as a forest reserve, but was repealed by Act 123 of 1927. By Act 124 of 1927 the state board of agriculture was authorized to convey to the United States government all or any part of the agricultural college lands in Iosco, Alcona, Alpena, Cheboygan, Missaukee, Oscoda and Wexford counties.

COMPILERS' NOTE: Act 46, 1863, CL 1929, 5806, provided as follows: "That the grant of land accruing to the state of Michigan, under and by virtue of an act of congress, donating public lands to the several states and territories, which may provide colleges for the benefit of agriculture and the mechanic arts, approved July second, 1862, be and the same is hereby accepted, in accordance with all the conditions and provisions in said act contained."

This act has been omitted from this compilation.

322.172 College lands; description, title.

Sec. 2. The commissioner of the state land office, shall, as fast as such selections are made and returned to him, forward to the secretary of the interior of the United States, full and complete descriptions of all such lands, and obtain the necessary title to the state of Michigan for the same.

HISTORY: CL 1871, 3928;—How. 5369;—CL 1897, 1435;—CL 1915, 649;—CL 1929, 5813;—CL 1948, 322.172.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 390.2 respectively.

322.173 College lands; sale, minimum price, terms, forfeiture.

Sec. 3. All of said lands, excepting as hereinafter provided, shall be sold for not less than 3 dollars per acre, 1/4 of the purchase price to be paid at the time of purchase, and the balance at any time thereafter, at the option of the purchaser, with interest on the unpaid balance at the rate of 7 per cent per annum, payable annually into the state treasury, in accordance with, and subject to all the terms and conditions of payment, and forfeitures for non-payment of all interest and taxes due thereon, as is now provided by the laws regulating the sale and forfeiture of primary school lands: Provided however, That all of said lands which are valuable principally for the timber thereon, shall be sold for not less than 5 dollars per acre, the whole of the purchase money therefor to be paid at the date of purchase.

HISTORY: Am. 1869, p. 51, Act 34, Imd. Eff. March 16;—CL 1871, 3929;—How. 5370;—CL 1897, 1436;—CL 1915, 650;—CL 1929, 5814;—CL 1948, 322.173.

TIMBER LANDS: Proportion of down payment required, see Compilers' § 322.181.

TIMBER: Sale of, see Compilers' § 390.81.

322.174 College lands; proceeds of sale, disposition.

Sec. 4. The proceeds of the sale of said land shall be applied and used according to the conditions of the act of congress granting the same to the state.

HISTORY: CL 1871, 3930;—How. 5371;—CL 1897, 1437;—CL 1915, 651;—CL 1929, 5815;—CL 1948, 322.174.

322.175 College lands; commissioner of state land office, duties; certificate of sale, contents.

Sec. 5. The commissioner of the state land office shall, by the direction of the state board of agriculture, sell said lands in quantities of not less than any legal subdivision, according to the original United States survey; and on such sale being made, the commissioner of the state land office shall issue his certificate of sale in the usual form, setting forth the quantity and description of the land sold, the price per acre, the amount paid at the time of purchase, the balance due, with the annual rate of interest, and the time the interest is payable, as is required by law for the payment of interest on contracts for the purchase of primary school lands, and that the purchaser will be entitled to a patent from this state on payment in full of the principal and interest, together with all taxes assessed on such land.

HISTORY: CL 1871, 3931;—How. 5372;—Am. 1893, p. 305, Act 180, Imd. Eff. June 1;—CL 1897, 1438;—CL 1915, 652;—CL 1929, 5816;—CL 1948, 322.175.

AGRICULTURAL LANDS: Disposal for certain rights of way, see Compilers' § 322.391.

322.176 College lands; certificates of purchase, effect, recording.

Sec. 6. Certificates of purchase issued pursuant to the provisions of law, shall entitle the purchaser to the possession of the lands therein described, and shall be sufficient evidence of title to enable the purchaser, his heirs or assigns, to maintain actions of trespass for injuries done to the same, or ejectment, or any other proper action or proceeding to recover possession thereof, unless such certificate shall have become void by forfeiture; and all certificates of purchase in force may be recorded in the same manner that deeds of conveyance are authorized to be recorded.

HISTORY: CL 1871, 3932;—How. 5373;—CL 1897, 1439;—CL 1915, 653;—CL 1929, 5817;—CL 1948, 322.176.

322.177 College lands; patents, issuance.

Sec. 7. The governor of this state shall sign and cause to be issued patents for said lands, as soon as practicable after payment is made in full of principal, interest and all taxes, as aforesaid.

HISTORY: CL 1871, 3933;—How. 5374;—CL 1897, 1440;—CL 1915, 654;—CL 1929, 5818;—CL 1948, 322.177.

322.178 College lands; proceeds of sale, deposit; interest, use.

Sec. 8. The money received from the sale of said lands shall be paid into the state treasury, and shall be placed in the general fund, but the amount thereof shall be placed to the credit of the agricultural college fund upon the books of the auditor general, and the annual interest thereon computed at 7 per cent, shall be regularly applied under the direction of the state board of agriculture to the support and maintenance of the state agricultural college, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and mechanic arts, in order to promote the liberal and practical education of industrial classes in the several pursuits and professions of life.

HISTORY: Am. 1871, p. 87, Act 68, Imd. Eff. March 31;—CL 1871, 3934;—Am. 1875, p. 55, Act 60, Imd. Eff. March 28;—How. 5375;—CL 1897, 1441;—CL 1915, 655;—CL 1929, 5819;—CL 1948, 322.178.

AGRICULTURAL COLLEGE: See Compilers' § 390.101 et seq.

322.179 College lands; examination by board of agriculture; agents, appointment, report, contents; price alteration, effective date, publication.

Sec. 9. The state board of agriculture, shall from time to time, in their discretion as they may deem necessary to protect the best interests of the state, cause the lands under their care to be examined and their value and condition ascertained. To this end they may appoint 1 or more agents who shall make careful, personal examination of the lands which they are appointed to examine and report fully as to their character, value and condition at the time of such examination and in case any of said lands have been trespassed upon and their value deteriorated thereby, the agent examining such lands shall carefully estimate and report the amount and character of timber probably cut and removed, the date of the cutting and if possible, by whom or for whom the cutting was done. Upon receiving such reports of examination, the state board of agriculture shall consider them and if in the opinion of the board the best interests of the state would be promoted by changing the price or terms of sale of any or of all the lands concerned, the said board may alter by reducing or advancing the price per acre or the conditions of payment: Provided, That not less than 25 per cent of the purchase money shall be paid at the time of purchase. And when [the] price and terms are so fixed the said board shall fix the time when the change, if any be made will take effect, and cause the same to be published.

HISTORY: CL 1871, 3935;—How. 5376;—Am. 1893, p. 305, Act 189, Imd. Eff. June 1;—CL 1897, 1442;—CL 1915, 656;—CL 1929, 5820;—CL 1948, 322.179.

322.180 College lands; examining agents, expenses, payment.

Sec. 10. The said state board of agriculture shall certify from time to time to the auditor general the amounts required for the services and expenses of examining agents and for such other expenses as may be necessary for the proper care and disposition of said lands and the auditor general shall draw his warrant upon the state treasurer for the amounts thus certified, and the state treasurer shall pay the same out of the general fund. All contracts and certificates of said board shall be signed by the chairman and countersigned by the secretary of the state board of agriculture.

HISTORY: CL 1871, 3936;—How. 5377;—Am. 1893, p. 306, Act 189, Imd. Eff. June 1;—CL 1897, 1443;—CL 1915, 657;—CL 1929, 5821;—CL 1948, 322.180.

322.181 Timber lands; down payment.

Sec. 11. In the sale of lands, the principal value of which consists in the timber, the commissioner of the state land office shall require the payment of the entire amount of purchase money at the time of purchase, or such portion of the same, above 1/4, as he may deem for the best interest of the state.

HISTORY: CL 1871, 3937;—How. 5378;—CL 1897, 1444;—CL 1915, 658;—CL 1929, 5822;—CL 1948, 322.181.

R.S. 1846, Ch. 59.

STATE LAND OFFICE**Secs. 1-7.**

HISTORY: Sec. 6 Am. 1851, p. 166, Act 130, Imd. Eff. April 7;—CL 1857, 2422-2426;—CL 1871, 3792-3796;—How. 5221-5225;—CL 1897, 1284-1288;—CL 1915, 423-427.

These sections were repealed by Act 309 of 1929, being CL 1929, 121. For other legislation relative to the land office, see Act 42 of 1843;—Act 68 of 1844;—Act 115 of 1845;—Act 214 of 1850;—Act 153 of 1855. See also Act 280 of 1909, being Compilers' § 322.202 et seq., creating a public domain commission; and Act 270 of 1913, being Compilers' § 322.221, abolishing the office of the commissioner of the state land office.

322.188 Commissioner of state land office; record of sales, contents.

Sec. 8. The commissioner shall keep a record of the sales of lands, and of the moneys received by him on account either of principal or interest, the date of such sale or payment, the description of the lands sold, with the number of acres thereof, and the name of each purchaser, or person paying such moneys, to whom he shall give a receipt for such moneys, and shall credit the proper fund therewith.

HISTORY: CL 1857, 2427;—CL 1871, 3797;—How. 5226;—CL 1897, 1289;—CL 1915, 428;—CL 1929, 5823;—CL 1948, 322.188.

Secs. 9-10.

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

These sections related to the disposition of moneys received by the commissioner.

322.191 Commissioner of state land office; powers.

Sec. 11. The said commissioner shall have the general charge and supervision of all lands belonging to the state, or which may hereafter become its property, and also of all lands in which the state has an interest, or which are or may be held in trust by the state for any purpose mentioned in this title, and may superintend, lease, sell, and dispose of the same in such manner as shall be directed by law.

HISTORY: CL 1857, 2428;—CL 1871, 3798;—How. 5227;—CL 1897, 1290;—CL 1915, 429;—CL 1929, 5824;—CL 1948, 322.191.

See also notes to Secs. 1-7 hereof.

Sec. 12. (This was an annual report section.)

HISTORY: CL 1857, 2429;—CL 1871, 3799;—How. 5228;—CL 1897, 1291;—CL 1915, 430;—CL 1929, 5825;—Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Secs. 13-17.

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

These sections, providing for a recorder of the land office, were abrogated by the abolishment of the office, by Act 217 of 1849.

Act 280, 1909, p. 511; Imd. Eff. Jun. 2.

AN ACT to create a commission to be known as a public domain commission; to provide for the appointment of such a commission and to fix their terms of office; to prescribe their powers and duties; to make an appropriation to carry out the provisions of this act; and to repeal all acts and parts of acts inconsistent herewith.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: CL 1915, 445;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

This act appears here as it was amended and revised in 1911, p. 511, Act 294, Imd. Eff. May 1. Sec. 1, which created the commission, provided who were to be members of it and their terms of office, was rendered obsolete by Act 17 of 1921, being Compilers' § 299.1 et seq., abolishing the commission and transferring its powers and duties to the department of conservation. This act and Act 270 of 1913, being Compilers' § 322.221, largely superseded the preceding sections in this chapter.

322.202 Public domain commission; meeting; officers; record of trespasses on state lands; state forester, appointment, powers and duties; salaries; authority of commission.

Sec. 2. As soon as practicable after the going into effect of this law, the said commission shall meet in the office of the commissioner of the state land office at Lansing, and shall organize by selecting 1 of its members chairman, and shall appoint a secretary, assistant secretary and bookkeeper, and shall arrange for a time and place or places for holding regular meetings of the commission and for such special meetings as shall be necessary. The secretary and assistant secretary shall be chosen from among men known to have a good general knowledge of all matters pertaining to the laws governing the custody and disposition of state lands and shall perform such duties as the commission shall require. The secretary shall take and subscribe the constitutional oath of office and shall file the same in the office of the secretary of state. Said commission shall also appoint a supervisor of field division who shall have general supervision over field operations and field men and over all matters of trespass on state lands, the trespass agents, and such other persons under the control of the commission, as said commission may direct. Said supervisor of field division shall keep a full and complete record showing all descriptions of state lands upon which trespass has been committed, the name of the trespasser, the amount of trespass, the final disposition of each case and the amount of money received on account of such trespass, the number of cases prosecuted and the result of such prosecution. He shall also perform such other duties as the commission shall from time to time require. The public domain commission shall have power to appoint a state forester and shall prescribe his powers and duties, and he shall have general supervision over all persons appointed or employed for the performance of duties or services in respect to forestry. The secretary, assistant secretary, bookkeeper, state forester and supervisor of field division shall each receive such salary as may be determined upon by the public domain commission and shall hold office at the pleasure of said commission, or until the appointment of their successors thereby, said salaries to be paid upon the warrant of the auditor general, upon the approval of the chairman and secretary of the public domain commission and paid from the appropriation hereinafter provided. The public domain commission shall have authority to prescribe and enforce any and all such rules and regulations not inconsistent with the provisions of this act, as it shall deem necessary to carry out the intents and purposes of this act. Said commission may also delegate to the secretary of the commission the authority given it under existing law or laws which may hereafter be enacted to sign on behalf of said commission all certificates, contracts, deeds of sale of state lands and other papers and documents, and may require him to perform any other duties not inconsistent with the duties herein prescribed, for the members thereof.

HISTORY: Am. 1913, p. 630, Act 333, Imd. Eff. May 13;—Am. 1915, p. 213, Act 128, Imd. Eff. May 6;—CL 1915, 446;—CL 1929, 5838;—CL 1948, 322.202.

322.203 Public domain; definition.

Sec. 3. The words "public domain" shall include all lands now owned by the state subject to entry and all lands that shall hereafter be deeded to the state by the auditor general under the provisions of existing laws.

HISTORY: CL 1915, 447;—CL 1929, 5839;—CL 1948, 322.203.

322.204 Public domain commission; power and jurisdiction; Michigan forestry commission, transfer of authority; members, compensation.

Sec. 4. Said commission shall have power and jurisdiction over and have the management, control and disposition according to law of the public lands, forest reserve and forest interests, of all the interests of the state in connection with stream protection and control and all matters within the jurisdiction, custody and control of the

Michigan forestry commission, and all the authority and discretion vested in them by law are hereby transferred to and vested in the public domain commission aforesaid, which is hereby created a body corporate to be known as the public domain commission. The members shall be reimbursed for all their expenses only and shall not receive any compensation for time or services.

HISTORY: Am. 1913, p. 631, Act 333, Imd. Eff. May 13;—CL 1915, 448;—CL 1929, 5840;—CL 1948, 322.204.

322.205 Public domain commission; authority as to duties of commissioner of state land office and auditor general.

Sec. 5. The duties of the commissioner of the state land office and auditor general shall be as under the laws now in force or that may hereafter be in force, but said commissioner of the state land office and auditor general shall be subject to the supervision, control and direction of said commission. Said commissioner of the state land office and auditor general shall also perform such other duties not inconsistent with existing laws as said commission shall from time to time require.

HISTORY: Am. 1913, p. 631, Act 333, Imd. Eff. May 13;—CL 1915, 448;—CL 1929, 5841;—CL 1948, 322.205.

322.206-322.209 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections made public domain commission constitute immigration commission, provided for commissioner of immigration and deputy commissioner, provided for collection and distribution of literature concerning land available to immigrants and required annual report.

322.210 Public domain commission; investigation of state tax lands, deed to state.

Sec. 10. Said commission shall, as soon as possible after its organization, cause an investigation to be made for the purpose of determining what state tax lands are so circumstanced as to be deeded by the auditor general to the state, and said lands shall be so deeded without unnecessary delay.

HISTORY: CL 1915, 454;—CL 1929, 5846;—CL 1948, 322.210.

This section was Sec. 6 of the act as originally enacted. As the act did not then contain the sections concerning the immigration commission, the commission referred to herein is the public domain commission.

322.211 State lands; appraisal and sale; state forest reserves, establishment; individual forest reserves.

Sec. 11. As soon as the state shall acquire absolute title under existing laws the lands shall be under the control of said commission, and said commission may appraise and sell such lands as can be used for agricultural purposes, and it may cause such lands as are unfit for agricultural purposes to be used for forestry reserve purposes and at no time shall the amount set aside be less than 200,000 acres including present state forest reserves: Provided, That in selecting a territory in which to establish a state forest reserve if there shall be found within the boundaries thereof 1 or more tracts or parcels of land that are suitable for agricultural purposes the public domain commission shall not be required to appraise and sell such tract or tracts, but may include the same in the proposed forest reserve and may use the same for the purpose of reforestation or may apply it to any other use which in the judgment of the commission will best promote the interests of the state. They shall also have power to provide that all homestead applications shall contain a provision which will make it a part of the contract with the state that a certain number of acres of each 40 acres homesteaded shall be set aside as an individual forest reserve.

HISTORY: CL 1915, 455;—Am. 1917, p. 277, Act 151, Imd. Eff. April 27;—CL 1929, 5847;—CL 1948, 322.211.

322.212 State lands; reservation of mineral, coal, oil and gas rights; royalty contracts, reservation of ingress and egress rights, sale of rights; mineral rights, construction.

Sec. 12. When any sales are made by the commission the deeds by which said lands are conveyed may reserve all mineral, coal, oil and gas rights to the state but shall not reserve the rights to sand, gravel, clay or other nonmetallic minerals. The commission shall have power to make contracts with private individuals or corporations for taking

ore, coal, gas, or oil from said lands upon a royalty basis upon such terms as the commission may deem just and equitable. The commission shall also have power to provide that all deeds issued for lands along water courses and streams shall contain a clause reserving the rights of ingress and egress, over and across said lands. Wherever an exchange of land is made, either with the United States government, a corporation, or an individual, for the purpose of consolidating the state forest reserves, the commission may issue such deeds to the United States government, corporation, or individual, without reserving to the state the mineral, coal, oil, and gas rights and the rights of ingress and egress. The commission is hereby authorized to sell the limestone, sand, gravel or other nonmetallic minerals. The commission is authorized to sell all reserved mineral, coal, oil and gas rights to such lands upon such terms and conditions as the commission may deem proper. The owner of such lands as shown by the records shall be given priority in case the commission shall authorize any sale of such lands and unless he shall waive such rights, the commission shall not sell such rights to any other person. For the purpose of this section, "mineral rights" shall not include "sand, gravel, clay or other nonmetallic minerals".

HISTORY: Am. 1913, p. 633, Act 333, Imd. Eff. May 13;—CL 1915, 456;—Am. 1917, p. 662, Act 262, Eff. Aug. 10;—Am. 1929, p. 804, Act 320, Imd. Eff. May 28;—CL 1929, 5848;—CL 1948, 322.212;—Am. 1964, p. 120, Act 125, Imd. Eff. May 16.

Act 320 of 1929 amends Act 294 of 1911. See note to Sec. 1, hereof.

322.213 State lands; public sale, time and place; reports to county treasurer, public access; blank homestead applications.

Sec. 13. When said commission shall determine that certain lands under its control shall be offered for sale at public offering, said lands shall be offered at the county seat of the respective counties in which such lands are situated, when practicable, and the commission shall determine the time when such offering shall be held, and shall direct the manner in which such offering shall be made. Within 10 days after a public offering of lands in any county, the commission shall cause to be furnished to the county treasurer of said county a list of all unsold lands in the county, together with the appraised price thereof. They shall also cause the commissioner of the state land office to make a report to the county treasurer of said county on the first Monday of every month, of all descriptions of land sold during the preceding month. This list showing all unsold state tax homestead lands and the appraised value thereof, together with the reports of the commissioner of the state land office showing the descriptions of land sold the previous month, shall be public records and kept in some convenient place in said county treasurer's office, so that the public may have free access to them. The said commission shall also furnish to the county treasurer for public use, blank applications for the purchase of tax homestead lands and also the uniform blanks used for making applications for homestead entry.

HISTORY: CL 1915, 457;—CL 1929, 5849;—CL 1948, 322.213.

322.214 State lands; forest fire prevention.

Sec. 14. Said commission shall have the power to sell all dead and down timber upon said lands, and to take such action as may be deemed necessary to prevent the starting and spreading of forest fires.

HISTORY: CL 1915, 458;—CL 1929, 5850;—CL 1948, 322.214.

Secs. 15-16. (These were appropriation and tax clause sections.)

HISTORY: Am. 1913, p. 633, Act 333, Imd. Eff. May 13;—Am. 1915, p. 214, Act 128, Imd. Eff. May 6;—CL 1915, 459-460;—Am. 1917, p. 279, Act 151, Imd. Eff. April 27;—Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

Sec. 17. (This was a repeal section.)

HISTORY: CL 1915, 461;—CL 1929, 5851;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 270, 1913, p. 524; Eff. Aug. 14.

AN ACT to provide for abolishing the office of commissioner of the state land office and for the transfer of the duties thereof.

The People of the State of Michigan enact:

322.221 Office of commissioner of state land office; abolition, transfer of powers and duties to public domain commission; transfer of ex officio memberships to superintendent of public instruction.

Sec. 1. The office of the commissioner of the state land office shall be abolished from and after December 31, 1914. All duties devolving upon said officer, and all the powers and authority incidental to said office, prior to or upon December 31, 1914, shall thereupon be transferred to and become the duties, powers and authority of the public domain commission, which commission shall, from and after December 31, 1914, exercise all the powers and authority and be charged with the performance of any and all such duties as may be required or prescribed in connection with the office of commissioner of the state land office except as herein provided. The superintendent of public instruction shall, from and after December 31, 1914, take the place of the commissioner of the state land office on the board of state auditors and all other boards, committees or commissions of which the commissioner of the state land office is by virtue of his office a member. The superintendent of public instruction shall, as a member of such boards, committees or commissions, perform the same duties and exercise the same powers and authority required of, and the powers and authority exercised heretofore by the commissioner of the state land office.

HISTORY: CL 1915, 462;—CL 1929, 5852;—CL 1948, 322.221.

CONSTITUTION: See Const. of 1908, VI, 1, which permitted abolition of office by law.

PUBLIC DOMAIN COMMISSION: Abolished; powers and duties transferred to the department of conservation, see Compilers' § 299.2.

FUNCTIONS: For functions of the office of the commissioner of the state land office transferred to the public domain commission and through it to the department of conservation, with reference to the control of certain public shooting grounds, see Compilers' § 317.274; prosecution of trespassers thereon, Compilers' § 317.294; reclamation of swamp lands, Compilers' § 322.157; sale of swamp lands, Compilers' § 322.161 et seq.; records of lands and control of lands in general, Compilers' § 322.188 et seq.; furnishing certified copies of notes, maps and other papers pertaining to titles, Compilers' §§ 322.231 to 322.251; giving notice of restoration of lands to market, Compilers' §§ 322.261 to 322.263; with reference to university and school lands, Compilers' § 322.281; custody of books relating to public lands, Compilers' § 322.349; transmission of description of lands sold to the county treasurer, Compilers' § 322.351; agricultural college lands, Compilers' §§ 322.171 to 322.181; swamp lands, general provisions, see note to Compilers' § 299.2.

Act 66, 1869, p. 112; Imd. Eff. Mar. 26.

AN ACT to authorize and require the commissioner of the land office to furnish certified copies of field notes, maps, records and other papers pertaining to land titles, and to declare the effect thereof, as evidence in suits at law or equity.

The People of the State of Michigan enact:

322.231 Commissioner of state land office; delivery of records as to land titles and surveys, certified copies admissible as evidence.

Sec. 1. That the commissioner of the state land office is hereby authorized and required, on application of any person, and on payment by such person of the fees allowed by law, to make and deliver to such person, a true copy of any field notes, maps, records or papers in his office, appertaining to land titles, or to the original surveys of any of the lands in this state, and any such copy, when duly certified to by such commissioner under his seal of office, or the record thereof when duly recorded in the office of the register of deeds of the proper county, may be admitted in evidence in all courts and places in which the title or boundary of any land shall come in question, and shall have the same force and effect, as evidence, as though the act of congress approved June twelfth, in the year 1840, entitled "An act for the discontinuance of the

office of surveyor general in the several districts so soon as the surveys therein can be completed, for abolishing land offices under certain circumstances, and for other purposes," had named the commissioner of the state land office, of the respective states, instead of the secretary of state, of the respective states, as the officer to whom the surveyor general should deliver over all the field notes, maps, records, and other papers appertaining to land titles, as in and by said act provided.

HISTORY: CL 1871, 3814;—How. 5243;—CL 1897, 1305;—CL 1915, 468;—CL 1929, 5859;—CL 1948, 322.231.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.232 State land office records; certified copies, price schedule.

Sec. 2. From and after the passage of this act, the following schedule of prices and charges shall be observed in the state land office, to wit: For field and meander notes, per township, 8 dollars; for each official certificate with seal, 1 dollar; for township plats showing vacant state lands only, each, 25 cents; for township plats showing vacant state lands with streams, each, 50 cents; for copies of all records and papers which the commissioner may be required to furnish by law, for each 100 words, 15 cents; for tax statements on each description of land, per year, 6 cents.

HISTORY: CL 1871, 3815;—How. 5244;—CL 1897, 1306;—Am. 1905, p. 431, Act 278, Imd. Eff. June 16;—CL 1915, 469;—CL 1929, 5860;—CL 1948, 322.232.

322.233 State land office records; fees, payment, credit.

Sec. 3. The fees received for all services under this act shall be paid into the state treasury and credited to the general fund.

HISTORY: CL 1871, 3816;—How. 5245;—CL 1897, 1307;—CL 1915, 470;—CL 1929, 5861;—CL 1948, 322.233.

Act 292, 1907, p. 385; Imd. Eff. Jun. 27.

AN ACT to provide for the surveying and establishing of section corners and the boundaries of unsurveyed lands in certain cases.

The People of the State of Michigan enact:

322.241 Section corners and boundaries of unsurveyed lands; establishment; surveyor, appointment.

Sec. 1. When it appears by the field notes of the United States survey of this state, on file in the state land office, that any section or quarter section corner or corners, were omitted and were not properly established by such survey, or when it shall appear that lands have been formed by accretions or otherwise upon the boundaries of the Great Lakes outside of the United States survey of this state, and belonging to the state of Michigan, the commissioner of the state land office shall be authorized to establish any such missing corners in any county in this state or to establish the boundary lines of such unsurveyed lands, and for such purpose may appoint and designate a competent surveyor to make the necessary surveys.

HISTORY: CL 1915, 471;—CL 1929, 5862;—CL 1948, 322.241. This act entirely supersedes the greater portion of Act 11 of 1879, but for the proviso in section 2 of that act, (CL 1897, 1308-10), which act was expressly repealed 1915, p. 406, Act 240, being CL 1929, 120.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

ORIGINAL SECTION CORNERS AND POSTS: Preservation by supervisors, see Act 149 of 1883, being Compilers' §§ 54.221 and 54.222.

322.242 Surveyor; compensation and expenses, payment.

Sec. 2. The surveyor so appointed shall receive compensation for his time actually employed, not to exceed 5 dollars per day and his necessary expenses for chain men and assistants, to be approved by the commissioner of the state land office. The surveyor's bills for services and expenses shall be made on forms furnished by the commissioner of the state land office, and itemized and sworn to, and shall be audited by the

board of state auditors, and when allowed by them, shall be paid out of the general fund.

HISTORY: CL 1915, 472;—CL 1929, 5863;—CL 1948, 322.242.

322.243 Original field notes; filing, effect.

Sec. 3. The original notes of the field work performed under the provisions of this act shall be placed on file in the state land office and all corners and boundary lines so established shall be of the same force and effect as those established by the original United States survey.

HISTORY: CL 1915, 473;—CL 1929, 5864;—CL 1948, 322.243.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 474;—CL 1929, 5865;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 312, 1921, p. 577; Eff. Aug. 18.

AN ACT to provide for the surveying and establishing of section corners and boundaries of lands, and to provide for ascertaining, re-establishing, preserving and maintaining, in certain cases, the original section corners, quarter posts and boundaries as surveyed and recorded by the original survey.

The People of the State of Michigan enact:

322.251 Section corners and boundaries; establishment and perpetuation by department of conservation; appointment of surveyor; petition, bond; state highway commissioner, authority, duties.

Sec. 1. Whenever it shall appear by the field notes of the United States survey of this state, on file in the office of the department of conservation, or by any other satisfactory evidence, placed before the department of conservation, that any government section or quarter section corner or corners, or posts, were omitted or were not properly established by such survey, or having been established, are lost or are in danger of being lost; or when it shall appear by satisfactory evidence that any such corner or corners or any original land mark or marks in any county of this state, fixing the shore line of any lands bordering on any of the great lakes, and within the United States survey of this state, are missing, or improperly established, or lost, or are in danger of being lost, the department of conservation shall be authorized to establish and perpetuate any such corners or posts in any county in this state, or to re-establish the same as nearly as may be in conformity with the original United States survey, and also in case of lands bordering on any of the great lakes, to establish or re-establish and perpetuate, as nearly as may be in conformity with the original United States survey, any such corners, posts or land marks, fixing the boundary and shore lines of any such surveyed lands in any county of this state; and for such purpose may appoint and designate a competent surveyor to make the necessary surveys: Provided, however, That such work shall be done only upon the sworn petition of 6 or more interested freeholders, setting forth the desirability and necessity of such work, who shall be residents of the township or townships, city or village in which such work is to be done, and who shall agree in said petition to bear the necessary expense of such survey and shall file a bond, in form and amount to be determined and approved by said department of conservation, guaranteeing the payment of such expense within 30 days after notice that the same has been completed. Such notice shall be given in writing by the director of conservation, and shall be considered as having been given when the same has been deposited in the United States mails addressed to said petitioners at their several addresses set forth in said petition, and proof of the same has been placed on file in the office of said department: Provided further, That when such establishment, re-

establishment, or perpetuation of such corners or posts in any county in this state shall be necessary for the proper construction, improvement, or maintenance of state trunk line highways, the state highway commissioner shall have the same authority to do such work as is herein conferred on the department of conservation, except, however, that the conditions of the first proviso of this section shall not apply to such work when done by the state highway commissioner: Provided, Such corners or posts once lawfully established by either of the aforesaid authorities shall be recognized by, and be binding upon, the other: Provided further, That whenever any such corner markings shall hereafter be removed or destroyed in the course of state highway construction, repair or maintenance, it shall be the duty of said state highway commissioner to replace the same, as soon as may be, with an approved type of monument box or other standard marker.

HISTORY: CL 1929, 5966;—Am. 1935, p. 212, Act 134, Imd. Eff. June 4;—CL 1948, 322.251.

CORNERS AND BOUNDARIES: For other acts on this subject see Compilers' § 322.241 et seq.

322.252 Original field notes; filing, effect, admissible as evidence; applicability of act.

Sec. 2. The original notes of the field work performed under the provisions of this act shall be placed on file in the office of the department of conservation, and a complete record of such work shall also be placed on file and kept in the same book provided by the county for the surveyors' records, and kept in the office of the county surveyor in any county where such work has been performed, and all corners, boundary and shore lines so established shall be binding on the state of Michigan, and for such purpose shall have the same force and effect as those established by the original United States survey; and such records so made and entered shall be received as evidence in all the courts of this state, wherein any question may arise as to the establishment or identification of such corners, boundary and shore lines: Provided, That nothing in this act shall apply to lands where such corners, landmarks, boundary lines, section and quarter section lines are already properly established.

HISTORY: CL 1929, 5967;—CL 1948, 322.252.

Act 21, 1873, p. 17; Imd. Eff. Feb. 28.

AN ACT to require the commissioner of the state land office to give public notice of the restoration of reserved or forfeited state lands to market.

The People of the State of Michigan enact:

322.261 Reserved or forfeited lands; restoration to market, public notice required.

Sec. 1. That all lands of this state, which have been withdrawn from market for any purpose, or withheld from sale or pre-emption, in consequence of errors in books, or in consequence of marking sales or reservations upon maps, and all lands which have reverted, or may hereafter revert, to the state by reason of a failure in any manner to make payment for the same, or by a failure to comply with the terms of any state road, railroad or other grant or contract of this state, to or with any person or corporation, or by reason of a failure to comply with the conditions of any license or homestead act, shall not be subject to private entry or purchase, either with cash or scrip, until public notice of the restoration of such lands to market shall have been given in the manner hereinafter prescribed.

HISTORY: How. 5249;—CL 1897, 1311;—CL 1915, 475;—CL 1929, 5966;—CL 1948, 322.261.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

CITED IN OTHER SECTIONS: Sections 322.261 to 322.264 are cited in § 211.131.

322.262 Reserved or forfeited lands; notice of restoration to market, publication, contents.

Sec. 2. The director of conservation shall be required to publish a notice of the restoration of such lands to market at least once in a newspaper published in the county where such lands are situated, if there be one published therein, and if not, then in some newspaper published in a county nearest to that in which said lands are located. Said notice shall state that the lands will be offered at public auction at a specified place and at a specified time, which shall be not less than 10 days after the date of the last published notice, and shall also state that a list of the lands to be offered will be placed on file at the office of the county treasurer of the county in which the lands are located.

HISTORY: How. 5250;—CL 1897, 1312;—CL 1915, 476;—CL 1929, 5869;—Am. 1933, p. 222, Act 152, Imd. Eff. June 22;—CL 1948, 322.262.

322.263 Reserved or forfeited lands; sale to highest bidder, minimum price.

Sec. 3. In all cases where there are 2 or more applicants for the same tract of land present at the time of its restoration to market, said tract shall be offered in the smallest subdivision of which the same is susceptible, not less than 40 acres (unless the tract should be a fractional section or fractional part of a section containing a less number of acres) and sold to the highest bidder: Provided, No bid for any tract shall be received unless the price offered shall be equal to the minimum price of such land as fixed by law.

HISTORY: How. 5251;—CL 1897, 1313;—CL 1915, 477;—CL 1929, 5870;—Am. 1933, p. 223, Act 152, Imd. Eff. June 22;—CL 1948, 322.263.

322.264 Reserved, forfeited or trust lands; sale in violation of act void.

Sec. 4. All entries or sales of any lands, such as are hereinbefore referred to, or of lands now held in trust by the state, which may hereafter become the property of the state by virtue of any of the provisions of such trust, if such entries or sales be permitted, or made, in violation of any of the provisions of this act shall be absolutely void, and the certificate issued thereon shall vest no title in the person or corporation entering or purchasing the same.

HISTORY: How. 5252;—CL 1897, 1314;—CL 1915, 478;—CL 1929, 5871;—CL 1948, 322.264.

Sec. 5. (This was a repeal section.)

HISTORY: How. 5253;—CL 1897, 1314n;—CL 1915, 479;—CL 1929, 5872;—Rep. 1945, p. 402, Act 267, Imd. Eff. May 25.

Act 258, 1861, p. 552; Eff. Jun. 15.

AN ACT to prevent officers and clerks in the state land office and auditor general's office from purchasing lands while in the employ of the state.

The People of the State of Michigan enact:

322.271 State lands; purchase by certain state employees prohibited, exception.

Sec. 1. That it shall be unlawful for any officer or clerk employed in the state land office or in the office of the auditor general of this state, during the term of his service or within 3 months after the discontinuance of such service to purchase either directly or indirectly from the state, at either of said offices, any lands for sale at said offices or either of them: Provided, That the officers of the department of conservation may purchase any of such lands to be used for state purposes only, the deed for such lands to run to the state of Michigan.

HISTORY: CL 1871, 423;—How. 5260;—CL 1897, 1321;—CL 1915, 490;—Am. 1923, p. 110, Act 84, Eff. Aug. 30;—CL 1929, 5880;—CL 1948, 322.271.

322.272 State lands; purchases in violation of act void.

Sec. 2. Any purchases made in violation of the first section of this act shall be void.

HISTORY: CL 1871, 424;—How. 5361;—CL 1897, 1322;—CL 1915, 491;—CL 1929, 5881;—CL 1948, 322.272.

Act 149, 1848, p. 193; Imd. Eff. Mar. 30.

AN ACT authorizing and requiring the commissioner of the state land office to issue new certificates for school and university lands in certain cases.

Be it enacted by the senate and house of representatives of the state of Michigan:

322.281 School and university lands; new certificates, issuance; payment of interest on original.

Sec. 1. That the commissioner of the state land office be, and he hereby is authorized and required, upon being satisfied that no injury can result to the particular trust fund to be affected thereby, whether the same be the university or school fund, and upon the surrender of any original certificate, of purchase of any such university or school lands, to issue 1 or more new certificates, in lieu of said original one, to the persons who shall exhibit to such commissioner satisfactory evidence of being entitled thereto, and upon receiving from any such person or persons the full amount of interest due upon such original certificate up to and including the last preceding annual payment required thereby.

HISTORY: CL 1857, 2519;—CL 1871, 3893;—How. 5333;—CL 1897, 1351;—CL 1915, 526;—CL 1929, 5926;—CL 1948, 322.281.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of agriculture, see Compilers' §§ 322.221 and 299.2 respectively.

NEW CERTIFICATES: For part paid State lands, see Compilers' §§ 322.491 to 322.497. See also Compilers' § 322.359.

322.282 School and university lands; new certificates, indorsement of credits, computation of interest.

Sec. 2. At the time of issuing any such new certificates, the said commissioner shall indorse thereon, the proper credits, pro rata, and of their proper date for all payments of principal and interest moneys theretofore made upon the original certificate thus surrendered, and the interest upon such new certificate shall be computed from the last annual payment due on the original certificate.

HISTORY: CL 1857, 2520;—CL 1871, 3894;—How. 5334;—CL 1897, 1352;—CL 1915, 527;—CL 1929, 5927;—CL 1948, 322.282.

322.283 School and university lands; new certificates, affidavit of township supervisor, other evidence; discharge of certificate.

Sec. 3. The persons desirous of procuring such new certificate, shall in every case, furnish the said commissioner, as the basis of his action, with the certificate of the supervisor of the township in which the lands are situated, verified by his oath, that he is acquainted with the true condition, quality, quantity and location of said lands and the proposed division of the same, and that in his opinion such division could be made without injury to the university or school fund as the case may be, and the said commissioner may require any other evidence which he may deem necessary, and whenever the grantee of any deed duly executed by a sheriff and conveying the right title and interest of any person holding a certificate for any university or school lands, shall present such deed at the land office and shall tender the balance of principal and interest due upon any such certificate as the same shall appear from the books of said office, the commissioner thereof shall execute to such grantee, his heirs and assigns a deed for the land described in such certificate in the usual form, and the same shall be a full satisfaction and discharge of such certificate.

HISTORY: CL 1857, 2521;—CL 1871, 3895;—How. 5335;—CL 1897, 1353;—CL 1915, 528;—CL 1929, 5928;—CL 1948, 322.283.

Act 42, 1853, p. 59; Eff. May 16.

AN ACT authorizing and requiring the commissioner of the state land office to issue new certificates for normal school lands in certain cases.

The People of the State of Michigan enact:

322.291 Normal school lands; new certificates, issuance; payment of interest on original.

Sec. 1. That the commissioner of the state land office be and he is hereby authorized and required, upon being satisfied that no injury can result to the trust fund to be affected thereby, and upon the surrender of any original certificate of purchase of any normal school lands, to issue 1 or more new certificates in lieu of said original one, to the persons who shall exhibit to such commissioner satisfactory evidence of being entitled thereto, and upon receiving the full amount of interest due upon such original certificate up to and including the last preceding annual payment required thereby.

HISTORY: CL 1857, 2527;—CL 1871, 3901;—How. 5336;—CL 1897, 1359;—CL 1915, 534;—CL 1929, 5930;—CL 1948, 322.291.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

NEW CERTIFICATES: For part paid State lands, see Compilers' §§ 322.491 to 322.497. See also Compilers' § 322.359.

322.292 Normal school lands; new certificates, affidavit of township supervisor, other evidence.

Sec. 2. The persons desirous of procuring such new certificate, shall in every case furnish the said commissioner, as the basis of his action, with the certificate of the supervisor of the township in which the lands are situated, verified by his oath, that he is acquainted with the true condition, quality, quantity and location of said lands, and the proposed division of the same, and that in his opinion, such division could be made without injury to the normal school fund; and the said commissioner may require any other evidence which he may deem necessary in the premises.

HISTORY: CL 1857, 2528;—CL 1871, 3902;—How. 5337;—CL 1897, 1360;—CL 1915, 535;—CL 1929, 5931;—CL 1948, 322.292.

R.S. 1846, Ch. 60.

SUPERINTENDENCE AND DISPOSITION OF THE PUBLIC LANDS.

UNIVERSITY AND SCHOOL LANDS.

322.301 Unimproved and unsold school and university lands; minimum price; public auction.

Sec. 1. The minimum price of the unsold and unimproved university lands, shall be 12 dollars per acre, and the minimum price of the unsold and unimproved school lands shall be 4 dollars per acre; but no such lands shall be otherwise sold until they shall once have been offered for sale at public auction, and no such lands shall be sold for less than the aforesaid prices respectively, nor shall any treasury notes or warrants be received for university lands hereafter forfeited to the state.

HISTORY: CL 1857, 2444;—CL 1871, 3817;—How. 5262;—CL 1897, 1325;—CL 1915, 500;—CL 1929, 5900;—CL 1948, 322.301.

This section is substantially the same as Sec. 10 of Act 68 of 1844.

AGRICULTURAL COLLEGE LANDS: See Compilers' § 322.171 et seq.

LANSING: Act 264 of 1925 authorized the state administrative board to sell certain primary school lands to the school district of the city of Lansing.

322.302 Unimproved lands; terms of payment; affidavit as to timber value; certificate of credibility.

Sec. 2. The terms of payment on the sale of university and school lands shall be 50 per centum of the purchase money to be paid at the time of the purchase, the balance of the principal at any time thereafter at the option of the purchaser, with interest at the rate of 7 per cent per annum on the unpaid balance payable on the first day of March, or within 60 days thereafter in each and every year at such place or places as

shall be specified in the certificate of purchase. Provided, That before any of said lands shall be sold on part payment at the time of purchase, the commissioner of the state land office shall require the affidavits of at least 2 persons (accompanied by the certificate of the supervisor of the township in which such lands are situated as to the credulity [credibility] of such persons,) that such lands are not valuable chiefly by or on account of timber thereon.

HISTORY: Am. 1847, p. 39, Act 30, Eff. March 1, 1848;—CL 1857, 2445;—CL 1871, 3818;—Am. 1873, p. 79, Act 67, Imd. Eff. April 1;—How. 5263;—CL 1897, 1326;—CL 1915, 501;—CL 1929, 5901;—CL 1948, 322.302.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.303 Unimproved lands; certificate of purchase, contents.

Sec. 3. At the time of the sale of any such lands, the commissioner shall make out and deliver to the purchaser or purchasers thereof a certificate in which the said commissioner shall, in the name of the people of this state, certify the description of land sold, the quantity thereof and the price per acre, the consideration paid and to be paid therefor, and the time and terms of payment.

HISTORY: CL 1857, 2446;—CL 1871, 3819;—How. 5264;—CL 1897, 1327;—CL 1915, 502;—CL 1929, 5902;—CL 1948, 322.303.

322.304 Unimproved lands; certificate of purchase, voidance; repossession.

Sec. 4. The said certificate shall further set forth that in case of the non-payment of the interest due by the first day of March, or within 60 days thereafter, in each and every year, or of the taxes for the preceding year, within the time aforesaid, by the purchaser or purchasers, or by any person claiming under him or them, then the said certificate shall from the time of such failure be utterly void and of no effect, and the said commissioner may take possession thereof and resell the same as hereinafter provided.

HISTORY: Am. 1847, p. 39, Act 30, Eff. March 1, 1848;—CL 1857, 2447;—CL 1871, 3820;—Am. 1875, p. 154, Act 124, Eff. Aug. 3;—How. 5265;—CL 1897, 1328;—CL 1915, 503;—CL 1929, 5903;—CL 1948, 322.304.

322.305 Unimproved lands; payment of principal and interest; execution or mortgage sale purchasers deemed assignees.

Sec. 5. Any purchaser of university or school lands, his heirs or assigns, who shall have paid, on or before the first day of March, 1842, a sum equal to 20 per cent of the purchase money on his certificate, together with the interest up to said day; and any person who shall have become such purchaser since the thirteenth day of April, in the year 1841, his heirs or assigns, who shall have paid according to the terms of his certificate, shall be privileged to pay the balance of principal due on his purchase at any time thereafter at his option; but in all cases the interest on the unpaid balance of principal shall be paid on or before the first day of January, or within 60 days thereafter, in each and every year; and any purchaser of the right, title and interest of the original purchaser, his heirs or assigns, at an execution or mortgage sale, shall be deemed an assignee of the person whose right, title and interest was sold by virtue of such execution or mortgage.

HISTORY: Am. 1847, p. 39, Act 30, Eff. March 1, 1848;—Am. 1851, p. 84, Act 82, Eff. July 5;—CL 1857, 2448;—CL 1871, 3821;—How. 5266;—CL 1897, 1329;—CL 1915, 504;—CL 1929, 5904;—CL 1948, 322.305.

ERROR: "January" is doubtless an error made in copying the old law in drafting the bill for the amendment of 1851, the amendment of 1847 having changed "January" to "March", as in Compilers' § 322.282.

322.306 Unimproved lands; non-payment, repossession and resale.

Sec. 6. In case of non-payment, either of principal or interest when due, according to the provisions of the preceding section, or according to the terms of the certificate of sale, as the case may be, such certificate shall become void and of no effect from the time of such failure, and the commissioner may take immediate possession thereof and resell the same.

HISTORY: CL 1857, 2449;—CL 1871, 3822;—How. 5267;—CL 1897, 1330;—CL 1915, 505;—CL 1929, 5905;—CL 1948, 322.306.

322.307 Unimproved lands; payment for timber.

Sec. 7. The said commissioner shall, whenever it satisfactorily appears that the chief value of any parcel of land consists of pine or other timber, and that in his opinion the interest of the state will not be secured by a compliance with the terms of payment prescribed in the second section of this act, require full payment for the same.

HISTORY: CL 1857, 2450;—Am. 1863, p. 165, Act 107, Imd. Eff. March 14;—CL 1871, 3823;—Am. 1873, p. 80, Act 67, Imd. Eff. April 1;—How. 5266;—CL 1897, 1331;—CL 1915, 506;—CL 1929, 5906;—CL 1948, 322.307.

322.308 Unimproved lands; patents, issuance, certification by commissioner of state land office.

Sec. 8. The governor of the state, shall sign and cause to be issued, patents for the lands described in any certificate of purchase whenever the same shall be presented to him, with the further certificate of the commissioner endorsed thereon, that the whole amount of principal and interest specified therein, together with the taxes, charges and interest levied upon said land, have been paid according to law, and that the holder of the certificate of purchase, whether as original purchaser or as purchaser of the right title, and interest of such original purchaser at an execution or mortgage sale, is entitled to a deed therefor.

HISTORY: Am. 1851, p. 85, Act 82, Eff. July 5;—CL 1857, 2451;—Am. 1863, p. 165, Act 107, Imd. Eff. March 14;—CL 1871, 3824;—How. 5269;—CL 1897, 1332;—CL 1915, 507;—CL 1929, 5907;—CL 1948, 322.308.

322.309 Unimproved lands; transfer of title; noncompliance, trespassing.

Sec. 9. The fee of each and every parcel of the said lands shall be and remain in the state until patents shall issue for the same respectively, upon full payment as aforesaid; and in case of a non-compliance by the purchaser, his heirs or assigns, with the terms of the certificate as aforesaid, or with the provisions of law applicable thereto, any and all persons being or continuing in possession of any such lands after a failure to comply with the terms of the certificate as aforesaid, or with such provisions of law as aforesaid, without a written permission of the commissioner of the land office, shall be deemed and held to detain such lands forcibly, and without right, and to be trespassers thereon.

HISTORY: CL 1857, 2452;—CL 1871, 3825;—How. 5270;—CL 1897, 1333;—CL 1915, 506;—CL 1929, 5906;—CL 1948, 322.309.

322.310 Unimproved lands; secured sums, recovery.

Sec. 10. In all cases where security has been taken from the purchaser, pursuant to the provisions of the seventh section of this chapter, the commissioner shall have power to sue for and recover all such sums as may become due and payable for which such security was given.

HISTORY: CL 1857, 2453;—CL 1871, 3826;—How. 5271;—CL 1897, 1334;—CL 1915, 509;—CL 1929, 5909;—CL 1948, 322.310.

322.311 Improved school and university lands; sale; appraisal of improvements.

Sec. 11. All the improved portions of the university and school lands remaining unsold, shall be subject to sale at the respective prices at which they were severally offered at the last annual public sales, until the improvements on the same shall have been appraised as provided in this chapter.

HISTORY: CL 1857, 2454;—CL 1871, 3827;—How. 5272;—CL 1897, 1335;—CL 1915, 510;—CL 1929, 5910;—CL 1948, 322.311.

322.312 Improved lands; sale by lots, minimum price, appraisal.

Sec. 12. Whenever either the university or school fund will, in the opinion of the commissioner, be improved by laying off any section or tract of university or school lands, into small parcels, or village lots, the said commissioner may cause the same to

be done, and may sell the same at the respective minimum prices established in this chapter; or if in his opinion any of such parcels or lots exceed in value such prices, he shall cause the same to be appraised by 3 disinterested freeholders of the county in which such parcels or lots are situated.

HISTORY: CL 1857, 2455;—CL 1871, 3828;—How. 5273;—CL 1897, 1336;—CL 1915, 511;—CL 1929, 5911;—CL 1948, 322.312.

322.313 Improved lands; appraisal, procedure.

Sec. 13. Such freeholders shall be appointed by the commissioner, and after being first duly sworn so to do, shall appraise the several parcels or lots directed by said commissioner to be appraised by them, at their true value respectively, and shall make a return of such appraisement duly certified by them, to the commissioner.

HISTORY: CL 1857, 2456;—CL 1871, 3829;—How. 5274;—CL 1897, 1337;—CL 1915, 512;—CL 1929, 5912;—CL 1948, 322.313.

322.314 Improved lands; sale at appraised value; new appraisal, minimum.

Sec. 14. All parcels or lots so appraised, shall be subject to sale in the same manner and upon the same terms and conditions, and the certificates of purchase shall have the same effect, as in the case of other university or school lands, according to the provisions of this chapter, at the prices at which the same were severally appraised, until a new appraisal shall be made, which the commissioner may, in his discretion, cause to be had in the manner aforesaid, and with the like effect; but no lots or parcels so appraised shall be sold for less than the minimum price of said lands established in this chapter.

HISTORY: CL 1857, 2457;—CL 1871, 3830;—How. 5275;—CL 1897, 1338;—CL 1915, 513;—CL 1929, 5913;—CL 1948, 322.314.

322.315 Improved lands; withholding from sale.

Sec. 15. The said commissioner may also, in his discretion, reserve and withhold from sale, such portions of the university and school lands as in his opinion it may not be advantageous to sell and dispose of, and for so long a time as in his opinion will be most beneficial to the several funds affected thereby.

HISTORY: CL 1857, 2458;—CL 1871, 3831;—How. 5276;—CL 1897, 1339;—CL 1915, 514;—CL 1929, 5914;—CL 1948, 322.315.

322.316 Forfeited lands; public auction; improved lands, minimum price.

Sec. 16. All university and school lands which have been or may be forfeited by the non-payment of either principal or interest, and which have not been offered at public auction after forfeiture, before the same shall be subject to private entry, shall be re-offered for sale at public auction, and the minimum price of all portions or tracts upon which improvements shall have been made, shall be such as shall be determined by the commissioner in the manner hereinafter in this chapter provided.

HISTORY: CL 1857, 2459;—CL 1871, 3832;—How. 5277;—CL 1897, 1340;—CL 1915, 515;—CL 1929, 5915;—CL 1948, 322.316.

322.317 Forfeited lands; notice of sale, publication.

Sec. 17. The sale of such forfeited lands shall be held at such times and places as shall be designated in a notice containing a description of the lands so forfeited, which notice shall be published once in each week at least 4 weeks successively before the time of sale, in a newspaper printed in the county where the lands are situated if there be one, if not then in a newspaper printed in an adjoining county if there be one, and if there be none printed in an adjoining county, then in such newspaper as the commissioner shall designate.

HISTORY: CL 1857, 2460;—CL 1871, 3833;—How. 5278;—CL 1897, 1341;—CL 1915, 516;—CL 1929, 5916;—CL 1948, 322.317.

322.318 Certificates of purchase; rights of purchasers; recording.

Sec. 18. Certificates of purchase issued pursuant to the provisions of law, shall entitle the purchaser to the possession of the lands therein described, and shall be sufficient evidence of title to enable the purchaser, his heirs or assigns, to maintain actions of trespass for injuries done to the same, or ejectment, or any other proper action or

proceeding to recover possession thereof, unless such certificate shall have become void by forfeiture; and all certificates of purchase in force may be recorded in the same manner that deeds of conveyance are authorized to be recorded.

HISTORY: CL 1857, 2461;—CL 1871, 3834;—How. 5279;—CL 1897, 1342;—CL 1915, 517;—CL 1929, 5917;—CL 1948, 322.318.

322.319 University and school lands; payment of amount due, receipt; statement to commissioner of state land office.

Sec. 19. Any purchaser of university or school lands may pay to the state treasurer the amount due on his certificate of purchase, whether principal or interest, and for the amount so paid, the treasurer shall give his receipt, which shall be countersigned by the auditor general; and a statement of all such payments shall be transmitted by said treasurer to the commissioner of the land office on or before the first Monday of each month.

HISTORY: CL 1857, 2462;—CL 1871, 3835;—How. 5280;—CL 1897, 1343;—CL 1915, 518;—CL 1929, 5918;—CL 1948, 322.319.

322.320 Forfeited lands; redemption before or after sale; refund for cancelled purchase, interest.

Sec. 20. In all cases where rights of a purchaser shall have become forfeited, under the provisions of this chapter, by his failure to pay the amount due upon his certificate of purchase, if such purchaser, his heirs or assigns shall, before the time appointed for the sale of the lands, described in such certificate, at public auction, pay to the commissioner of the land office the full amount then due and payable upon such certificate, and 25 cents on each dollar of such amount in addition thereto, together with all taxes remaining due and unpaid upon said lands, such payment shall operate as a redemption of the rights of such purchaser, his heirs and assigns; and said certificate, from the time of such payment, shall be in full force and effect, as if no such forfeiture had occurred: Provided, however, That in case the lands described in any certificate of purchase shall not be redeemed after the forfeiture before the day of sale, and the same shall be purchased at such public sale, or from the state at private sale, after such public offering in the manner now provided by law, by any person, then, and in that case, such purchaser shall pay, at the date of such purchase, into the state treasury, the amount required by law for the purchase of lands at such forfeited sales, together with all taxes and charges due and unpaid thereon; and the treasurer shall be required to give his receipt therefor, which shall state in full the amount paid, together with the description of the lands on which the same is paid and the name of such purchaser; and no certificate shall be issued to such subsequent purchaser until after the expiration of 1 year from and after the date of such public offering, during which time said certificate-holder, his heirs or assigns, shall have a right to redeem said lands from the effects of such forfeiture by paying into the state treasury all interest, penalty and charges due upon such certificate, as is now provided by law, and all taxes and other charges due and unpaid thereon together with interest at the rate of 25 per cent per annum, on all sums paid by such subsequent purchaser, from the date of such sale up to the date of such redemption; and in case of such redemption, the state treasurer shall refund to the party whose purchase has been canceled by such redemption, the full amount so paid by such subsequent purchaser, together with interest on the same from the date of such payment into the treasury up to the date of such redemption, at the rate of 25 per cent per annum.

HISTORY: CL 1857, 2463;—Am. 1859, p. 306, Act 113, Imd. Eff. Feb. 11;—Am. 1869, p. 151, Act 85, Eff. July 5;—CL 1871, 3836;—Am. 1875, p. 21, Act 23, Imd. Eff. March 10;—How. 5281;—CL 1897, 1344;—CL 1915, 519;—CL 1929, 5919;—CL 1948, 322.320.

322.321 Forfeited lands and improved lands; lists to county clerk, distribution.

Sec. 21. On or before the first day of June in each year, the commissioner of the land office shall prepare and transmit to the clerks of the several counties in which the

same are situated, lists of all the forfeited lands in the several townships therein, and of all the unsold university, school, and state building lands which he may have cause to believe are improved, together with proper forms of returns and certificates of appraisal, to be forthwith distributed by such clerks respectively to the several supervisors of townships to whom the same may be directed.

HISTORY: CL 1857, 2464;—CL 1871, 3837;—How. 5282;—CL 1897, 1345;—CL 1915, 530;—CL 1929, 5920;—CL 1948, 322.321.

322.322 Improved lands; appraisal by township supervisor, returns to commissioner of state land office; exceptions.

Sec. 22. Every supervisor of a township, upon receiving the lists and forms as aforesaid, shall proceed to estimate and appraise the value of all the improvements upon the several tracts or parcels of land mentioned in such lists, and after making such appraisal according to the forms prescribed by said commissioner, he shall make returns thereof duly certified by him to the commissioner, on or before the first day of August in the same year: Provided, That the provisions of this section shall not apply to any settler mentioned in or contemplated by the "Act to provide for the sale of certain lands to the settlers thereon, and for other purposes," approved March twenty-fifth, 1840, and the several acts amendatory thereof, whose lands have been forfeited to this state, or who has not become a purchaser of the lands on which he resides, and on which his settlement is made, nor shall it apply to any person who has made, or who hereafter may make improvements on any of the university, school or state building lands; and who shall hereafter become a purchaser of the same. But such settler or other person shall be entitled to enter the same upon the terms herein established for the sale of unimproved university lands, irrespective of the value of said improvements, and he shall not be chargeable for the value of said improvements so made by or assigned to him.

HISTORY: CL 1857, 2465;—CL 1871, 3838;—How. 5283;—CL 1897, 1346;—CL 1915, 521;—CL 1929, 5921;—CL 1948, 322.322.

322.323 Improved lands; computation of specific minimum price.

Sec. 23. On the return of such appraisal, the amount of the appraised value of improvements on each tract or parcel shall be divided by the number of acres contained therein, and the result, together with the minimum price per acre of unimproved lands of the same description as established in this chapter, shall be the specific minimum price per acre of such tract or parcel, the improvements upon which shall have been so appraised, until the same shall be changed by a subsequent appraisal.

HISTORY: CL 1857, 2466;—CL 1871, 3839;—How. 5284;—CL 1897, 1347;—CL 1915, 522;—CL 1929, 5922;—CL 1948, 322.323.

322.324 Unimproved forfeited lands; minimum price.

Sec. 24. The unimproved forfeited lands shall continue at the minimum price per acre of unsold and unimproved lands, as established in this chapter.

HISTORY: CL 1857, 2467;—CL 1871, 3840;—How. 5285;—CL 1897, 1348;—CL 1915, 523;—CL 1929, 5923;—CL 1948, 322.324.

322.325 Improved lands; leasing.

Sec. 25. The commissioner of the land office may, from time to time lease, for terms not exceeding 1 year, and until the same are disposed of according to law, all such university and school lands, and other lands belonging to the state, as shall have improvements on them; and such leases shall contain proper covenants to guard against trespasses and waste.

HISTORY: CL 1857, 2468;—CL 1871, 3841;—How. 5286;—CL 1897, 1349;—CL 1915, 524;—CL 1929, 5924;—CL 1948, 322.325.

Sec. 26.

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

This section related to university lands lying near Toledo, Ohio. It was stricken out and a new section substituted by Act 30 of 1947. Act 26 of 1949 authorized the sale of those lands.

322.327 State lands; survey of boundaries by commissioner of state land office; payment of expenses.

Sec. 27. Whenever it shall appear to the commissioner necessary, in order to ascertain the true boundaries of any tract or portion of the lands mentioned in this chapter, or to enable him to describe and dispose of the same, in suitable and convenient lots, he may cause all such necessary surveys to be made; and the expenses thereof shall be paid out of the proper fund, in the same manner as the other incidental expenses of the land office.

HISTORY: CL 1857, 2469;—CL 1871, 3842;—How. 5287;—CL 1897, 1350;—CL 1915, 525;—CL 1929, 5925;—CL 1948, 322.327.

STATE BUILDING LANDS.**Secs. 28-48.**

HISTORY: CL 1857, 2470-2490;—CL 1871, 3843-3863;—How. 5288-5308;—CL 1897, 1361-1381;—CL 1915, 544-564. These sections dealt with the sale of state building, salt spring and internal improvement lands, were obsolete and repealed 1929, p. 823, Act 309, Imd. Eff. May 24, being CL 1929, 121.

MISCELLANEOUS PROVISIONS.**322.349 Books and papers relating to state lands; custody of commissioner of state land office.**

Sec. 49. The commissioner of the land office shall have the custody of all books and papers relating to any of the public lands mentioned in this chapter, except such as properly belong to the records or files of other offices.

HISTORY: CL 1857, 2491;—CL 1871, 3864;—How. 5309;—CL 1897, 1382;—CL 1915, 565;—CL 1929, 5933;—CL 1948, 322.349.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.350 Maps of counties; furnished by state geologist.

Sec. 50. The state geologist shall furnish the land office with a map of each of the several counties of this state, as soon as the same are completed.

HISTORY: CL 1857, 2492;—CL 1871, 3865;—How. 5310;—CL 1897, 1383;—CL 1915, 566;—CL 1929, 5934;—CL 1948, 322.350.

STATE GEOLOGIST: This office is no longer a statutory one, but as a matter of departmental administration, the director of conservation appoints a state geologist.

322.351 Descriptions of lands sold; transmittal by commissioner of state land office to county treasurer.

Sec. 51. The said commissioner shall, on or before the third Monday in March in each year, transmit to the treasurer of each county in which any of the lands mentioned in this chapter may have been sold during the year then next preceding, a description of each parcel of the lands so sold in such county, and the names of the purchasers, distinguishing university and school lands from others.

HISTORY: CL 1857, 2493;—CL 1871, 3866;—How. 5311;—CL 1897, 1384;—CL 1915, 567;—CL 1929, 5935;—CL 1948, 322.351.

322.352 Plats by commissioner; recording.

Sec. 52. Whenever the commissioner shall lay off any tract of land into small parcels or village lots, as provided in this chapter, he shall cause a correct map of the same to be entered of record in the county where said lands may be situated; and all parcels or lots heretofore laid out, shall in like manner be entered of record.

HISTORY: CL 1857, 2494;—CL 1871, 3867;—How. 5312;—CL 1897, 1385;—CL 1915, 568;—CL 1929, 5936;—CL 1948, 322.352.

322.353 Descriptions of lands sold; delivery by county treasurer to township supervisors.

Sec. 53. The several county treasurers receiving such descriptions shall, on or before the second Monday of April, deliver to the supervisor of each township in which any of such lands are situated, a description of such lands therein, with the names of the purchasers of the same.

HISTORY: CL 1857, 2495;—CL 1871, 3868;—How. 5313;—CL 1897, 1386;—CL 1915, 569;—CL 1929, 5937;—CL 1948, 322.353.

322.354 Patents; recording by register of deeds.

Sec. 54. The registers of deeds of the several counties are authorized to record all patents issued by the governor pursuant to the provisions of this chapter, and the record thereof shall have the same effect as the record of other conveyances executed according to the laws of this state.

HISTORY: CL 1857, 2498;—CL 1871, 3868;—How. 5314;—CL 1897, 1387;—CL 1915, 570;—CL 1929, 5939;—CL 1948, 322.354. See Compilers' § 565.301 and notes. The secretary of state now records all patents. See same section.

322.355 Incidental expenses of state land office; allowance, payment.

Sec. 55. The necessary incidental expenses of the land office shall be paid out of the several funds, respectively, in relation to which they were incurred, and upon the presentation of satisfactory vouchers therefor to the board of state auditors, shall be allowed by them at their annual settlement with the commissioner.

HISTORY: CL 1857, 2497;—CL 1871, 3870;—How. 5315;—CL 1897, 1388;—CL 1915, 571;—CL 1929, 5939;—CL 1948, 322.355.

322.356 Ineffectual certificate of purchase; surrender, refund.

Sec. 56. In case of any sale made by mistake, or not in accordance with law, or obtained by fraud, the same shall be void; and no certificate of purchase issued thereon shall be of any effect, but the holder of any such certificate shall be required to surrender the same to the commissioner, who shall thereupon refund the amount paid in the like funds received by him on such certificate.

HISTORY: CL 1857, 2498;—CL 1871, 3871;—How. 5316;—CL 1897, 1390;—CL 1915, 572;—CL 1929, 5940;—CL 1948, 322.356.

322.357 Assignees of purchasers; rights and liabilities.

Sec. 57. The legal assignees of all bona fide purchasers of any of the lands mentioned in this chapter, shall be subject to, and governed by, the provisions of law applicable to the respective purchasers of whom they are the assignees, and they shall have the same rights in all respects, as original purchasers of the same class of lands.

HISTORY: CL 1857, 2499;—CL 1871, 3872;—How. 5317;—CL 1897, 1390;—CL 1915, 573;—CL 1929, 5941;—CL 1948, 322.357.

322.358 State lands; sale according to United States survey exceptions.

Sec. 58. All sales of lands by the commissioner, shall be made according to the subdivisions thereof by the United States' surveys, unless the same shall have been laid off into smaller lots as provided in this chapter, or unless in the opinion of the commissioner any of said lands can be more advantageously disposed of according to other divisions to be ascertained and distinctly described by law.

HISTORY: CL 1857, 2500;—CL 1871, 3873;—How. 5318;—CL 1897, 1391;—CL 1915, 574;—CL 1929, 5942;—CL 1948, 322.358.

322.359 Subdivided lands; new certificates of purchase, issuance.

Sec. 59. When an original certificate of purchase shall have been issued by the commissioner for 40 acres or more of the said lands, he may in his discretion, upon the surrender of such certificate, and the payment of 1 dollar for each new certificate requested, issue new certificates for subdivisions of the lands included in the original purchase, if, in his opinion, no injury will result therefrom.

HISTORY: CL 1857, 2501;—Am. 1863, p. 128, Act 88, Imd. Eff. March 11;—CL 1871, 3874;—How. 5319;—CL 1897, 1392;—CL 1915, 575;—CL 1929, 5943;—CL 1948, 322.359.

NEW CERTIFICATES: See Compilers' §§ 322.491 to 322.497.

Secs. 60-66.

HISTORY: CL 1857, 2502-2508;—Sec. 63 Am. 1861, p. 467, Act 219, Eff. June 15;—Sec. 63 Am. 1863, p. 52, Act 44, Imd. Eff. Feb. 25;—CL 1871, 3875-3881;—Sec. 60 Am. 1879, p. 38, Act 42, Imd. Eff. April 18;—How. 5320-5326;—CL 1897, 1393-1399;—Sec. 61 Am. 1903, p. 312, Act 210, Eff. Sept. 17;—CL 1915, 576-582;—CL 1929, 5944-5950;—Sec. 61 Rep. 1931, p. 738, Act 328, Eff. Sept. 18;—Secs. 60, 62-66 Rep. 1939, p. 239, Act 126, Eff. Sept. 18.

These sections covered trespasses on state lands. For present law, see Compilers' § 322.131 et seq.

Sec. 67.

HISTORY: CL 1857, 2509;—CL 1871, 3882;—How. 5327;—CL 1897, 1400;—CL 1915, 583;—Rep. 1929, p. 823, Act 309, Imd. Eff. May 24, being CL 1929, 121.

This section dealt with the seal of the land office.

322.368 University lands; obligations receivable in payment of principal.

Sec. 68. All treasury notes or warrants bearing interest, drawn by authority of law on the treasurer of this state, shall be received in payment of principal for any of the university lands which have been heretofore sold or which may hereafter be sold, and which have not once been sold and forfeited, in the same manner as they are by law receivable for any lands owned by this state, subject to the limitations hereinafter contained.

HISTORY: CL 1857, 2510;—CL 1871, 3883;—How. 5328;—CL 1897, 1401;—CL 1915, 584;—CL 1929, 5951;—CL 1948, 322.368.
TREASURY NOTES: See Act 20 of 1842, being CL 1915, 276, repealed by Act 309 of 1929, being CL 1929, 121.

322.369 University lands; obligations receivable, limitation.

Sec. 69. The whole amount of such notes and warrants which may be received under the provisions of the preceding section, shall not exceed the residue of the sum of 100,000 dollars which shall remain after deducting the full amount of all sums which shall have been credited to the regents of the university, or to the university fund on the principal of the "Michigan university state stock," in pursuance of "An act authorizing the receipt of obligations of this state in payment of university lands," approved February twenty-eighth, 1844, and of "An act for the relief of the university of Michigan," approved March eleventh, 1844, and 156,000 dollars in addition thereto.

HISTORY: CL 1857, 2511;—CL 1871, 3884;—How. 5329;—CL 1897, 1402;—CL 1915, 585;—CL 1929, 5952;—CL 1948, 322.369.
NOTE: The acts, above referred to, are Acts 20 and 83 of 1844.

Sec. 70.

HISTORY: CL 1857, 2512;—CL 1871, 3885;—How. 5330;—CL 1897, 1403;—CL 1915, 586;—Rep. 1929, p. 823, Act 309, Imd. Eff. May 24, being CL 1929, 121.

This section dealt with a quarterly statement of the state treasurer as to obligations received under Sec. 68; and credits to the university fund.

322.371 University lands; obligations receivable, credit to university fund.

Sec. 71. From the date of each and every such credit, the university fund shall be relieved from the payment of interest on an amount of the said, "Michigan university state stock," equal to the amount of such credit, and when the amount of said Michigan university state stock shall have been received into the state treasury, the state treasurer shall continue to make quarterly statements of the amount of treasury notes or warrants received, and credit the same to the university fund, and interest shall thereupon accrue to, and shall annually be paid by the state to the treasurer of the board of regents for the use of the university.

HISTORY: CL 1857, 2513;—CL 1871, 3886;—How. 5331;—CL 1897, 1404;—CL 1915, 587;—CL 1929, 5953;—CL 1948, 322.371.

322.372 Certificates of purchase; seal as evidence of execution.

Sec. 72. The seal of the land office affixed to any certificate of purchase, receipt or other instrument issued by the commissioner of the land office, according to the provisions of this chapter, shall be prima facie evidence of the due execution of such certificate.

HISTORY: CL 1857, 2514;—CL 1871, 3887;—How. 5332;—CL 1897, 1405;—CL 1915, 588;—CL 1929, 5954;—CL 1948, 322.372.

Act 19, 1917, p. 44; Eff. Aug. 10.

AN ACT to authorize and empower the public domain commission to issue certificates of correction in certain cases, and to have the same recorded in the office of the register of deeds in any county wherein the lands affected by such certificate may be located.

The People of the State of Michigan enact:

322.381 Certificates of correction; contents, issuance, seal, record.

Sec. 1. Whenever it shall appear that a deed has been executed and issued by the public domain commission, purporting to convey title to lands in which the state of Michigan held no interest, and such deed has been recorded in the office of the register of deeds for the county in which such lands are located, and when in the attempt to correct such erroneous sale and transfer a deed has been executed by the grantee of the state to the state of Michigan, such deed shall be placed on record in the office of such register of deeds, by the public domain commission, and at the same time the public domain commission shall execute a certificate wherein it shall be stated that the state of Michigan has and claims no title in or to the lands described in such deed to the state of Michigan, and that such certificate is issued for the express purpose of removing any cloud upon the title in the lands described in such deed by reason of the deed issued by the state of Michigan in the first place, or by the deed so received from the grantee. Such certificate shall be issued under the seal of the public domain commission and shall be placed on record by such register of deeds, who shall at the same time enter in the record of deeds herein referred to a citation to the record of such certificate of correction.

HISTORY: CL 1929, 5929;—CL 1948, 322.381.

PUBLIC DOMAIN COMMISSION: Abolished; powers and duties transferred to the department of conservation, see Compilers' § 299.2.

Act 133, 1917, p. 253; Eff. Aug. 10.

AN ACT to authorize the public domain commission to sell or dispose of primary school, swamp, tax homestead or other lands under the control of said public domain commission in pieces or parcels less than a legal subdivision for a right of way over and across any of said lands to any telephone, telegraph, transmission, or power company or corporation and to authorize the board of agriculture to sell or dispose of agricultural college lands outside of the Iosco and Alcona forest reserve, in pieces or parcels of less than a legal subdivision to the said telephone, telegraph, transmission or power companies for a similar purpose.

The People of the State of Michigan enact:

322.391 Primary school, swamp, tax homestead and other lands; sale for right of way, price.

Sec. 1. The public domain commission is hereby authorized and empowered to sell and dispose of any primary school, swamp, tax homestead or other lands held by the state subject to the control of the said public domain commission, in pieces or parcels of less than a legal subdivision, to any telephone, telegraph, transmission or power company or corporation, for a right of way over and across any such lands, and the board of agriculture is also hereby authorized to sell or dispose of any agricultural college lands not included within the forest reserve in the counties of Alcona and Iosco, in pieces or parcels of less than a legal subdivision, to any telephone, telegraph, transmission or power company for a right of way over and across any such agricultural college lands. Any of such lands shall not be sold or disposed of for any right of way for less than twice the appraised value per acre of such lands at the time of the withdrawal of such lands from sale.

HISTORY: CL 1929, 5932;—CL 1948, 322.391.

PUBLIC DOMAIN COMMISSION: Abolished; powers and duties transferred to the department of conservation, see Compilers' § 299.2.

Act 326, 1913, p. 610; Eff. Aug. 14.

AN ACT to provide for the leasing, control and taxation of certain lands owned and controlled by the state, and the improvements thereon; to authorize deeds to particular land, subject to the paramount right of navigation, hunting and fishing in the general public; to authorize the department of conservation to issue and enforce suitable regulations covering the exercise of the public right of navigation, hunting and fishing in the St. Clair Flats area; providing penalties for the violation of certain provisions thereof; and repealing Act No. 215 of the Public Acts of 1909, and all other acts or parts of acts inconsistent herewith. Am. 1949, p. 237, Act 215, Eff. Sep. 23.

The People of the State of Michigan enact:

322.401 Unpatented overflowed lands; state board of control, authority, members; transfer of powers and duties to public domain commission; officers, meetings, majority vote.

Sec. 1. All of the unpatented overflowed lands, made lands and lake bottom lands belonging to the state of Michigan or held in trust by it, shall be held, leased and controlled by the state board of control, hereinafter referred to as the board of control, in the manner hereinafter provided. Said state board of control shall be comprised of the secretary of state, the auditor general and the commissioner of the state land office. Said board of control shall perform the duties imposed on it under this act until the first day of January, 1915, on which day all of the powers and duties of said state board of control shall pass to and be devolved upon the public domain commission, which shall be deemed the successor in office and trust to the said state board of control. Whenever the term "board of control" or the term "state board of control" is used in this act, it shall be taken to include and mean said public domain commission as successors to said state board of control. Said board of control shall convene within 15 days after this act shall take effect, and elect a chairman and secretary who shall perform the duties usually incumbent upon such officers and such other duties as may be imposed by vote of said board; and shall meet regularly on the first Tuesday of each month thereafter; special meetings of the board may be called at any time by the chairman of the board upon reasonable notice to the other members thereof. In all questions to be determined by said board, a majority vote shall control and be the action of the board.

HISTORY: CL 1915, 606;—CL 1929, 5955;—CL 1948, 322.401.

PUBLIC DOMAIN COMMISSION: Abolished; powers and duties transferred to the department of conservation, see Compilers' § 299.2.

322.402 Department of conservation; powers to convey or lease lands; dedication of unleased lands for recreational uses.

Sec. 2. The department of conservation shall have no power to deed or convey said lands, except as hereinafter provided in sections 2a, 2b, 2c, 2d, 2e, 2f, 2g and 2h, but it is vested with the power in its discretion to lease lands of the character named in section 1 of this act, to any person, firm, society, association or corporation for the purposes and in the manner hereinafter provided. The conservation commission may dedicate unleased lands of the character named in section 1 of this act for public hunting, fishing, and other recreational uses.

HISTORY: CL 1915, 607;—CL 1929, 5956;—CL 1948, 322.402;—Am. 1949, p. 237, Act 215, Eff. Sep. 23;—Am. 1961, p. 117, Act 107, Eff. Sep. 8.

CITED IN OTHER SECTIONS: Sections 322.402 to 322.402f are cited in § 322.402g.

322.402a St. Clair Flats; department of conservation, conveyance of certain leased lands; rights reserved; lands covered in section, description.

Sec. 2a. The department of conservation upon application of any person, persons or corporations, holding a lease of any portion or portions of land from this state pursuant

to Act No. 326 of the Public Acts of 1913, as amended, and Act No. 94 of the Public Acts of 1941, shall execute and deliver to the applicant a deed conveying to him all of the right, title and interest of this state in and to the lands hereinafter described, subject to the paramount rights of navigation, hunting and fishing which remain in the general public and in the government as now existing and recognized by law. The deeds shall contain the same provisions as to use and occupancy as now set forth in all leases heretofore granted under Act No. 326 of the Public Acts of 1913, as amended. The lands covered by this section are that portion of the St. Clair Flats, township of Clay, St. Clair county, Michigan, as surveyed under Act No. 175 of the Public Acts of 1899, which front upon or are a part of the south, middle and Sni Bora channel sections as follows:

“South channel section, lots 2-601 inclusive, excepting therefrom portions described in Act No. 5 of the Public Acts of 1938 and already conveyed to the federal government pursuant to said act.

Also any interior lands so-called, lying between lots 452-601 inclusive, south channel section, and the highway known as M-154; and in addition thereto the lands leased under the provisions of Act No. 94 of the Public Acts of 1941, and particularly described therein.”

Also middle channel section, lots 29-34 inclusive, lots 39-53 inclusive, lots 82 and 83 lying north of middle channel drive, lots 84-107 inclusive, lots 109 and 111, and lots 163-215 inclusive, also Sni Bora channel section, lots 147-162 inclusive and lots 167-202 inclusive.

HISTORY: Add. 1949, p. 237, Act 215, Eff. Sep. 23;—Am. 1962, p. 140, Act 148, Eff. Mar. 28, 1963;—Am. 1963, p. 284, Act 194, Eff. Sep. 6.

322.402b St. Clair Flats lands; deeds, prerequisites to granting.

Sec. 2b. Before the department of conservation shall grant a deed, there shall be presented evidence that the applicant requesting such deed is the lessee of such land, that the land is part of the lands described in section 2a, and that all taxes on said land are paid. Upon presentation of evidence of these facts satisfactory to the department, together with a sum of money to be determined by the department of conservation, said applicant shall be given a deed. All property so deeded shall thereafter be subject to the provisions of the general property tax and recording laws.

HISTORY: Add. 1949, p. 238, Act 215, Eff. Sep. 23.

322.402c St. Clair Flats lands; leased lands, sale, permitted uses.

Sec. 2c. Any of the lands described in section 2a, not now or subsequently under lease may, in the discretion of the department of conservation, be sold and deeded in the same manner, in consideration of the payment of a sum to be determined by the department of conservation by using the method as provided by section 9 of Act No. 326 of the Public Acts of 1913: Provided, That should the applicant seek to use said lands for other than residential purposes, that pending the enactment of zoning ordinance by the township of Clay of the county of St. Clair, such other use shall not be permitted unless the applicant shall comply with the usual requirements of the department of conservation in such regard.

HISTORY: Add. 1949, p. 238, Act 215, Eff. Sep. 23.

322.402d St. Clair Flats lands; conflicting claims, determination; appeal.

Sec. 2d. In all cases where there shall be a contest or conflict between applicants for a deed to the same piece or parcel of land growing out of errors of description, overlapping descriptions, prior leases or otherwise, such conflicting claims shall be determined by the department of conservation at a regular meeting after notice to each of said claimants of the time and place of hearing, and in such cases, depositions may be taken by any claimant in the manner provided for in taking depositions in the circuit

courts of this state. Any party considering himself aggrieved by any decision of the said department of conservation refusing to grant him a deed under the provisions of this act whether in case of conflict, contest or otherwise, shall have a right of appeal to the circuit court for the county in which such land is situated and the proceedings to take such appeal and the trial thereof in any of said courts shall be in accordance with the statutes providing for appeals from justice courts of this state, or to take such other action at law or in equity as provided by the statutes and laws of the state of Michigan.

HISTORY: Add. 1949, p. 238, Act 215, Eff. Sep. 23.

322.402e St. Clair Flats area; department of conservation, regulations.

Sec. 2e. The department of conservation is hereby authorized and directed to make and enforce such regulations as it may deem necessary for the preservation and use of the paramount right of navigation, hunting and fishing covering the entire St. Clair Flats area.

HISTORY: Add. 1949, p. 238, Act 215, Eff. Sep. 23.

322.402f St. Clair Flats lands; receipts, credit to general fund.

Sec. 2f. The consideration as received for the execution and delivery of any of the deeds provided for in this act shall be credited to the general fund of the state of Michigan.

HISTORY: Add. 1949, p. 238, Act 215, Eff. Sep. 23.

322.402g Other lots in St. Clair Flats; enumeration, sale, appraisal.

Sec. 2g. The department of conservation, upon application of any person holding a lease of any of the hereinafter described lands, shall execute and deliver to the applicant a deed conveying to him all of the right, title and interest of the state of Michigan, subject to all the applicable conditions and provisions of sections 2 to 2f of this act, being sections 322.402 to 322.402f of the Compiled Laws of 1948, in and to lots 74, 75, 76, 77, 78, 83, 84, 87, 88, 92, 93, 96, 97, 100 and 101 to 120, inclusive, lots 256 to 265 inclusive, and lots 342 to 344 inclusive, of the St. Clair Flats survey, North Channel, Clay township, St. Clair county, Michigan. Notwithstanding any provision of the law to the contrary, no sale shall be made at less than the present appraised value of the land as determined by the state tax commission including no increase in the sale value because such land may have been improved by dredging, leveling off, sheet piling, erecting docks, building structures of any kind, reduced by the value of the burden of leases outstanding, if any.

HISTORY: Add. 1956, p. 690, Act 221, Eff. Aug. 11;—Am. 1961, p. 44, Act 43, Eff. Sep. 8;—Am. 1962, p. 152, Act 153, Eff. Mar. 28, 1963. —Am. 1963, p. 284, Act 194, Eff. Sep. 6.

322.402h Water highway lands; lease, conveyance to contiguous lessees.

Sec. 2h. The department of conservation, in its discretion, upon application of any person holding a lease or deed under this act to any lands lying contiguous to any water highway as surveyed under Act No. 175 of the Public Acts of 1899 and where it is determined that such highway is no longer needed for navigation, ingress and egress to surveyed lots, or for any public use, whether dredged or not, may execute and deliver to the applicant a lease under the provisions of section 3 of this act, or a deed subject to all the applicable conditions and provisions of sections 2 to 2g of this act, to all of the right, title and interest of the state in and to 1/2 of the surveyed width of that portion of the water highway as lies contiguous to land held under lease or deed by the applicant. Where a lease is issued, its term may be made to run concurrent with that of the lease held by the applicant for the contiguous land.

HISTORY: Add. 1961, p. 118, Act 107, Eff. Sep. 8.

322.403 Rental valuation periods; determination, re-determination, improvements, maximum increase; gross sum.

Sec. 3. Whenever any person, firm or corporation or society shall be entitled under the terms of this act to lease for the period of 99 years, it shall be the duty of said board of control to divide said term of 99 years into 2 periods of 50 and 49 years each to be known as rental valuation periods, and the consideration or rental to be paid by the lessee for the first period of 50 years is to be determined by the said board of control at the time such lessee is adjudged entitled to said lease; and at the expiration of said first period of 50 years, it shall be the duty of the public domain commission to re-determine the rental value or consideration to be paid by the lessee for the next succeeding rental period of 49 years until the expiration of the full term of the lease: Provided, That the said board of control in determining said rental value to be so paid by the lessee shall consider the value of the land only and shall not increase the rental value or consideration for any of said rental periods because of the improvements that may have been made on any of said premises by a lessee: Provided further, That in determining the rental value or consideration to be paid by the lessee for the second valuation period of 49 years, said public domain commission shall not increase such rental value or consideration to any sum in excess of double the rental value or consideration determined for the first valuation period of 50 years: Provided further, That the consideration so fixed shall, as applied to the claimants coming within the provisions of this act (section 3), be a gross sum and not an annual rental.

HISTORY: CL 1915, 606;—CL 1929, 5957;—CL 1948, 322.403.

322.404 Rental valuation periods; improvements less than \$100.

Sec. 4. In all cases where any person, firm, corporation or society shall apply for a lease of any of the lands of the character described in section 1 of this act and there shall not have been expended thereon 100 dollars or more for improvements, the term of the lease may be in the discretion of the said board of control for any period not exceeding 99 years: Provided, That in all such cases the said term shall be divided into rental valuation periods of 10 years, such rental valuation or consideration to be determined in the first instance at the time said claimant is adjudged entitled to a lease, and at the expiration of each 10 years thereafter during the entire period of said lease it shall be the duty of said board of control to determine the rental value or consideration to be paid by the lessee for the next succeeding 10 years.

HISTORY: CL 1915, 606;—CL 1929, 5958;—CL 1948, 322.404.

322.405 Applications for leases; hearings, record; notice and certificate for land, contents; neglect to perfect lease; delinquent lease.

Sec. 5. It shall be the duty of the public domain commission at its regular meetings, to proceed to hear and determine the validity of all the applications then on file made by applicants for leases, and it shall keep a record of written evidence, if any, which may be filed with each application, in a suitable record book to be provided by said public domain commission. Each claimant adjudged entitled to a lease shall receive from the public domain commission within 10 days after such action has been taken by said public domain commission a notification in writing of such action by said public domain commission and a certificate for such land, or so much thereof as shall have been adjudged to such claimant, his heirs or assigns, in which shall be certified the name of the claimant and a description of the land so adjudged to be leased to him and the rental or consideration therefor. Said notification shall include a statement of the time when rental shall be due and the penalties for failure to comply with the provisions of this act, both as regards payment of rental and taxes, which rental consideration shall be paid to the state treasurer in full at the time said lease shall be executed by both parties thereto. Such certificate shall further state that such claimant, his heirs

or assigns shall upon payment of the amount therein named, be entitled to a lease of said lands as provided in this act to be executed by the public domain commission upon presentation and surrender of such certificate to the public domain commission, together with the receipt of the state treasurer showing the payment of said rental or consideration: Provided, That if said lessee or applicant shall neglect for a period of 90 days from and after the date of such certificate to perfect the lease to such lands as described in such certificate and to remit the rent as in this act provided, said public domain commission shall have the authority to cancel such determination and certificate thereof, and all rights thereunder shall be deemed to be forfeited by such lessee or applicant: And provided further, That if any person, firm or corporation who has prior to the time that this amendment shall become operative obtained a lease to any of the lands described in section 1 hereof in accordance with the terms of this act, and who has failed or neglected to make the second and final payment of the rental consideration for the lands so leased, and the interest on such unpaid amounts for a period of 3 months from and after the date on which such payments become due, shall be notified in writing of such failure to pay, by the public domain commission, and at the same time the public domain commission shall also notify such delinquent leaseholder that a further failure or neglect upon his part to make such payment within 90 days after the date of such notification will be held as a forfeiture of his leasehold rights in said land, and that the public domain commission will thereupon cancel the lease held by him and his rights thereunder shall be held as naught, and the public domain commission shall hold such forfeited lands subject to lease by any party applying for the same under the terms of this act. Immediately upon formal determination by the public domain commission that a lease has been forfeited hereunder a certificate of cancellation of the same shall be executed under the seal of the commission and shall be forwarded to the register of deeds of the county wherein such land is situated. Upon receipt of such certificate the register of deeds shall at once cause the same to be recorded in a suitable book provided therefor by said register. If the lease is of record in said office the register shall note thereon the fact that such a certificate of cancellation has been issued and shall also note the citation to the record of such certificate.

HISTORY: Am. 1915, p. 158, Act 92, Eff. Aug. 24;—CL 1915, 610;—Am. 1917, p. 33, Act 12, Eff. Aug. 10;—CL 1929, 5959;—CL 1948, 322.405.

322.406 Uncontested applications; execution of certificate and lease.

Sec. 6. Such applications as may be filed under the provisions of this act, which satisfy its requirements and upon which there exists no conflict of claims, shall of themselves be sufficient, without additional written or verbal testimony, to entitle such claimant to the certificate and lease provided for herein, which said certificate and lease shall thereupon be executed in manner and form as provided for in this act.

HISTORY: CL 1915, 611;—CL 1929, 5960;—CL 1948, 332.406.

322.407 Possessor or occupant of lands; failure to make application for lease, recovery of possession by state.

Sec. 7. All persons, firms or corporations, having been in occupation or possession of lands of the character named in section 1 for 1 year or upwards, prior to January 1, 1913, failing to make application for a lease for the occupation and possession of the same as provided for herein, within 9 months after this act takes effect, and all persons, firms or corporations who shall fail after the notification provided for in section 6 of this act to make payment of the consideration fixed by the said board of control within the time and in the manner specified in this act, shall be deemed trespassers,

and an action may be brought in the circuit court for the county in which such lands are situated in the name of the people of the state of Michigan, by the attorney general of the state to recover possession of said lands.

HISTORY: CL 1915, 612;—CL 1929, 5961;—CL 1948, 322.407.

322.408 Lease; blank form; execution, acknowledgment, recording.

Sec. 8. It shall be the duty of the attorney general to prepare a blank form of lease, which shall be used by the commissioner of the state land office in all cases where said board of control has at a regular meeting, determined the rental value and the term of the lease. Every lease shall be executed on behalf of the state of Michigan by the commissioner of the state land office, and shall be duly acknowledged and recorded in the office of the register of deeds for the county in which said lands are situated and such register of deeds shall be entitled to no fees for making such record.

HISTORY: CL 1915, 613;—CL 1929, 5962;—CL 1948, 322.408.

322.409 Fixing rental value; present land values.

Sec. 9. In fixing rental values the said board of control shall determine present land values only and shall not increase the rental value because said lands may have been improved by dredging, leveling off, sheat-piling, erecting docks, buildings or structures of any kind.

HISTORY: CL 1915, 614;—CL 1929, 5963;—CL 1948, 322.409.

322.410 Occupants and claimants in possession of lands; priority for lease or rental.

Sec. 10. The board of control shall lease or rent the lands of the character herein named to occupants and claimants in possession to the exclusion of other persons, firms or corporations, provided such occupants or claimants have made or shall make an application to lease said lands so occupied, claimed or improved within 9 months next after this act *takes effect, in accordance with the provisions hereof.

HISTORY: CL 1915, 615;—CL 1929, 5964;—CL 1948, 322.410.

*NOTE: It is evident that "takes" should be "takes".

322.411 State park lands; not leasable; St. Clair Flats, leasable to occupants of abutting property; procedure.

Sec. 11. The department of conservation shall have no power to lease to any person, firm or corporation, lands of the character described in section 1 of this act that are now included by law of this state within a public park: Provided, however, That the department of conservation may lease to the occupants thereof any land on the so-called St. Clair flats lying between the lands surveyed along the middle channel of the said St. Clair river under Act No. 175 of the Public Acts of 1899, and between the private claims on Harsens island and the Muscamoot bay, for which application is made prior to the first day of September, 1924, whenever it shall be made to appear to the satisfaction of said commission that the person, firm, or corporation applying for a lease of any such lands shall have been in occupation thereof either in person or by his or their grantors since the first day of January, 1913, and has made valuable improvements thereon: Provided also, That in leasing such lands the department of conservation is hereby authorized and empowered to make a survey thereof, and upon the completion of such survey, cause a duly prepared plat with the field notes of such survey, to be filed in the office of the department of conservation. A certified copy of such plat shall be filed with the register of deeds of the county of St. Clair. In leasing such lands the department of conservation shall be governed by the preceding sections of this act: Provided further, That the department may lease to the leaseholder of the abutting property the made lands and lake bottom lands in the St. Clair flats, so-called, included in the following description: All that part of the Saint Clair flats, described as, commencing at the north west corner of lot 11, south channel section of the

Saint Clair flats survey, thence south 40° 12' west 964.42 feet along the westerly line of lot 11 to the south west corner of lot 11, thence north 26° 51' west 428.29 feet along the Ives highway extended, thence north 66° 31' east 889.60 feet to the point of beginning, also commencing at the north west corner of lot 10, thence south 40° 12' west 234.57 feet to the south west corner of lot 10, thence south 2° 26' east 328.59 feet to the north west corner of lot 6, thence south 30° 55' 30" west 709.09 feet to the south west corner of lot 2, thence north 58° 29' west 450.00 feet along the northerly line of the Sampson highway extended, thence north 28° 01' 10" east 1452.20 feet, thence south 26° 51' east 450.00 feet, along the Ives highway extended, to the point of beginning and also the department may lease to the leaseholders of the abutting properties the made lands and lake bottom lands in the St. Clair flats, so-called, lying between lots 27, 29, 30 and 31, south channel section, St. Clair flats as surveyed, and right of way of state highway trunk line M 154 (WPSO-280-A state project 77-52), as surveyed, excepting therefrom however, all land covered by the extensions to the above mentioned highway M 154 of Rushmere, Ruhl, Grummond and Bielman highways, St. Clair flats, as surveyed under Act 175, P.A. 1899. Said lease shall be on such terms and conditions as the department may prescribe, not in conflict with the provisions of this act.

HISTORY: CL 1915, 616;—Am. 1917, p. 35, Act 12, Eff. Aug. 10;—Am. 1921, p. 703, Act 382, Eff. Aug. 18;—Am. 1923, p. 68, Act 48, Eff. Aug. 30;—CL 1929, 5965;—Am. 1941, p. 114, Act 94, Eff. Jan. 10, 1942;—CL 1948, 322.411.

NOTE: Act 175 of 1899, above referred to, was superseded by Act 215 of 1909 which was repealed by Sec. 30 hereof.

322.412 Rights of lessees; subject to certain public rights.

Sec. 12. The rights of lessees under this act shall be subject to the paramount right of navigation, hunting and fishing, which rights are to remain in the general public and in the government as now existing and recognized by law.

HISTORY: CL 1915, 617;—CL 1929, 5966;—CL 1948, 322.412.

322.413 Possessor or occupant of lands; application for lease, contents, filing; technical inaccuracy; former applications.

Sec. 13. Any person, firm or corporation in possession or occupation of any land of the character described in section 1 of this act desiring to lease the same from the state, shall file with the commissioner of the state land office within 9 months after this act takes effect, a written application for such lease, which shall state the applicant's full name, postoffice address and all the facts relied upon to establish possession, occupancy and improvement, and every claim so filed shall show the amount claimed to have been expended by said claimant upon said land and the length of time he has been in possession of said land and the character of the improvements made and shall be signed and verified by such claimant, and said application shall not be deemed invalid because of any technical inaccuracy or misdescription, but the same may be permitted to be corrected at any time in the discretion of said board of control: Provided, That all persons, firms, corporations, societies or associations that have heretofore made application in accordance with Act No. 175 of the Public Acts of 1899, or Act No. 215 of the Public Acts of 1909, shall not be required to make any further or additional application, but the application so made shall have the same force as though made under the provisions of this act.

HISTORY: CL 1915, 618;—CL 1929, 5967;—CL 1948, 322.413.

NOTE: For Act 175 of 1899 and Act 215 of 1909, above referred to, see note to Sec. 11 hereof.

322.414 Possessor or occupant of lands; prior improvements, right to lease; consideration; term.

Sec. 14. Any person, or persons, firm or corporation or association, claiming under this act and having been in occupancy of any of the land described in section 1 hereof and having improved said land under the definition set forth herein prior to January 1, 1913, shall be entitled to a lease with valuation periods as herein provided, for 99

years, of the land so claimed and improved, upon payment to the officer authorized to receive the same of such consideration as may be fixed by said board of control and it shall be the duty of said board of control and of the other officers specified in this act, to issue all orders and certificates necessary and to lease to said person or persons, firms or corporations or associations, for a term of 99 years the land so applied for by them: Provided, That said persons, firms or corporations or associations have filed or do cause to be filed proper applications therefor, as required by the provisions of this act: And Provided further, That said board of control may lease to any of said persons, firms, corporations or associations, any of said lands applied for under the provisions hereof for a term of years equal to or less than the full rental period when so requested by the lessor.

HISTORY: CL 1915, 619;—CL 1929, 5968;—CL 1948, 322.414.

322.415 Possession, occupancy and improvement; definitions.

Sec. 15. The words "possession," "occupancy" and "improvement" as used in this act shall be construed to include dredging or ditching, the throwing up of embankments, sheet-piling, filling in, the erection of fences, a boat-house, land made by dredging and filling, or building structures.

HISTORY: CL 1915, 620;—CL 1929, 5969;—CL 1948, 322.415.

322.416 Application for lease; priority for improvements.

Sec. 16. The board of control shall not be compelled to give priority to any application for a lease of any lands where the improvements do not exceed in value 100 dollars: Provided, That it shall not be unlawful for said board of control to give such an application priority over other applicants when in its judgment the facts warrant such a determination.

HISTORY: CL 1915, 621;—CL 1929, 5970;—CL 1948, 322.416.

322.417 Surveys governing terms of act.

Sec. 17. In describing the lands that may be leased under the terms of this act, said board of control shall be governed by maps, plats and field notes of surveys made by the United States surveyors or by the state of Michigan.

HISTORY: CL 1915, 622;—CL 1929, 5971;—CL 1948, 322.417.

322.418 Board of control; jurisdiction; ascertainment of rights; records; members, powers; witnesses; contempt; witness fees.

Sec. 18. The said board of control shall ascertain and decide upon the rights of persons claiming the benefit of this act, and it shall have power to hear and decide in a summary manner all matters respecting such applications or claims, except as herein otherwise provided and to that end compel the attendance of witnesses and receive such competent testimony by deposition or otherwise as may be produced, and determine thereon, according to equity and justice, the validity and just extent of the claim and respective rights of conflicting claimants making application for a lease. It shall cause minutes of the filing of such claims and all its proceedings to be entered in a book kept for that purpose and keep a record of the evidence from which its decisions are made, and it is authorized when it deems it necessary, or upon request of any of the claimants, to employ a stenographer to assist said board of control. And each of the members of said board of control shall have power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers upon any hearing before said board of control. In case of disobedience on the part of any person or persons, or wilful failure to appear pursuant to any subpoena issued by said board of control or any of its members, or upon refusal of any witnesses to testify regarding any matter pending before said board of control or to produce books and papers which he shall be required by said board of control or by any member thereof to produce, it shall be the duty of the circuit court of any county in this state in which said board of

control shall be in session or of a judge thereof, upon the application of said board of control or any member thereof, to compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein, and in addition said members of said board of control shall have the powers vested in justices of the peace and notaries public to compel witnesses to testify to any matter pending before said board of control, and each witness who shall appear before said board of control by its order or subpoena shall receive for his attendance the fees and mileage provided witnesses in civil cases in circuit courts, said fees to be paid by the party calling such witnesses.

HISTORY: CL 1915, 623;—CL 1929, 5972;—CL 1948, 322.418.

322.419 Board of control; conflicting claims, hearing, notice, depositions; appeal to circuit court.

Sec. 19. In all cases where there shall be a contest or conflict between applicants for a lease to the same piece or parcel of land growing out of a prior occupation or improvements, such conflicting claims shall be determined by the board of control at a regular meeting after notice to each of said claimants of the time and place of hearing, and in such cases depositions may be taken by any claimant in the manner provided for taking depositions in the circuit courts of this state. Any party considering himself aggrieved by any decision of the said board of control refusing to grant him a lease under the provisions of this act whether in case of conflict, contest or otherwise, shall have the right of appeal to the circuit court for the county in which such land is situated and the proceedings to take such appeal and the trial thereof in any of said courts shall be in accordance with the statutes providing for appeals from justice courts of this state, or to take such other action at law or in equity as provided by the statutes and laws of the state of Michigan.

HISTORY: CL 1915, 624;—CL 1929, 5973;—CL 1948, 322.419.

322.420 State leased lands; sale or transfer of lease, statement of purpose, approval by board of control, record.

Sec. 20. All sales or transfers of leases shall contain a specific statement of the purpose for which the property leased is to be used by the purchaser or assignee, and no sale or transfer of any lease for other than club or residence purposes shall be valid, unless and until the sale or transfer is approved by said board of control. The said board of control shall keep a book of record for the purpose of recording all sales or transfers of leases, and no sale or transfer of any lease by any lessee shall be valid unless and until the same is filed for record with said board of control.

HISTORY: CL 1915, 625;—CL 1929, 5974;—CL 1948, 322.420.

322.421 State leased lands; sale or transfer of improvements; plats.

Sec. 21. Any lessee under this act may sell and assign the improvements on the premises so leased and his leasehold interest therein, if the rental is not in arrears and all taxes assessed and any lien thereon are fully paid. Any sale or assignment contrary to this act shall be void. If the lessee of any lot surveyed under Act No. 175 of the Public Acts of 1899 partitions or divides the lot into 5 or more lots, tracts or parcels, he shall plat the lot pursuant to the provisions of Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948. The department of conservation may join in the platting of leased lands.

HISTORY: CL 1915, 626;—CL 1929, 5975;—CL 1948, 322.421;—Am. 1962, p. 56, Act 69, Eff. Mar. 28, 1963.

322.422 State leased lands; expiration of lease, first rights to re-lease.

Sec. 22. When any lease shall expire by limitation the last lessee or his assignee, heirs or personal representative or any mortgagee or person having a mortgage interest therein shall have the first right for 60 days next after such expiration of limitation to re-lease said premises.

HISTORY: CL 1915, 627;—CL 1929, 5976;—CL 1948, 322.422.

322.423 State leased lands; receipts, disposition; payment of expenses; employees.

Sec. 23. All moneys received from the leasing of said land of the character described in section 1 of this act shall be paid to the state treasurer and by him credited to the general fund. All expenses incurred in carrying out the provisions of this act or heretofore contracted in the carrying out of Act No. 215 of the Public Acts of 1909, shall when audited by the board of state auditors, be paid from the general fund in the same manner as other expenses in conducting the state land office. Said board of control shall have power to hire such employees as in its judgment shall be necessary to carry out the provisions of this act.

HISTORY: CL 1915, 628;—CL 1929, 5977;—CL 1948, 322.423.

NOTE: Act 215 of 1909, above referred to, was repealed by Sec. 30 hereof.

322.424 State leased lands; taxes, assessment.

Sec. 24. The lessee's interest in all leases made under the terms of this act shall be assessed as real estate by the assessing officer of the township, city or village in which the lands leased may be located and the levy and collection of taxes so assessed on said lessee's interest shall be made and collected in the same manner and subject to the provisions of law now in force for the levy and collection of taxes upon real estate, and the assessing officers in determining the value of such leasehold interest for taxation purposes shall take into consideration the value of the land together with the improvements thereon.

HISTORY: CL 1915, 629;—CL 1929, 5978;—CL 1948, 322.424.

TAXATION: See Compilers' § 211.1 et seq.

322.425 State leased lands; default in taxes, procedure for payment; forfeiture of lease; re-lease; co-owners, partial payment of taxes; certificate of cancellation.

Sec. 25. In all cases where default is made in the payment of taxes to the treasurer of the township, city or village, in which the lands leased may be located, the same shall be returned to the county treasurer according to and subject to the provisions of law for the return and collection of unpaid taxes assessed upon real estate. The treasurer of the township, city or village, at the same time that he makes returns to the county treasurer, shall make and transmit to the department of conservation a list of the lands so delinquent for taxes and the amount of taxes delinquent upon each description in said list. The county treasurer shall, at the same time when he makes his return of delinquent lands to the auditor general, make a similar return to the department of conservation of all such leasehold interests, the taxes upon which have not been collected, with a statement of the amount thereof. The county treasurer shall have no authority to receive payment of the amount of any taxes assessed upon such leasehold interests; but such taxes when returned delinquent by the township treasurer shall be payable only to the department of conservation. The department of conservation shall provide suitable books and enter in the same the description of every leasehold interest so returned and the taxes thereon. The person holding such interest in any parcel of said lands may pay to the department of conservation at any time within 1 year after the same becomes a lien on said premises, the taxes assessed thereon, with interest at the rate of 1/2 of 1% per month or fraction thereof, with 4%

as a collection fee, from the first day of March last preceding: Provided, That if said taxes are not paid within the time herein specified, said leasehold interest shall stand forfeited because of the non-payment of such taxes, and within its discretion the department of conservation may release said premises to any person for any term of years not exceeding 99 years, upon such person paying to said department of conservation all unpaid taxes thereon, together with such rental as may be determined upon under the provisions of this act by the said department of conservation: Provided further, That in the event any such leasehold interest is owned by 2 or more persons, and any 1 or more of said persons shall neglect or refuse to pay his or their proportionate share of the taxes assessed against said leasehold at the date when said taxes become due and payable, then any 1 or more of such owners may pay his or their proportionate share of the said taxes, and the county treasurer, in his return of delinquent lands to the said department of conservation, shall indicate said partial payments of taxes credited to the owner or owners making them. Any owner not having made payment of his proportionate share of the taxes may, at any time within 1 year after the taxes have become a lien on the premises, pay to the said department of conservation his proportionate share of the said taxes with interest at the rate of 1% per month or fraction thereof, from the first day of March last preceding: Provided further, That if the proportionate share of taxes of any such owner is not paid within the time herein specified, the interest of such owner in said leasehold shall stand forfeited because of the non-payment of such taxes, and thereafter within 30 days, such of the owners as have paid their proportionate share of the taxes, upon payment to the said department of conservation of the amount of the taxes remaining due with interest accrued to the date of forfeiture, shall be entitled to conveyances by the said department of conservation of such interests in the leasehold as have been forfeited. The interest thus conveyed shall be allotted equally among those owners who shall pay the delinquent taxes with interest as herein provided: Provided further, That where default is made by any lessee in the payment of taxes, he shall be notified in writing by said department of conservation, at least 3 months before the date of final forfeiture of the amount due and the penalty for non-payment and the date upon which forfeiture is to occur: Provided further, That upon payment to said department of conservation of taxes and interest as herein provided, such amount shall be credited to the county in which such leasehold interests were assessed, in the same manner as taxes and interest are now credited to counties on part-paid state lands. Immediately upon formal determination by the department of conservation that a lease has been forfeited hereunder a certificate of cancellation of the same shall be executed under the seal of the department and shall be forwarded to the register of deeds of the county wherein such land is situated. Upon receipt of such certificate the register of deeds shall at once cause the same to be recorded in a suitable book to be provided by said register. If the lease is of record in said office the register shall note thereon the fact that a certificate of cancellation has been issued and shall also note the citation to the record of such certificate.

HISTORY: CL 1915, 630;—Am. 1917, p. 35, Act 12, Eff. Aug. 10;—CL 1929, 5979;—Am. 1931, p. 484, Act 294, Imd. Eff. June 8;—CL 1948, 322.425;—Am. 1949, p. 238, Act 215, Eff. Sep. 23;—Am. 1956, p. 681, Act 221, Eff. Aug. 11.

RETURN: Of delinquent taxes, see Compilers' § 211.55.

322.426 State leased lands; default in taxes, report.

Sec. 26. It shall be the duty of the several county treasurers to make a report to the board of control of all descriptions of said lands where the same have been returned for non-payment of taxes and such taxes have not been paid within 6 months after such return, the said report to be made by such treasurer within 30 days after the said 6 months shall have expired.

HISTORY: CL 1915, 631;—CL 1929, 5980;—CL 1948, 322.426.

322.427 Unpatented overflowed lands; lease for removal of metallic minerals, marl, rock, earth, oil, gas; existing leases, validation; paramount rights of navigation, hunting, fishing.

Sec. 27. All of the unpatented overflowed lands, made lands, and lake bottom lands belonging to the state of Michigan or held in trust by it, shall be subject to lease for the removal of metallic minerals, marl, stone, rock, sand, gravel, earth, oil and gas from or under the beds thereof, and the conservation department, as successor to the public domain commission, is hereby empowered to enter into lease with persons, firms, associations, and corporations, granting the right of drilling, mining, taking and removing metallic minerals, marl, stone, rock, sand, gravel, earth, oil and gas from or under these lands upon such conditions and for such consideration as may be deemed fair and reasonable by said conservation department: Provided, That all outstanding and existing oil and gas leases as herein provided, entered into by the conservation department prior hereto, are hereby confirmed and validated: Provided further, That the owners, or lessees from the state, of lands fronting upon the great lakes and bays and harbors connected with said lakes shall have the exclusive right to enter into lease with the conservation department for the taking and removing of marl, stone, rock, sand, gravel and earth from the lake bed adjoining and lying immediately in front of their respective lands, from the water's edge outward 1,000 feet on Lakes Michigan, Huron and Superior, 500 feet on Lakes Erie and St. Clair and 100 feet on the channels of the St. Clair Flats upon such conditions and for such consideration as may be deemed fair and reasonable by said conservation department, except where such exclusive right has been waived by reason of written consent given by said owners and lessees from the state to any other person, persons, firms, associations, or corporations to take and remove said marl, stone, rock, sand, gravel and earth from the lake bed adjoining and lying immediately in front of their respective lands: Provided further, That nothing herein contained shall be construed as granting to surface or mineral owners, or lessees from the state, of lands fronting upon the great lakes and bays and harbors connected with said lakes any preferential right to enter into leases with the conservation department for the drilling, mining, taking and removing of metallic minerals or oil and gas from the subsurface area of the lands herein mentioned: Provided further, That nothing herein contained shall be construed to prevent the removal of obstructions and deposits at the mouths of the several rivers and harbors of the state for the purpose of maintaining and improving navigation: Provided further, That the rights of such owners and lessees under this section shall be subject to the paramount rights of navigation, hunting and fishing, which rights are to remain in the general public and the government, as now existing and recognized by law.

HISTORY: Add. 1915, p. 159, Act 92, Eff. Aug. 24;—CL 1915, 632;—CL 1929, 5981;—Am. 1935, p. 77, Act 47, Eff. Sep. 21;—CL 1948, 322.427;—Am. 1951, p. 144, Act 114, Eff. Sep. 28;—Am. 1957, p. 26, Act 24, Eff. Sep. 27;—Am. 1957, p. 381, Act 278, Eff. Sep. 27.

322.427a Supervisor of wells; jurisdiction as to oil and gas leases; regulations; minimum distance of offshore well from water's edge.

Sec. 27a. All exploration for, development, production, handling or use, of oil or gas under any lease authorized by this act shall be subject to the jurisdiction and control of the supervisor of wells of the state of Michigan in accordance with the provisions of any statutes of this state applicable to the exploration for, development, production, handling or use, of oil or gas, and rules and regulations adopted pursuant thereto, including, but not limited to, rules and regulations for the prevention of pollution of water, and for the protection of navigation, hunting, fishing and other public uses, subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended: Provided, That at the time of the filing of the application for a permit to drill, nothing herein contained shall allow the location of any well within less than 500 feet outward from the water's edge of lands fronting on the great lakes and bays and harbors connected

with said lakes without the written consent of the littoral owner or owners of property situated opposite and within 500 feet of such proposed well location.

HISTORY: Add. 1957, p. 381, Act 278, Eff. Sep. 27.

322.428 Removal of metallic minerals, marl, rocks, earth, oil and gas; lease required; civil liability.

Sec. 28. It shall be unlawful for any person to remove metallic minerals, marl, stone, rock, sand, gravel, earth, oil and gas from or under the beds of the great lakes and bays and harbors connected with said lakes without first obtaining a written lease from the conservation department granting the right to take such material; and any such person who removes metallic minerals, marl, stone, rock, sand, gravel, earth, oil and gas without first obtaining such lease shall be liable to the state of Michigan for 3 times the full value of the materials so taken.

HISTORY: Add. 1915, p. 160, Act 92, Eff. Aug. 24;—CL 1915, 633;—CL 1929, 5982;—Am. 1935, p. 28, Act 47, Eff. Sep. 21;—CL 1948, 322.428;—Am. 1951, p. 144, Act 114, Eff. Sep. 28;—Am. 1957, p. 27, Act 24, Eff. Sep. 27.

322.429 Removal of metallic minerals, marl, rocks, earth, oil and gas; violation of act; penalty.

Sec. 29. In addition to the civil liability declared in section 28 of this act, any person or persons offending against the provisions of said section for commercial purposes shall be deemed guilty of a felony and on conviction thereof shall be liable to a fine not exceeding 500 dollars or imprisonment in the state prison for not more than 2 years, or both such fine and imprisonment, in the discretion of the court; and any person or persons so offending may be prosecuted in any court of the county, along the shores of which such offense may be committed, having jurisdiction thereof. The director of conservation and any special assistants or conservation officers appointed by said director shall have the same power to serve criminal process as sheriffs, and shall have the same right as sheriffs to require aid in executing such process. Any of said officers may arrest, without warrant, any person caught by him in the act of violating the provisions of section 28 of this act.

HISTORY: Add. 1915, p. 161, Act 92, Eff. Aug. 24;—CL 1915, 634;—CL 1929, 5983;—Am. 1935, p. 78, Act 47, Eff. Sept. 21;—CL 1948, 322.429.

Sec. 30. (This was a repeal section.)

HISTORY: Add. 1915, p. 161, Act 92, Eff. Aug. 24;—CL 1915, 635;—CL 1929, 5984;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 215, 1909. This act superseded Act 175, 1899.

Act 197, 1883, p. 225; Eff. Sep. 8.

AN ACT to provide for the disposition of certain lands granted to the state of Michigan for railroad purposes by acts of congress of June 3, 1856, and March 4, 1879, upon the route from Grand Haven to Flint and thence to Port Huron, in the state of Michigan; to secure the title thereto to bona fide settlers and purchasers; to provide for the further sale thereof, and to provide for the adjustment of certain taxes heretofore assessed thereon.

The People of the State of Michigan enact:

322.451 Lands granted to state for railroad purposes; issuance of patents; acreage; possession; improvements; deductions.

Sec. 1. That so much of the lands granted to the state of Michigan by acts of congress of June 3, 1856, and March 4, 1879, upon the route from Grand Haven to Flint and thence to Port Huron, extending from Grand Haven to Flint as in said acts designated, as have been purchased in good faith from Augustus D. Griswold or his grantees previous to the nineteenth day of January, 1876, William R. Bowes, as trustee of the Port Huron and Lake Michigan railroad company, or his successor, or of Amos

Gould, or of either of their grantees, previous to the twenty-ninth day of January, A.D. 1881, shall have patents issued to them respectively for such lands: Provided, That the same shall be in 1 body and not in detached parcels, and shall not exceed 160 acres: And provided further, That such claimant or his grantors shall have been in actual and continued possession of such lands, and shall have resided thereon since January 1, 1881, and shall have made valuable improvements thereon: And provided further, That any number of acres received by such person or his grantors by virtue of Act No. 275 of the legislature of the state of Michigan of 1881, approved June eleventh, 1881, shall be deducted from the number of acres to be received by virtue of this section.

HISTORY: How. 5406a;—CL 1897, 1422;—CL 1915, 636;—CL 1929, 5985;—CL 1948, 322.451.

322.452 Proofs of purchase and possession; made to commissioner of state land office; attendance of witnesses.

Sec. 2. Proofs of such purchase shall be made to the commissioner of the state land office by the production of conveyances, printed or written contracts, or duly certified copies thereof, if the same shall have been recorded, or in case of loss, without record, by at least 2 disinterested witnesses satisfactory to said commissioner of the state land office of such loss or of the existence of such conveyance or contract previous to the dates mentioned in section 1. Proof of such actual and continued possession and improvements by such claimant or his grantors shall also be made to said commissioner of the state land office by at least 2 disinterested witnesses, and said commissioner of the state land office in his discretion may require the personal attendance of such witnesses or receive sworn statements of such facts.

HISTORY: How. 5406b;—CL 1897, 1423;—CL 1915, 637;—CL 1929, 5986;—CL 1948, 322.452.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.453 Patents; issuance; acreage, limitation; proofs acceptable; precedence; conflicting claims; improvement, possession; right to patent, effect.

Sec. 3. Any person who shall have purchased in good faith by deed or contract any of said lands of the said Augustus D. Griswold, William R. Bowes, trustee, or his successor, or Amos Gould, or of the grantees of either of them, previous to the 29th day of January, A.D. 1881, shall have patent issued to them for the lands described by their respective purchases but not to exceed 160 acres. The proofs to be made under this section shall be by production of the original instrument, or of a certified copy of the record thereof: Provided, That no deed of purchase from Amos Gould shall be received or admitted under this section by said commissioner of the state land office unless the same shall have been properly recorded in the office of the register of deeds of the county where any of the lands in such conveyance described are situated previous to the first day of March, A.D. 1882: unless such evidence of purchase be by land contract proved by at least 3 witnesses to have been executed and delivered before January first, 1881: And provided further, That the party holding by deed or contract all 3 of the titles known as the Griswold, Bowes and Gould titles, as specified in this act, to any of these lands, shall be entitled to prove the same and receive patent therefor as aforesaid: And provided further, That any person holding the first mentioned 2 of such titles shall have preference over the holder of any 1 title by deed or contract and shall be entitled to prove the same and receive patent therefor as aforesaid; and in case any of said land is claimed by different parties deriving their respective titles from the said Griswold, Bowes, or Gould, or all or any 2 of them, then patents shall issue, as provided in this act, to said parties as joint owners: And provided further, That no claim under this section shall be allowed where the same shall conflict with the claims of actual settlers as provided in the preceding sections: And provided further, That any person who has resided upon any of these lands provided for in this section previous to the first day of January A.D. 1883, and has made valuable improvements thereon, and

has continued in such possession since said first day of January, A.D. 1883, may make proof of such residence and improvements as provided for in section 2 of this act, within 3 months after this act shall take effect, and pay into the state treasury for the benefit of the purchaser entitled to such land under the provisions of this section as hereinbefore provided; or in case of there being no such purchaser entitled thereto, then for the benefit of the state the sum of 1 dollar and 25 cents per acre therefor, whereupon said commissioner of the state land office shall issue patent for such land to such resident, but for no larger quantity to any 1 claimant than 160 acres.

HISTORY: How. 5406c;—CL 1897, 1424;—CL 1915, 638;—CL 1929, 5087;—CL 1948, 322.453.

322.454 Claims under act; time.

Sec. 4. All claims made by virtue of sections 1 and 3 of this act shall be made within 6 months after this act shall take effect, and not afterwards: Provided, That the commissioner of the state land office may extend the time to determine contested cases for 30 days.

HISTORY: How. 5406d;—CL 1897, 1425;—CL 1915, 639;—CL 1929, 5088;—CL 1948, 322.454.

322.455 Sale of residue of lands; public auction; minimum price.

Sec. 5. All lands embraced within the provisions of this act and not disposed of at the expiration of 7 months from the date this act shall take effect, shall be offered for sale at public auction by the commissioner of the state land office at the minimum price of 1 dollar and 25 cents per acre.

HISTORY: How. 5406e;—CL 1897, 1426;—CL 1915, 640;—CL 1929, 5089;—CL 1948, 322.455.

322.456 Sale of residue of lands; public auction; place; time; notice, publication, contents.

Sec. 6. Such public auction shall be at the place of holding the circuit court in the county where said land is situated respectively, within 90 days after the time fixed for purchasers and settlers to file claims as provided in the foregoing sections. The said commissioner shall give at least 3 weeks' notice of such sale by publishing a notice thereof in at least 1 and not more than 2 newspapers published in such county, stating the time and place such sale is to commence and the descriptions of the lands to be offered in and for sale in such county.

HISTORY: How. 5406f;—CL 1897, 1427;—CL 1915, 641;—CL 1929, 5090;—CL 1948, 322.456.

322.457 Balance of lands; minimum price.

Sec. 7. At the expiration of the time provided for in the preceding sections, the commissioner of the state land office shall fix and establish the minimum price of such lands then remaining unsold at 50 cents per acre, which price shall thereafter be and remain the minimum price of said lands.

HISTORY: How. 5406g;—CL 1897, 1428;—CL 1915, 642;—CL 1929, 5091;—CL 1948, 322.457.

322.458 Proceeds of sales; disposition.

Sec. 8. The proceeds of all sales provided for in this act shall be paid into the state treasury.

HISTORY: How. 5406h;—CL 1897, 1429;—CL 1915, 643;—CL 1929, 5092;—CL 1948, 322.458.

322.459 Taxes and other sums; payment, refund.

Sec. 9. Any person applying for any of the lands under the provisions of this act, excepting those claiming under the last proviso of section 3 of this act, shall pay to the state treasurer the sum of 10 cents per acre and all taxes assessed upon the same since the date of his or his grantor's purchase of the same from either of the original parties mentioned in section 1 of this act as returned by the township treasurer of the respective townships where the same are situated, but without interest or other charges, and all taxes except as provided in this section, which have been paid to the state treasurer by any person who has received patents for any of said lands under the provisions of

Act No. 275 of the legislature of the state of Michigan of 1881, approved June 11, 1881, shall be refunded to such person or to his heirs or assigns by the said state treasurer, and be paid out of the general fund in the state treasury from any moneys in said fund not otherwise appropriated.

HISTORY: How. 5406;—CL 1897, 1430;—CL 1915, 644;—CL 1929, 5993;—CL 1948, 322.459.

322.460 Adjustment of amounts due claimants.

Sec. 10. The auditor general of the state of Michigan shall adjust the amounts due claimants under the provisions of this act, and shall draw his warrant upon the state treasurer for such amount in favor of the person entitled to the same, within 3 months after application shall be made therefor by the person entitled thereto; and all the balance of the taxes heretofore assessed upon the lands granted to the state of Michigan and lying within the counties of Ottawa and Muskegon, upon the route extending from Grand Haven to Owosso and thence to Flint, as described in this act and returned by the county treasurers of said counties of Muskegon and Ottawa to the auditor general as delinquent and unpaid, and all interest and charges since accrued thereon, are hereby cancelled, and the auditor general is hereby directed to credit said counties of Muskegon and Ottawa respectively with the amount thereof in all cases where the same has been heretofore charged back to such counties, and with all interest and charges since accrued upon the amounts so charged back. But the total amount of such credit shall in no case exceed the total amount such county may now be indebted to the state, and said counties of Muskegon and Ottawa shall credit up to the several townships in their respective counties all of said tax which has been charged back to the said townships, or such proportion thereof as they (the said counties) shall be credited with by the state.

HISTORY: How. 5406;—CL 1897, 1431;—CL 1915, 645;—CL 1929, 5994;—CL 1948, 322.460.

Act 193, 1911, p. 327; Eff. Aug. 1.

AN ACT to authorize the exchange of certain lands in certain cases.

The People of the State of Michigan enact:

322.481 Exchange of lands; authorization.

Sec. 1. Any of the lands under the control of the public domain commission, the title to which is in the state of Michigan, and which may be sold and conveyed or which are a part of the state forest reserves, as well as such lands hereafter acquired by the state of Michigan or any part or portion thereof, may be exchanged for lands of equal area or approximately equal value belonging to the United States or owned by private individuals whenever in the opinion of the public domain commission it shall be to the interests of the state of Michigan so to do.

HISTORY: CL 1915, 463;—CL 1929, 5995;—CL 1948, 322.481.

STATE FOREST RESERVE: For what constitutes, see Compilers' § 320.101 et seq.

PUBLIC DOMAIN COMMISSION: Abolished; powers and duties transferred to the department of conservation, see Compilers' § 299.2.

322.482 Exchange of lands with United States; description, filing; conveyance, validity.

Sec. 2. Whenever in the opinion of the public domain commission it shall be deemed for the best interests of the state to relinquish or convey to the United States under the laws of the United States any part or portion of the lands described in section 1 of this act in exchange for other lands of equal area or approximately equal value to be selected by the public domain commission from the unappropriated public lands in this state belonging to the United States which may be relinquished or conveyed to the state of Michigan by the United States under the laws of the United

States, the public domain commission of the state of Michigan shall file in the office of the commissioner of the state land office a description of the lands belonging to the state of Michigan which are to be relinquished or conveyed to the United States, and upon arrangements being made with the proper authorities of the United States the said public domain commission shall direct the commissioner of the state land office to execute the proper conveyance to the United States of the lands so to be relinquished or conveyed. This conveyance shall be void in the event that the lands of an equal area or approximately equal value are not relinquished or conveyed by the United States to the state of Michigan in lieu thereof and in accordance with selections made by the public domain commission.

HISTORY: CL 1915, 464;—CL 1929, 5996;—CL 1948, 322.482.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.483 Exchange of lands with private individuals; description, filing; conveyance by individual; title, certification by attorney general; conveyance by state.

Sec. 3. Whenever in the opinion of the public domain commission it shall be to the best interests of the state to exchange any of the lands mentioned in section 1 of this act for lands of an equal area or of approximately equal value belonging to private individuals, the public domain commission shall file in the office of the commissioner of the state land office a description of the lands to be conveyed and also a description of the lands belonging to individuals to be deeded to the state. Before any of said lands shall be deeded to an individual or individuals as herein provided the person or persons owning the lands to be deeded to the state shall execute a conveyance of such lands to the state of Michigan, whereupon it shall be the duty of the attorney general to examine the title to the lands so deeded to the state of Michigan and certify to the commissioner of the state land office whether or not such conveyance is sufficient to vest in the state a good and sufficient title thereto free from any liens or incumbrances. If the attorney general shall certify to the commissioner of the state land office that such deed vests in the state of Michigan a good and sufficient title to the lands so deeded free from any liens or incumbrances, it shall be the duty of the commissioner of the state land office to execute a deed to such person or persons of the lands to be conveyed by the state selected by the public domain commission in lieu thereof.

HISTORY: CL 1915, 465;—CL 1929, 5997;—CL 1948, 322.483.

322.484 Acquired lands; classification; control; application by private individual for exchange.

Sec. 4. Whenever any lands shall be acquired by the state of Michigan under this act or pursuant to the laws of the United States providing for an exchange of lands between the United States and the state of Michigan, the lands so acquired by the state of Michigan shall at once become a part or portion of that class of lands to which the lands relinquished in lieu thereof formerly belonged, and shall be subject to the same supervision and control and the laws of the state now in force or hereafter enacted as the lands relinquished or conveyed by the state would have been subject to had they remained the property of the state: Provided, however, That no application from private individuals for the exchange of their lands for lands proposed to be acquired by the state from the United States under the provisions of section 1 of this act, shall be received, filed or in any manner considered or acted upon until after the state has received conveyance of such lands from the United States, and then applications from private individuals for the exchange of their lands therefor shall be filed, considered and acted upon only in the order in which they are received.

HISTORY: CL 1915, 466;—Am. 1921, p. 566, Act 305, Eff. Aug. 18;—CL 1929, 5998;—CL 1948, 322.484.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1915, 467;—CL 1929, 5999;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 230, 1881, p. 272; Imd. Eff. Jun. 7.

AN ACT to provide for the issuing of new certificates for part-paid state lands in place of those lost or destroyed.

The People of the State of Michigan enact:

322.491 New certificates; owner, application to circuit court.

Sec. 1. That whenever any part-paid certificate of primary school or other lands shall be lost or destroyed the owner of the land held under such certificate may apply to the circuit court for the county in which the land is situated for an order that a duplicate certificate may be issued.

HISTORY: How. 5339;—CL 1897, 1504;—CL 1915, 726;—CL 1929, 6043;—CL 1948, 322.491.

NEW CERTIFICATES: See also Compilers' § 322.359.

322.492 New certificates; application; proof of loss; court order.

Sec. 2. The person making such application shall show to the satisfaction of the court that the certificate proposed to be restored has been lost or destroyed without the fault or connivance directly or indirectly of such applicant or of any one interested in the land covered by said certificate; and thereupon the court shall direct the manner of proceeding to supply the loss and the notices which shall be given to the parties interested in the application and to the commissioner of the state land office.

HISTORY: How. 5339;—CL 1897, 1505;—CL 1915, 727;—CL 1929, 6044;—CL 1948, 322.492.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.493 New certificates; subpoena of witnesses.

Sec. 3. The court before whom any such application is pending may issue subpoenas for and compel the attendance of witnesses, or may direct the examination of witnesses or interrogatories and compel such witnesses to submit to such examination for the purpose of establishing any point in any proceeding under this act.

HISTORY: How. 5340;—CL 1897, 1506;—CL 1915, 728;—CL 1929, 6045;—CL 1948, 322.493.

322.494 New certificates; testimony, assignments.

Sec. 4. The said court shall take testimony as to the loss of the said certificate and the circumstances attending the same, and in case it shall appear that any assignments were attached to such certificate, the testimony of the party making such assignment, or of the witnesses thereto, and of the officer who acknowledged the same shall be taken if it can be obtained.

HISTORY: How. 5341;—CL 1897, 1507;—CL 1915, 729;—CL 1929, 6046;—CL 1948, 322.494.

322.495 New certificates; court order, contents.

Sec. 5. If the court shall be satisfied that said certificate and the assignments have been lost or destroyed without the fault or connivance of the owner thereof, an order shall be entered reciting the facts proved upon said hearing and declaring who at the time of said hearing was the owner of the land covered by the certificate and entitled to a new certificate therefor.

HISTORY: How. 5342;—CL 1897, 1508;—CL 1915, 730;—CL 1929, 6047;—CL 1948, 322.495.

322.496 New certificates; issuance; effect.

Sec. 6. Upon presenting to the commissioner of the state land office a certified copy of the order of said court, and upon the payment to him of 1 dollar, the said commissioner is hereby authorized to issue to the person entitled thereto a new certificate, which shall have like effect as the original certificate.

HISTORY: How. 5343;—CL 1897, 1509;—CL 1915, 731;—CL 1929, 6048;—CL 1948, 322.496.

322.497 New certificates; costs of proceedings; payment; court order, certified copy.

Sec. 7. All the costs of the proceedings in the circuit court, including the costs of taking testimony, giving or serving notice, witnesses' fees, officers' fees, and clerks' fees, shall be paid in each case by the person on whose behalf the proceedings are instituted before he shall be entitled to said certified copy of the order of said court in the said proceeding.

HISTORY: How. 5344;—CL 1897, 1510;—CL 1915, 732;—CL 1929, 6049;—CL 1948, 322.497.

Act 40, 1879, p. 37; Imd. Eff. Apr. 18.

AN ACT to provide for the restoration of certain state lands to market.

The People of the State of Michigan enact:

322.501 Reserved lands; taxes paid before issuance of patent; reversion to state; restoration to market.

Sec. 1. That all lawful taxes, together with the interest and charges thereon, assessed on any state land now or hereafter reserved on account of any road or ditch contract, shall be paid before the issue of any patent thereon; and in default of such payment, such lands shall revert to the state at the expiration of 3 months from the date when such patent shall have become due. The commissioner of the state land office shall restore such lands to market in the manner now provided by law, and at the minimum price at which such lands were reserved, with such taxes, interest and charges added thereto.

HISTORY: How. 1209;—CL 1897, 1511;—CL 1915, 733;—CL 1929, 6050;—CL 1948, 322.501.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

Act 101, 1869, p. 168; Imd. Eff. Apr. 2.

AN ACT to provide for the issuing, delivering or depositing patents to swamp lands, and to provide for the assessment and taxation of such lands.

The People of the State of Michigan enact:

322.511 Swamp land patents; issuance, application.

Sec. 1. That whenever any person of [or] persons shall be entitled to state swamp lands, by reason of the performance of any labor, or the fulfillment of any contract, it shall be the duty of the commissioner of the state land office to cause to be issued such patents and deliver the same to the person or persons entitled thereto, if applied for at the state land office; and in case no such application is made within 30 days from the time such person or persons shall be entitled to such swamp lands, (then in such case,) the said commissioner shall file such patent or patents in his office, subject to the order of the person or persons entitled to the same.

HISTORY: CL 1871, 3996;—How. 5447;—CL 1897, 1512;—CL 1915, 734;—CL 1929, 6051;—CL 1948, 322.511.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

SWAMP LANDS: See note under Compilers' § 299.2.

322.512 Swamp land patents; annual list to county treasurer; assessment and taxation of lands.

Sec. 2. It shall be the duty of such commissioner to furnish to the several county treasurers, in each year, and in time for assessment, a list of all such lands so patented according to the provisions of section 1 of this act; and such lands so patented, shall be subject to assessment and taxation as other assessable and taxable lands. Lists of all lands now subject to be so patented, shall be furnished by said commissioner to the county treasurers, and by the county treasurers to the supervisors of the proper townships, in time for the assessment of the year 1869, so far as the same may be practicable.

HISTORY: CL 1871, 3997;—How. 5448;—CL 1897, 1513;—CL 1915, 735;—CL 1929, 6052;—CL 1948, 322.512.

322.513 Swamp land patents; alternate description, issuance.

Sec. 3. Whenever any person shall neglect or refuse to designate to the commissioner the particular descriptions of land to which he or she may claim patents by reason of part performance of his or her contract, it may and shall be lawful for such commissioner to cause to be issued patents for each alternate description of land, as the same appears on the list of lands reserved by such person or persons, and such patents so issued, shall be deemed and held as valid as if the same were particularly ordered by the person entitled thereto.

HISTORY: CL 1871, 3998;—How. 5449;—CL 1897, 1514;—CL 1915, 736;—CL 1929, 6053;—CL 1948, 322.513.

Act 83, 1846, p. 98; Imd. Eff. Apr. 28.

AN ACT to authorize the governor to issue patents in certain cases.

The People of the State of Michigan enact:

322.521 Patents; issuance by governor to original purchaser or assignee; acknowledging assignments, waiver of informalities.

Sec. 1. That the governor be and he is hereby authorized to issue to the original purchaser or to any assignee who can show title in himself derived from an unbroken chain of assignments of a certificate of sale, issued by the commissioner of the state land office, a patent for the lands therein described: Provided, Said lands have been fully paid for to the state: And provided also, That the assignment, if made since the twenty-eighth day of April, 1846, shall be duly executed and acknowledged in the manner deeds are required to be by the laws of this state; but if such assignment that said assignee claims under was made prior to the twenty-eighth day of April, 1846, any informality therein may be waived, and such patent issued to such assignee upon a satisfactory showing that he is equitably entitled to the same.

HISTORY: CL 1857, 2515;—Am. 1865, p. 268, Act 159, Eff. June 22;—CL 1871, 3889;—How. 5345;—CL 1897, 1515;—CL 1915, 737;—CL 1929, 6054;—Am. 1947, p. 168, Act 126, Imd. Eff. May 26;—CL 1948, 322.521. As to patents, see Compilers' § 322.308 and notes.

LAND OFFICE COMMISSIONER: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

322.522 Patents; issuance in name of deceased person.

Sec. 2. That whenever any purchaser, or assignee of any purchaser shall decease before application is made for any patent, such patent (if said lands are paid for) shall be issued in the name of such deceased person, and shall have the same effect as though it had been issued during the lifetime of such person.

HISTORY: CL 1857, 2516;—CL 1871, 3890;—How. 5346;—CL 1897, 1516;—CL 1915, 738;—CL 1929, 6055;—CL 1948, 322.522.

322.523 Certificate of purchase; sale by executor or administrator for payment of debts.

Sec. 3. Whenever any purchaser or assignee of a purchaser shall die or shall have died before the issuing of a patent for the lands described in any such certificate, his executor or administrator may sell such certificate, and all the right title and interest which the deceased had in the lands therein described, for the payment of debts, upon obtaining license therefor, and proceeding in the same manner, as near as may be, as is provided by law for the sale of real estate by executors and administrators for the payment of debts.

HISTORY: CL 1857, 2517;—CL 1871, 3891;—How. 5347;—CL 1897, 1517;—CL 1915, 739;—CL 1929, 6056;—CL 1948, 322.523.

SALE OF REAL ESTATE: By executors and administrators for payment of debt, see Compilers' § 709.2 et seq.

322.524 Applicability of act.

Sec. 1. Be it enacted by the senate and house of representatives of the state of Michigan, That the provisions of an act entitled "An act to authorize the governor to issue patents in certain cases," approved April 28th, 1846, shall be, and the same are hereby made applicable to all certificates of sale lawfully issued by the superintendent of public instruction, prior to the establishment of the state land office, and patents shall be issued therefor, and upon the assignments thereof, in the same manner, on the same condition, under the same restrictions, and with the like effect as in the several cases contemplated by the provisions of said act.

HISTORY: CL 1857, 2518;—CL 1871, 3892;—How. 5348;—CL 1897, 1518;—CL 1915, 740;—CL 1929, 6057;—CL 1948, 322.524.

This section was added as Sec. 1 to the foregoing act by Act 130 of 1849, p. 135, Imd. Eff. March 26.

Act 61, 1935, p. 95; Imd. Eff. May 17.

AN ACT to authorize the director of conservation to issue new deeds in place of deeds heretofore issued by the state of Michigan to good faith purchasers of land from the state whose record title made be defective for the reason that the state did not have title to said lands at the time of the original transfer but has since acquired title to the same.

The People of the State of Michigan enact:

322.551 New deeds; issuance by state.

Sec. 1. Any person or the heirs, executors, administrators or assigns of any person who has made a good faith purchase of land from the state of Michigan and received from the state a conveyance purporting to pass absolute title to said land, shall be entitled to a second conveyance by the state if it shall be found that, at the time of the original conveyance, title to the land was vested in the United States and that the title has been subsequently acquired by the state from the United States. The director of conservation is hereby authorized to issue a quit claim deed in such case to any person entitled thereto, providing said person shall submit to the attorney general evidence of his ownership in said land, and that the attorney general shall certify to the director of conservation that said person is entitled to have a good and sufficient title to said land, based upon the original conveyance from the state.

HISTORY: CL 1948, 322.551.

Act 66, 1959, p. 64; Eff. Mar. 19, 1960.

AN ACT to prohibit the running at large on or the grazing upon any land owned by or under the control of the department of conservation, by cattle, horses, sheep and swine; to provide for the enforcement of this act; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

322.581 Conservation department lands; grazing permits; cattle, horse, sheep, swine.

Sec. 1. No cattle, horses, sheep or swine shall run at large or graze upon any lands owned by or under the control of the department of conservation except under authority of a written permit issued by the director of conservation.

HISTORY: New 1959, p. 64, Act 66, Eff. Mar. 19, 1960.

322.582 Seizure of animals in violation of section.

Sec. 2. The director of conservation shall take possession of any animal found grazing or running at large in violation of section 1 of this act and he shall not be held civilly nor criminally liable for so doing.

HISTORY: New 1959, p. 64, Act 66, Eff. Mar. 19, 1960.

322.583 Seizure of animals; care while impounded.

Sec. 3. Whenever the director of conservation seizes any animals under section 2, he shall impound them in some suitable place and furnish them with suitable care, food and water as long as they remain impounded.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.584 Animals impounded; description, posting.

Sec. 4. Within 48 hours after the impounding of any animal, the director of conservation shall post in 3 conspicuous places in the township where the animals were seized a written notice of the impounding, which shall contain the place, date and reason for the seizure and the number and description of the animals impounded.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.585 Animals impounded; sale, time.

Sec. 5. If no person appears to claim the animals within 7 days after the date of impounding, the director of conservation shall sell them by auction in the county where they are impounded, first advertising the sale by posting a notice thereof in 3 conspicuous places in the county not less than 5 days before the sale and by serving a copy of said notice on the owner of such animals if such owner is known and resides in said county.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.586 Animals impounded; claim by owner; payment.

Sec. 6. If, at any time prior to 24 hours immediately preceding the date and hour fixed for the sale, the owner files with the director of conservation, in writing, a statement under oath that he is the owner of said animals and pays to the director of conservation a sum of 50 cents per head for each day each animal was impounded, the animals shall thereupon be delivered to the owner thereof. If the owner refuses or neglects to pay the sum due, the director of conservation shall sell the animals at auction as provided in section 5.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.587 Animals impounded; escape, retaking.

Sec. 7. If any animals that have been impounded in accordance with the provisions of this act escape, the director of conservation at any time within 7 days thereafter may retake the animals and hold and dispose of them as provided in this act, as if no escape had taken place.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.588 Animals impounded; unlawful interference, misdemeanor.

Sec. 8. Any person who without lawful authority attempts to or removes, takes or interferes with, in any manner, any animals impounded under authority of this act is guilty of a misdemeanor.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.589 Animals impounded; sale, disposition of proceeds; claim by owner.

Sec. 9. All moneys received by the director of conservation from the sale provided for in section 5 shall be deposited with the state treasurer in accordance with established accounting procedure and law and, after all costs and expenses for rounding up, impounding, caring for, feeding, advertising and selling such animals as certified by the director shall have been paid therefrom, the balance remaining shall be held in trust by the state treasurer for a period of 90 days. If within 90 days after such sale the owner of the animals shall satisfactorily establish his claim thereto to the director of conservation, said money shall be paid over to him by the state treasurer. If the owner shall not appear within such 90 day period, then the state treasurer shall credit said moneys to the general fund of the state. All moneys received by the director of conservation under the provisions of section 6 shall be deposited with the state treasurer in accordance with the law and established accounting procedure and credited to the general fund of the state.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.590 Animals impounded; owner, criminal liability.

Sec. 10. Nothing in this act shall be deemed to relieve an owner of any animals so impounded of any criminal liability or penalty which may be otherwise provided by law for allowing or permitting animals to graze or run at large on lands owned by or under the control of the department of conservation.

HISTORY: New 1959, p. 65, Act 66, Eff. Mar. 19, 1960.

322.591 Animals impounded; permits, sale; terms and conditions.

Sec. 11. The terms and conditions of the permits and for the sale of animals impounded under authority of this act shall be determined by the director of conservation.

HISTORY: New 1959, p. 66, Act 66, Eff. Mar. 19, 1960.

Act 48, 1952, p. 47; Eff. Sep. 18.

AN ACT to require the posting of a registration card by any person or persons camping upon certain state-owned lands; to require the cleaning up of such camp sites; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

322.601 Camp registration card; posting; definition.

Sec. 1. (1) A person or party shall not camp on any state-owned lands under the jurisdiction or control of the department of conservation, without having first posted a camp registration card.

(2) As used in this act, "to camp" means the erection of a tent or tent-type camper or the parking and occupancy of a travel or house trailer or truck camper.

HISTORY: New 1952, p. 47, Act 48, Eff. Sep. 18;—Am. 1970, p. 463, Act 139, Imd. Eff. Aug. 1.

322.602 Camp registration card; obtaining; contents; posting.

Sec. 2. Such person or party shall obtain without charge from any conservation officer or any person authorized to issue fishing or hunting licenses, a camp registration card and shall enter thereon in the space provided, in plain and legible English, the name and address of every person occupying said camp. Such card shall be prominently and conspicuously posted at the campsite before the camp is made and shall be left so posted upon the departure of the camping party.

HISTORY: New 1952, p. 47, Act 48, Eff. Sep. 18;—Am. 1970, p. 463, Act 139, Imd. Eff. Aug. 1.

322.603 Disposal of rubbish.

Sec. 3. Upon breaking camp every member of such camping party shall be responsible for the disposal, by burying or burning, of all rubbish, papers, cans, containers or any other article or thing of any nature whatsoever brought into or built upon the premises by the camping party. A person camping upon the aforesaid lands shall not deposit and leave any tin cans, bottles, refuse or other rubbish unburied or otherwise disposed of on the premises.

HISTORY: New 1952, p. 47, Act 48, Eff. Sep. 18;—Am. 1970, p. 463, Act 139, Imd. Eff. Aug. 1.

322.604 Camp registration cards; printing and distribution.

Sec. 4. The director of conservation shall cause to have printed and distributed a sufficient number of camp registration cards to carry out the provisions of this act.

HISTORY: New 1952, p. 47, Act 48, Eff. Sep. 18.

322.605 Enforcement of act; duty of peace officers.

Sec. 5. It shall be the duty of any peace officer, including conservation officers, to enforce the provisions of this act.

HISTORY: New 1952, p. 47, Act 48, Eff. Sep. 18.

322.606 Violation of act; penalty.

Sec. 6. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$100.00 and costs of prosecution, or imprisonment in the county jail for a period of not to exceed 90 days, or both such fine and imprisonment in the discretion of the court and, in addition thereto, shall be liable for any costs incurred by the director of conservation in cleaning up the camp site of such person or persons, which liability shall be recoverable in any court of competent jurisdiction in this state.

HISTORY: New 1952, p. 47, Act 48, Eff. Sep. 18.

322.607 Applicability of act.

Sec. 7. Nothing contained in this act shall be deemed to apply to any state park, campground or recreation area administered by the department of conservation.

HISTORY: New 1952, p. 48, Act 48, Eff. Sep. 18;—Am. 1970, p. 463, Act 139, Imd. Eff. Aug. 1.

322.608 Repeal.

Sec. 8. Section 27a of chapter 4 of Act No. 286 of the Public Acts of 1929, as added by Act No. 195 of the Public Acts of 1949, being section 314.27a of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1952, p. 48, Act 48, Eff. Sep. 18.

Act 10, 1953, p. 10; Imd. Eff. Mar. 28.

AN ACT to authorize the conservation commission to grant easements for the constructing, erecting, laying, maintaining and operating of pipe lines, electric, telephone and telegraph lines and facilities for the intake, transportation and discharge of water on certain state lands and on unpatented overflowed lands and lake bottom lands. Am. 1959, p. 94, Act 87, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

322.651 Easements for public utilities over state lands; authority of conservation commission.

Sec. 1. The conservation commission is hereby vested with the power and authority to grant easements, upon such terms and conditions as the said commission deems just and reasonable, for the purpose of constructing, erecting, laying, maintaining and operating pipe lines, electric, telephone and telegraph lines, and facilities for the intake, transportation and discharge of water, including pipes, conduits, tubes, and structures usable in connection therewith, over, through, under and upon any and all lands belonging to the state of Michigan which are under the jurisdiction of the conservation commission or the department of conservation, and over, through, under and upon any and all of the unpatented overflowed lands, made lands and lake bottom lands belonging to or held in trust by the state of Michigan.

HISTORY: New 1953, p. 11, Act 10, Imd. Eff. Mar. 28;—Am. 1959, p. 95, Act 87, Eff. Mar. 19, 1960.

Act 247, 1955, p. 404; Eff. Oct. 14.

AN ACT to authorize the department of conservation of the state of Michigan to grant, convey or lease certain unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors thereof, belonging to the state of Michigan or held in trust by it; to permit the private and public use of waters over submerged patented lands and the making of agreements limiting and regulating the use thereof; to provide for the disposition of revenue derived therefrom; and to provide penalties for violation of this act. Am. 1958, p. 100, Act 94, Eff. Jul. 1;—Am. 1965, p. 563, Act 293, Imd. Eff. Jul. 22.

The People of the State of Michigan enact:

322.701 Great Lakes submerged lands act; short title.

Sec. 1. This act shall be known as the “great lakes submerged lands act”.

HISTORY: New 1955, p. 404, Act 247, Eff. Oct. 14.

322.702 Unpatented lake bottom lands and unpatented made lands in Great Lakes; construction of act.

Sec. 2. The lands covered and affected by this act are all of the unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors thereof, belonging to the state or held in trust by it, including those lands which have heretofore been artificially filled in. The waters covered and affected by this act are all of the waters of the Great Lakes within the boundaries of the state. This act shall be construed so as to preserve and protect the interests of the general public in the aforesaid lands and waters and to provide for the sale, lease, exchange or other disposition of unpatented lands and the private or public use of waters over patented and unpatented lands and to permit the filling in of patented submerged lands whenever it is determined by the department of conservation that the private or public use of such lands and waters will not substantially affect the public use thereof for hunting, fishing, swimming, pleasure boating or navigation or that the public trust in the state will not be impaired by such agreements for use, sales, lease or other disposition. The word “land” or “lands” whenever used in this act shall refer to the aforesaid described unpatented lake bottomlands and unpatented made lands and patented lands in the Great Lakes and the bays and harbors thereof lying below and lakeward of the natural ordinary high-water mark, but the act shall not be construed as affecting property rights secured by virtue of a swamp land grant or such rights as may be acquired by

accretions occurring through natural means or reliction. For purposes of this act the ordinary high-water mark shall be deemed to be at the following elevations above sea level, international Great Lakes datum of 1955: Lake Superior, 601.5 feet; Lakes Michigan and Huron, 579.8 feet; Lake St. Clair, 574.7 feet; and Lake Erie, 571.6 feet.

HISTORY: New 1955, p. 404, Act 247, Eff. Oct. 14;—Am. 1958, p. 100, Act 94, Eff. Jul. 1;—Am. 1965, p. 563, Act 293, Imd. Eff. Jul. 22;—Am. 1968, p. 98, Act 57, Imd. Eff. May 28.

322.703 Unpatented lake bottom lands and unpatented made lands; conveyances, leases and agreements; reservation of mineral rights.

Sec. 3. (1) The department of conservation, hereinafter referred to as the “department”, after finding that the public trust in the waters will not be impaired or substantially affected, is hereby authorized to enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands, after approval of the state administrative board. Quitclaim deeds, leases or agreements may be issued or entered into by the department with any person, firm, or corporation, public or private, or the United States of America covering unpatented lands, and shall contain such terms and conditions and requirements which shall be deemed just and equitable and in conformity with the public trust as determined by the department. The department shall reserve to the state of Michigan all mineral rights, including but not limited to coal, oil, gas, sand, gravel, stone and other materials or products located or found in said lands, except where lands are occupied or to be occupied for residential purposes at the time of conveyance.

(2) After the effective date of this amendatory act of 1965, a riparian owner shall obtain a permit from the department, for which no charge shall be made, before dredging or placing spoil or other materials on bottomland.

HISTORY: New 1955, p. 405, Act 247, Eff. Oct. 14;—Am. 1958, p. 101, Act 94, Eff. Jul. 1;—Am. 1965, p. 564, Act 293, Imd. Eff. Jul. 22.

322.704 Unpatented lake bottom lands and unpatented made lands; application for conveyance, contents, qualifications of applicant, consent.

Sec. 4. (a) Application for a deed or lease to unpatented lands or agreement for use of water areas over patented lands shall be on forms provided by the department. Such application shall include a surveyed description of the lands or water area applied for, together with a surveyed description of the riparian or littoral property lying adjacent and contiguous to the lands or water area, certified to by a registered land surveyor. The description shall show the location of the water's edge at the time it was prepared and such other information that shall be required by the department. The applicant shall be a riparian or littoral owner or owners of property touching or situated opposite the unpatented land or water area over patented lands applied for or an occupant of said land. The application shall include the names and mailing addresses of all persons in possession or occupancy or having any interest in the adjacent or contiguous riparian or littoral property or having riparian or littoral rights or interests in the lands or water areas applied for and such application shall be accompanied by the written consent of all persons having an interest in the lands or water areas applied for in the application.

Approvals required; abstract of title and tax history of riparian land.

(b) Before an application can be acted upon by the department, the applicant shall secure approval of or permission for his proposed use of such lands or water area from any federal agency as provided by law, the Michigan waterways commission and the legislative body of the local unit or units of government within which such land or water area is or will be included, or to which it is contiguous or adjacent. No deed, lease or agreement shall be issued or entered into by the department without such approvals or permission. The department may also require the applicant to furnish an abstract of title and ownership, and a 20-year tax history on the riparian or littoral prop-

erty which is contiguous or adjacent to the lands or water area applied for, as well as on the lands applied for, if available.

Deposit with application.

(c) The department shall require the applicant to deposit a fee of not less than \$50.00 for each application filed, which fee shall be deposited with the state treasurer to the credit of the state's general fund. Should a deed, lease or other agreement be approved by the department, the applicant shall be entitled to credit for the fee against the consideration which shall be paid for such deed, lease or other agreement.

HISTORY: New 1955, p. 405, Act 247, Eff. Oct. 14;—Am. 1958, p. 101, Act 94, Eff. Jul. 1;—Am. 1965, p. 564, Act 293, Imd. Eff. Jul. 22.

322.705 Unpatented lake bottom lands and unpatented made lands; consideration for conveyances or lease.

Sec. 5. Should the department determine that it is in the public interest to grant an applicant a deed or lease to such lands or enter into an agreement to permit use and improvements in the waters or to enter into any other agreement in regard thereto, the department shall determine the amount of consideration to be paid to the state by such applicant for the conveyance or lease of unpatented lands.

Lease or agreement to fill submerged lands; permanent improvements; artificial changes in land; consideration; cash market value.

(a) The department may permit, by lease or agreement, the filling in of patented and unpatented submerged lands and permit permanent improvements and structures after finding that the public trust will not be impaired or substantially injured.

The department may issue deeds or may enter into leases if the unpatented lands applied for have been artificially filled in or are proposed to be changed from the condition that exists on the effective date of this act by filling, sheet piling, shoring, or by any other means, and such lands are used or to be used or occupied in whole or in part for uses other than existing, lawful riparian or littoral purposes. The consideration to be paid to the state for the conveyance or lease of unpatented lands by such applicant shall be not less than the fair, cash market value of the lands determined as of the date of the filing of such application, minus any improvements placed thereon but in no case shall the sale price be less than 30% of the value of the land. In determining the fair, cash market value of the lands applied for, the department may give due consideration to the fact that such lands are connected with the riparian or littoral property belonging to the applicant, if such is the case, and to the uses, including residential and commercial, being made or which can be made of said lands.

Agreements for lands or water areas with local units.

(b) Agreements for the lands or water area described in section 2 may be granted to or entered into with local units of government for public purposes and containing such terms and conditions which may be deemed just and equitable in view of the public trust involved and may include the granting of permission to make such fills as may be necessary.

Flood control, shore erosion control, drainage and sanitation control.

(c) If the unpatented lands applied for have not been filled in, nor in any way substantially changed from their natural character at the time the application is filed with the department, and the application is filed for the purpose of flood control, shore erosion control, drainage and sanitation control or to straighten irregular shore lines, the consideration to be paid to the state by the applicant shall be the fair, cash value of such land, giving due consideration to its being adjacent to and connected with the riparian or littoral property owned by the applicant.

Leases or agreements for marina purposes; definition.

(d) Leases or agreements covering unpatented lands may be granted or entered into with riparian or littoral proprietors for commercial marina purposes or for marinas op-

erated by persons, corporations, clubs or associations for such consideration and containing such terms and conditions which are deemed by the conservation department to be just and equitable. Such leases may include either filled or unfilled lake bottomlands, or both. Rental shall commence as of the date of use of such unpatented lands for the marina operations. Dockage and other uses by marinas in waters over patented lands on the effective date of this act shall be deemed to be lawful riparian use.

The term "marina purposes" as used in this act shall be construed as an operation making use of Great Lakes submerged bottomlands or filled in bottomlands for the purpose of service to boat owners or operators which may restrict or prevent the free public use of the affected bottomlands or filled in lands.

Fraud, consideration; hearing on determination.

(e) If the department after investigation determines that an applicant has wilfully and knowingly filled in or in any way substantially changed the lands applied for with an intent to defraud, or if the applicant has acquired such lands with knowledge of such fraudulent intent and is not an innocent purchaser, the sale price shall be the fair cash market value of the land. An applicant may request a hearing of any determination made hereunder. The department shall grant a hearing if requested.

HISTORY: New 1955, p. 406, Act 247, Eff. Oct. 14;—Am. 1958, p. 102, Act 94, Eff. Jul. 1;—Am. 1965, p. 565, Act 293, Imd. Eff. Jul. 22.

322.706 Unpatented lake bottom lands and unpatented made lands; evaluation by department of conservation; appraisal, court appointed.

Sec. 6. The fair, cash market value of lands approved for sale under the provisions of this act shall be determined by the department. In no instance shall the consideration paid to the state be less than \$50.00. If the applicant is not satisfied with the value determined by the department, within 30 days after the receipt of such determination he may submit a petition in writing to the circuit court of the county in which such lands are located and the court shall appoint an appraiser or appraisers as the court shall determine for an appraisal of said lands. Decision of the court shall be final.

HISTORY: New 1955, p. 406, Act 247, Eff. Oct. 14;—Am. 1958, p. 103, Act 94, Eff. Jul. 1;—Am. 1965, p. 566, Act 293, Imd. Eff. Jul. 22.

322.707 Receipts; disposition, accounting; employees.

Sec. 7. All moneys received by the department from the sale, leasing or other disposition of lands and water areas under this act shall be paid to the state treasurer and be credited to the state's general fund. The department shall comply with the accounting laws of this state and the requirements with respect to submission of budgets. The department is hereby authorized to hire such employees, assistants and services that may be necessary within the appropriation made therefor by the legislature and to delegate such authority as may be necessary to carry out the terms of this act.

HISTORY: New 1955, p. 406, Act 247, Eff. Oct. 14;—Am. 1965, p. 566, Act 293, Imd. Eff. Jul. 22.

322.708 Lands conveyed; taxation.

Sec. 8. All lands conveyed or leased under this act shall be subject to taxation and the general property tax laws and other laws as other real estate used and taxed by the governmental unit or units within which the land is or may be included.

HISTORY: New 1955, p. 406, Act 247, Eff. Oct. 14.

322.709 Rules and regulations.

Sec. 9. The department is hereby authorized and empowered to promulgate and adopt such rules and regulations, in accordance with the requirements of law, consistent with this act, that may be necessary to carry out its provisions. Such rules and regulations shall be adopted and promulgated in accordance with Act No. 88 of the Pub-

lic Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1955, p. 408, Act 247, Eff. Oct. 14.

322.710 Land filled, excavated or modified without approval; penalty.

Sec. 10. Any person who excavates or fills, or in any manner alters or modifies any of the land or waters subject to the provisions of this act without the approval of the department shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$1,000.00 or imprisoned not more than 1 year, or both such fine and imprisonment. Lands, the use of which are so changed, shall not be sold to any person convicted under this section at less than fair, cash market value.

HISTORY: Add. 1958, p. 103, Act 94, Eff. Jul. 1;—Am. 1965, p. 568, Act 293, Imd. Eff. Jul. 22.

322.711 Certificate of location of lakeward boundary; application, riparian owner; fee.

Sec. 11. A riparian owner may apply to the department for a certificate suitable for recording indicating the location of his lakeward boundary or indicating that the land involved has accreted to his property as a result of natural accretions or placement of a lawful, permanent structure. The application shall be accompanied by a fee of \$200.00 and proof of upland ownership.

HISTORY: Add. 1965, p. 568, Act 293, Imd. Eff. Jul. 22.

322.712 Acts prohibited; exceptions.

Sec. 12. Unless a permit has been granted by the department or authorization has been granted by the legislature, or except as to boat wells and slips facilitating private, noncommercial, recreational boat use, not exceeding 50 feet in length where the spoil is not disposed of below the ordinary high-water mark of the body of water to which it is connected, it is unlawful:

(a) To construct, dredge, commence or do any work with respect to an artificial canal, channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate connection thereof with any of the Great Lakes, including Lake St. Clair.

(b) To connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway with any of the Great Lakes, including Lake St. Clair, for navigation or any other purpose.

HISTORY: Add. 1968, p. 11, Act 3, Imd. Eff. Feb. 27.

322.713 Application for permit; contents; fees.

Sec. 13. (1) Before any work or connection specified in section 12 is undertaken a person shall file an application with the department setting forth the following:

(a) The name and address of the applicant.

(b) The legal description of the lands included in the project.

(c) A summary statement of the purpose of the project.

(d) A map or diagram showing the proposal on an adequate scale with contours and cross-section profiles of the waterway to be constructed.

(e) Other information required by the department.

(2) A fee of not less than \$50.00 shall accompany the application which fee shall be transmitted to the state treasurer for credit to the state's general fund.

HISTORY: Add. 1968, p. 11, Act 3, Imd. Eff. Feb. 27.

322.714 Application for permit; copies, local units, adjacent riparian owners; objections; hearing, time, notice.

Sec. 14. Upon receipt of the application, the department shall mail copies to the state department of public health, clerks of the county, city, village and township, and drain commissioner of the county or if none the road commissioner of the county, in

which the project or body of water affected is located, and to the adjacent riparian owners, accompanied by a statement that unless a written objection is filed with the department within 20 days after the mailing of the copies, the department may take action to grant the application. The department may set the application for public hearing. At least 10 days' notice of the hearing shall be given by publication in a newspaper circulated in the county and by mailing copies of the notice to the persons named in this section.

HISTORY: Add. 1968, p. 11, Act 3, Imd. Eff. Feb. 27.

322.715 Permit; issuance; conditions; waterways, maintenance.

Sec. 15. If the department finds that the project will not injure the public trust or interest including fish and game habitat, that the project conforms to the requirements of law for sanitation, and that no material injury to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing enlargement of the waterway affected. The permit shall provide that the artificial waterway shall be a public waterway, except intake or discharge canals or channels on property owned, controlled, and used by a public utility. The department may impose further conditions in the permit that it finds reasonably necessary to protect the public health, safety, welfare, trust and interest, and private rights and property. The existing and future owners of land fronting on the artificial waterway are liable for maintenance of the waterway in accordance with the conditions of the permit.

HISTORY: Add. 1968, p. 11, Act 3, Imd. Eff. Feb. 27.

CHAPTER 323. WATER RESOURCES

WATER RESOURCES COMMISSION

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- 323.356 Tax exemption certificate; modification or revocation, grounds; notice and hearing; statute of limitations.
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BONDS FOR WATER POLLUTION ABATEMENT

Act 76 of 1968

- 323.371 Municipality; definition.
- 323.372 Water pollution abatement bonds; public necessity.
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- 323.381 Approval of electors; requirement.
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AID FOR SEWER CONSTRUCTION

Act 159 of 1969

- 323.401 Collecting sewer construction grants; definitions.
- 323.402 State sewer construction fund; grants, funding.
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- 323.408 State agencies; officers and employees; use, purpose; grant recipients, records.
- 323.409 Priority establishment and project certification procedures; compliance prerequisite to grant.
- 323.410 Collecting sewer projects; pollution control needs; assignment of points.
- 323.411 Total priority points; computation; tied projects, assignment of priority.
- 323.412 Fiscal year; applications for grants, filing; assignment of point totals; certification of projects; applications, validity; annual reports.

Act 245, 1929, p. 597; Eff. Aug. 28.

AN ACT to create a water resources commission to protect and conserve the water resources of the state, to have control over the pollution of any waters of the state and the Great Lakes, to have control over the alteration of the watercourses and the flood plains of all rivers and streams, with powers to make rules and regulations governing the same, and to prescribe the powers and duties of such commission; to require the registration of manufacturing products, production materials and waste products where certain wastes are discharged; to provide for surveillance fees upon discharges to the waters of the state in order to provide for investigation, monitoring and surveillance necessary to prevent and abate water pollution; to prohibit the pollution of any waters of the state and the Great Lakes; and to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the commission as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties for the violation

of this act. Am. 1949, p. 120, Act 117, Imd. Eff. May 17;—Am. 1968, p. 256, Act 167, Imd. Eff. Jun. 17;—Am. 1970, p. 572, Act 200, Eff. Apr. 1, 1971.

The People of the State of Michigan enact:

323.1 Water resources commission; members, terms, vacancies, expenses; representatives of state officers.

Sec. 1. For the purpose of carrying out the provisions of this act there is hereby created a water resources commission, hereinafter referred to as the commission, which shall consist of the director of conservation, the commissioner of health, the highway commissioner, the director of agriculture, and 3 citizens of the state to be appointed by the governor, by and with the advice and consent of the senate, 1 from groups representative of industrial management, 1 from groups representative of municipalities, and 1 from groups representative of conservation associations or interests, for terms of 3 years each except that of the members first appointed, 1 shall be appointed for a term of 1 year, 1 for a term of 2 years, and 1 for a term of 3 years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Members of the commission shall be entitled to actual and necessary expenses incurred in the performance of official duties. It shall be the duty of the department of administration to provide suitable office facilities for the use of the commission.

Each of the aforesaid state officers is hereby authorized to designate a representative from his department to serve in his stead as a member of the commission for 1 or more meetings.

HISTORY: CL 1929, 278;—Am. 1941, p. 172, Act 131, Eff. Jan. 10, 1942;—Am. 1947, p. 316, Act 216, Eff. Oct. 11;—CL 1948, 323.1;—Am. 1949, p. 120, Act 117, Imd. Eff. May 17;—Am. 1963, p. 228, Act 165, Eff. Sep. 6.

CITED IN OTHER SECTIONS: Sections 323.1 to 323.12a are cited in §§ 16.357, 319.227, 323.118, 323.278, 323.319, 323.353, and 325.633.

323.2 Water resources commission; organization, powers and duties.

Sec. 2. The commission shall organize and make its own rules and regulations and procedure and shall meet at least once each month and shall keep a record of its proceedings. The commission shall protect and conserve the water resources of the state and shall have control of the pollution of surface or underground waters of the state of Michigan and the great lakes, which are or may be affected by waste disposal of municipalities, industries, public or private corporations, individuals, partnership associations, or any other entity. The commission is empowered to make or cause to be made surveys, studies and investigations of the uses of waters of the state, both surface and underground, and to cooperate with other governments, governmental units and agencies thereof in making such surveys, studies and investigations. The commission shall assist in an advisory capacity any flood control district which may be authorized by the legislature of this state. The commission in the public interest shall have the right and duty to appear and present evidence, reports and other testimony during the hearings involving the creation and organization of flood control districts. It shall also be the duty and responsibility of the commission to advise and consult with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of any flood control district or intercounty drainage district. The commission shall have the authority to, and shall enforce the provisions of this act and shall make and promulgate such rules and regulations as shall be deemed necessary to carry out the provisions of this act. The rules and regulations of the commission shall be promulgated in conformity with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948.

HISTORY: CL 1929, 279;—CL 1948, 323.2;—Am. 1949, p. 120, Act 117, Imd. Eff. May 17.

323.2a Water resources commission; cooperation and negotiation with other governments; control of water courses; report.

Sec. 2a. The water resources commission is designated the state agency to cooperate and negotiate with other governments, governmental units and agencies thereof in matters concerning the water resources of the state, including but not limited to flood control and beach erosion control. The commission shall have control over the alterations of natural or present watercourses of all rivers and streams in the state to assure that the channels and the portions of the flood plains that are the floodways are not inhabited and are kept free and clear of interference or obstruction which will cause any undue restriction of the capacity of the floodway. The commission is further authorized to take such steps as may be necessary to take advantage of any act of congress heretofore or hereafter enacted which may be of assistance in carrying out the purposes of this act.

The commission shall report to the governor and to the legislature at least once in each year any plans or projects being carried on or considered and shall include in such report requests for any legislation needed to carry out any proposed projects or agreements made necessary thereby, together with any requests for appropriations.

HISTORY: Add. 1948, p. 121, Act 117, Imd. Eff. May 17;—Am. 1968, p. 256, Act 167, Imd. Eff. Jun. 17.

323.3 Water resources commission; enforcement of laws; suits.

Sec. 3. The commission shall be authorized to bring any appropriate action in the name of the people of the state of Michigan, either at law or in chancery as may be necessary to carry out the provisions of this act, and to enforce any and all laws relating to the pollution of the waters and the obstruction of the floodways of the rivers and streams of this state. Whenever the attorney general deems it necessary, he shall take charge of and prosecute all criminal cases arising under the provisions of this act.

HISTORY: CL 1929, 280;—CL 1948, 323.3;—Am. 1965, p. 615, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 823, Act 405, Imd. Eff. Oct. 29;—Am. 1968, p. 256, Act 167, Imd. Eff. Jun. 17.

323.4 Water resources commission; right of entry; assistance.

Sec. 4. The commission or any agent duly appointed by it shall have the right to enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions relating to the pollution of any waters and the obstruction of the floodways of the rivers and streams of this state. The commission shall have the right to call upon any officer, board, department, school, university, or other state institution and the officers or employees thereof for any assistance deemed necessary to the carrying out of this act.

HISTORY: CL 1929, 281;—CL 1948, 323.4;—Am. 1968, p. 257, Act 167, Imd. Eff. Jun. 17.

323.5 Water resources commission; pollution standards, powers, rules and orders.

Sec. 5. The commission shall establish such pollution standards for lakes, rivers, streams and other waters of the state in relation to the public use to which they are or may be put, as it shall deem necessary. It shall have the authority to ascertain and determine for record and in making its order what volume of water actually flows in all streams, and the high and low water marks of lakes and other waters of the state, affected by the waste disposal or pollution of municipalities, industries, public and private corporations, individuals, partnership associations, or any other entity. It shall have the authority to make regulations and orders restricting the polluting content of any waste material or polluting substance discharged or sought to be discharged into

any lake, river, stream, or other waters of the state. It shall have the authority to take all appropriate steps to prevent any pollution which is deemed by the commission to be unreasonable and against public interest in view of the existing conditions in any lake, river, stream, or other waters of the state.

HISTORY: CL 1929, 282;—CL 1948, 323.5.

323.5a Water resources commission; regulations as to harmful interference with streams; records.

Sec. 5a. The commission shall have the authority to make regulations and orders for the prevention of harmful interference with the discharge and stage characteristics of streams. It shall have the authority to ascertain and determine for record and in making its order the location and extent of flood plains, stream beds and channels and the discharge and stage characteristics of streams at various times and circumstances.

HISTORY: Add. 1968, p. 257, Act 167, Imd. Eff. Jun. 17.

323.5b Unlawful occupation and use of flood plains, stream beds or channels; permit.

Sec. 5b. It shall be unlawful for any person to occupy or permit the occupation, for residential, commercial or industrial purposes of lands or to fill or grade or permit the filling or grading for any purposes other than agricultural, of lands in the flood plains, stream bed or channel of any stream, as ascertained and determined for record by the commission, or to undertake or engage in any activity on or with respect to the lands which is determined by the commission to harmfully interfere with the discharge or stage characteristics of a stream, unless the occupation, filling, grading, or other activity shall have been permitted by an order or rule of the commission, or by a valid permit issued therefor by the department of conservation under the provisions of law.

HISTORY: Add. 1968, p. 257, Act 167, Imd. Eff. Jun. 17.

323.6 Unlawful discharges into waters, evidence; public nuisance.

Sec. 6. (a) It shall be unlawful for any persons directly or indirectly to discharge into the waters of the state any substance which is or may become injurious to the public health, safety or welfare; or which is or may become injurious to domestic, commercial, industrial, agricultural, recreational or other uses which are being or may be made of such waters; or which is or may become injurious to the value or utility of riparian lands; or which is or may become injurious to livestock, wild animals, birds, fish, aquatic life or plants or the growth or propagation thereof be prevented or injuriously affected; or whereby the value of fish and game is or may be destroyed or impaired.

(b) The discharge of any raw sewage of human origin, directly or indirectly into any of the waters of the state shall be considered prima facie evidence of the violation of this section unless the discharge shall have been permitted by an order or rule of the commission. Any city, village or township which permits, allows or suffers the discharge of such raw sewage of human origin into any of the waters of the state by any of its inhabitants or persons occupying lands from which the raw sewage originates, shall be subject only to the remedies provided for in section 7.

(c) Any violation of any provision of section 6 shall be prima facie evidence of the existence of a public nuisance and in addition to the remedies provided for in this act may be abated according to law in an action brought by the attorney general in a court of competent jurisdiction.

HISTORY: CL 1929, 283;—CL 1948, 323.6;—Am. 1949, p. 121, Act 117, Imd. Eff. May 17;—Am. 1965, p. 615, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 823, Act 405, Imd. Eff. Oct. 29;—Am. 1970, p. 572, Act 200, Eff. Apr. 1, 1971.

323.6a Waste treatment facilities of industrial and commercial entities; date required; examination of personnel, certification; reports.

Sec. 6a. On and after July 1, 1969, or such subsequent date as the commission may designate, every industrial or commercial entity which discharges liquid wastes into

any public lake or stream shall have waste treatment facilities under the specific supervision and control of persons who have been certified by the commission as properly qualified to operate the facilities. The commission shall examine all supervisory personnel having supervision and control of the facilities and certify the persons properly qualified to operate or supervise the facilities. Such a certified person shall file monthly, or at such longer intervals as the commission may designate, on forms provided by the commission, reports showing the effectiveness of the treatment facility operation and the quantity and quality of liquid wastes discharged into the public lake or stream. A person who knowingly makes a false statement in such report may have his certificate as an approved treatment facility operator revoked.

HISTORY: Add. 1968, p. 306, Act 208, Imd. Eff. Jan. 24.

323.6b Waste discharges; annual report; use; injunction; rules.

Sec. 6b. Every person, doing business within this state discharging waste water to the waters of the state or to any sewer system, which contains waste in addition to sanitary sewage shall file annually reports on forms provided by the commission setting forth the nature of the enterprise, a list of materials used in and incidental to its manufacturing processes and including by-products and waste products, which appear on a register of critical materials as compiled by the commission with the advice of an advisory committee of environmental specialists designated by the commission, and the estimated annual total number of gallons of waste water including but not limited to process and cooling water to be discharged to the waters of the state or to any sewer system. The information shall be used by the commission only for purposes of water pollution control. The commission shall provide proper and adequate facilities and procedures to safeguard the confidentiality of manufacturing proprietary processes except that confidentiality shall not extend to waste products discharged to the waters of the state. Operations of a business or industry which violate this section may be enjoined on petition of the water resources commission to a court of proper jurisdiction. The commission shall adopt rules as it deems necessary to effectuate the administration of this section, including where necessary to meet special circumstances, reporting more frequently than annually, in accordance with Act No. 306 of the Public Acts of 1969.

HISTORY: Add. 1970, p. 573, Act 200, Eff. Apr. 1, 1971.

323.7 Violation notice; contents; hearing; order of determination, review.

Sec. 7. Whenever in the opinion of the commission any person shall violate or is about to violate the provisions of this act, or fails to control the polluting content or substance discharged or to be discharged into any waters of the state, the commission may notify the alleged offender of such determination by the commission. The notice shall contain in addition to a statement of the specific violation which the commission believes to exist, a proposed form of order, stipulation for agreement or other action which it deems appropriate to assure correction of the problem within a reasonable period of time and shall set a date for a hearing on the facts and proposed action involved, the hearing to be scheduled not less than 4 weeks or more than 8 weeks from the date of the notice of determination. Extensions of the date of hearing may be granted by the commission or on request. At such hearing any interested party may appear, present witnesses and submit evidence. A person who has been served with a notice of determination may file a written answer thereto before the date set for hearing or at the hearing may appear and present oral or written testimony and evidence on the charges and proposed requirements for abatement of pollution contained therein. However, if a person served with the notice of determination agrees with the proposed restrictions of polluting content, waste or pollution and period of time for abatement of pollution which the commission deems necessary, and notifies the com-

mission thereof before the date set for hearing, disposition of the case may be made with the approval of the commission by stipulation or consent order without further hearing. The final order of determination of the commission upon such matter following the hearing, or the stipulation or consent order as authorized by this section and approved by the commission shall be conclusive, unless reviewed in accordance with the provisions of the administrative procedures of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948, in the circuit court for the county of Ingham, in or for the county in which such person resides, or for the county in which the violation occurred, upon petition therefor filed within 15 days after the service upon the person of the final order of determination.

HISTORY: CL 1929, 284;—CL 1948, 323.7;—Am. 1949, p. 121, Act 117, Imd. Eff. May 17;—Am. 1965, p. 616, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 823, Act 405, Imd. Eff. Oct. 29;—Am. 1970, p. 573, Act 200, Eff. Apr. 1, 1971.

323.8 Persons aggrieved; hearings; petition; review; increased use of water, order.

Sec. 8. (a) Whenever any person shall feel himself aggrieved by the restriction of polluting content, waste or pollution, or any other order of the commission, or any stipulation or consent order executed pursuant to section 7, he shall have a right to file a sworn petition with the commission, setting forth the grounds and reasons for his complaint and asking for a hearing of the matter involved. The commission shall thereupon fix the time and place for such hearing and shall notify the petitioner thereof. At such hearing the petitioner and any other interested party may appear, present witnesses and submit evidence. Following such hearing, the final order of determination of the commission upon such matter shall be conclusive unless reviewed in accordance with the provisions of the administrative procedures of Act No. 306 of the Public Acts of 1969 in the circuit court for the county of Ingham, or for the county in which such person resides, or for the county in which the alleged violation occurred.

(b) A person requiring a new or substantial increase over and above the present use now made of the waters of the state for sewage or waste disposal purposes shall file with the commission a written statement setting forth the nature of the enterprise or development contemplated, the amount of water required to be used, its source, the proposed point of discharge of the wastes into the waters of the state, the estimated amount so to be discharged, and a fair statement setting forth the expected bacterial, physical, chemical and other known characteristics of the wastes. Within 60 days of receipt of the statement, the commission shall make an order stating such minimum restrictions as in the judgment of the commission may be necessary to guard adequately against such unlawful uses of the waters of the state as are set forth in section 6. If the order is not acceptable to the user, he may request a hearing on the matter involved, following which the commission's final order of determination in this connection shall be conclusive unless reviewed in accordance with the provisions of the administrative procedures of Act No. 306 of the Public Acts of 1969 in the circuit court for the county of Ingham, in or for the county in which the user resides, or for the county in which the use is contemplated, upon petition therefor filed within 15 days after service upon the user of the final order of determination.

HISTORY: CL 1929, 285;—CL 1948, 323.8;—Am. 1949, p. 122, Act 117, Imd. Eff. May 17;—Am. 1965, p. 616, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 824, Act 405, Imd. Eff. Oct. 29;—Am. 1970, p. 573, Act 200, Eff. Apr. 1, 1971.

323.9 Violation of act; criminal complaint, penalty.

Sec. 9. Any duly appointed agent of the commission shall have authority to enforce the provisions of this act and may make criminal complaint against any person violating the same. After service of a written notice of determination, setting forth specifically any violation of this act, any person who shall fail to comply with the order of the commission shall be subject to the penalties of this act.

HISTORY: CL 1929, 286;—CL 1948, 323.9;—Am. 1949, p. 122, Act 117, Imd. Eff. May 17;—Am. 1965, p. 617, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 824, Act 405, Imd. Eff. Oct. 29.

323.10 Violations of act; penalty; civil actions.

Sec. 10. Any person, except a municipality, who discharges any substance into the waters of the state contrary to the provisions of section 6 or who fails to comply with any restriction, regulation or final order of determination of the commission made under the provisions of this act, or who fails to comply with the provisions of section 13, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$500.00 and in the discretion of the court it may impose an additional fine of not less than \$500.00 per day for any number of days during which such violation occurred. However, such person shall not be subject to the penalties of this section if the discharge of the effluent is in conformance with and obedient to a rule, regulation or order of the commission. In addition to the minimum fine herein specified, the attorney general, at the request of the department of conservation, is authorized to file a suit in any court of competent jurisdiction to recover the full value of the injuries done to the natural resources of the state by such violation.

HISTORY: CL 1929, 287;—CL 1948, 323.10;—Rep. 1949, p. 123, Act 117, Imd. Eff. May 17;—Add. 1965, p. 617, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 825, Act 405, Imd. Eff. Oct. 29;—Am. 1970, p. 574, Act 200, Eff. Apr. 1, 1971.

323.11 Water resources commission; definitions.

Sec. 11. Wherever the word "person" is used in this act, it shall be construed to include any municipality, industry, public or private corporation, co-partnership, firm or any other entity whatsoever. Wherever the words "waters of the state" shall be used in this act, they shall be construed to include lakes, rivers and streams and all other water courses and waters within the confines of the state and also the great lakes bordering thereon.

HISTORY: CL 1929, 288;—CL 1948, 323.11.

323.12 Construction of act.

Sec. 12. This act shall not be construed as repealing any of the provisions of the law governing the pollution of lakes and streams, but shall be held and construed as ancillary to and supplementing the same and in addition to the laws now in force, except as the same may be in direct conflict herewith. This act shall not be construed as applying to copper or iron mining operations, whereby such operations result in the placement, removal, use or processing of copper or iron mineral tailings or copper or iron mineral deposits from such operations being placed in inland waters on bottom lands owned by or under the control of the mining company and only water which may contain a minimal amount of residue as determined by the water resources commission resulting from such placement, removal, use or processing being allowed or permitted to escape into public waters; or applying to the discharge of water from underground iron or copper mining operations subject to a determination by the water resources commission.

HISTORY: CL 1929, 289;—CL 1948, 323.12;—Am. 1965, p. 617, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 825, Act 405, Imd. Eff. Oct. 29.

323.12a Provision of act; supplemental construction.

Sec. 12a. The provisions of this act shall be construed as supplemental to and in addition to the provisions of Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 277.10, inclusive, of the Compiled Laws of 1948; and nothing in this act shall be construed to amend or repeal any law of the state of Michigan relating to the public service commission, the department of conservation and the department of health relating to waters and water structures, or any act or parts of acts not inconsistent with the provisions of this act.

HISTORY: Add. 1949, p. 122, Act 117, Imd. Eff. May 17.

Sec. 13. (This was a severing clause section.)

HISTORY: CL 1929, 290;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

323.13 Surveillance fee; notice; payment; amount; rules.

Sec. 13. (a) In order to provide for increased surveillance, investigation, monitoring and other activities necessary to provide greater protection of the quality of waters of this state, an annual surveillance fee is payable by a person, company, corporation, but not a municipality, discharging water borne waste directly or indirectly into any waters of the state from any manufacturing facility; or from any other commercial establishment which may generate a discharge inconsistent with the protection of waters of the state. The fees shall be for the cost of surveillance of industrial and commercial discharges and receiving waters. The cost of necessary surveillance of municipal discharges shall not be financed from revenues so derived but may be provided otherwise by law. In any year, the total surveillance fees assessed on discharges shall not exceed the total amount appropriated to the commission and other appropriate state agencies for the surveillance, monitoring and related activities necessary to adequately assess the impact of commercial and industrial waste-water discharges on waters of the state.

(b) On or before February 1 of each year the commission shall inform each such discharger and the state treasurer of the annual surveillance fee due, from each plant location or major manufacturing component and commercial enterprise as provided by rules.

(c) On or before March 1 of each year a discharger shall pay to the state treasurer the amount of surveillance fee due who shall deposit it in the general fund of the state. The treasurer shall report the total annual amount collected to the governor and the legislature on or before April 15 of each year.

(d) The annual surveillance fee shall be based on an administrative fee of \$50.00 and an additional fee set by the commission. The additional fee shall be determined on a graduated basis using the volume of discharge to determine a base fee which shall be multiplied by a factor dependent on the strength of organic and inorganic waste constituents to establish the total annual surveillance fee. The maximum annual fee assessed upon any discharge which is in conformance with commission effluent restrictions shall not exceed \$9,000.00 per manufacturing location. Discharges into a municipal sewerage system shall be assessed only the \$50.00 administrative fee unless such discharge after municipal treatment is or may become injurious to the waters of the state as set forth in section 6 in which event the assessment will be based upon the same considerations as if the discharge after treatment were being discharged by the manufacturing facility or commercial establishment directly into the waters of the state. The commission shall adopt such rules as are necessary to implement this section in accordance with Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 574, Act 200, Eff. Apr. 1, 1971.

Act 222, 1949, p. 255; Eff. Sep. 23.

AN ACT to authorize public corporations to accept grants and other aid from the United States government or any agency thereof and from industries for the construction of public improvements the purpose of which is to aid in the prevention and abatement of water pollution and in furtherance of such purpose to authorize public corporations to enter into contracts with industries covering the use, operation and coordination of sewage collection, treatment and/or disposal facilities.

The People of the State of Michigan enact:

323.101 Water pollution control; definitions.

Sec. 1. As used in this act, unless a different meaning clearly appears from the context:

(a) The term "public corporation" shall be construed to mean any county, city, village, township or metropolitan district, of the state of Michigan, or any authority created by or pursuant to an act of the legislature.

(b) The term "governing body" shall be construed to mean, in the case of a county, the board of supervisors; in the case of a city, the council, common council, commission or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees or other body having legislative powers; in the case of a township, the township board; in the case of a metropolitan district, the legislative body of the district; and in the case of an authority, the body in which is lodged general governing powers.

HISTORY: New 1949, p. 255, Act 222, Eff. Sep. 23.

323.102 Water pollution control; public corporations, acceptance of federal aid.

Sec. 2. Any public corporation is hereby authorized to apply for and accept grants or any other aid which the United States government or any agency thereof has authorized or may hereafter authorize to be given or made to the several states of the United States or to any political subdivisions or agencies thereof within the states for the construction of public improvements, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution.

HISTORY: New 1949, p. 255, Act 222, Eff. Sep. 23.

323.103 Water pollution control; public corporations, acceptance of aid from industries; contracts and agreements.

Sec. 3. Any public corporation is further authorized to accept contributions and other aid from industries for the purpose of aiding in the prevention or abatement of water pollution and in furtherance of such purpose to enter into contracts and agreements with industries covering the following:

(a) The collection, treatment and disposal of sewage and industrial wastes from industries;

(b) The use and operation by any such public corporation of sewage collection, treatment and/or disposal facilities owned by any industry;

(c) The coordination of the sewage collection, treatment and/or disposal facilities of the public corporation with the sewage collection, treatment and/or disposal facilities of any industry;

(d) When determined by its governing body to be in the public interest and necessary for the protection of the public health, any public corporation is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the public corporation of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the public corporation of amounts at least sufficient, in the determination of such governing body, to compensate the public corporation for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment: Provided, That the exercise by any public corporation of such powers outside of its corporate limits shall be subject to the legal rights of the political subdivision within which

such powers are to be exercised and shall also be subject to any and all constitutional and statutory provisions relating thereto.

HISTORY: New 1949, p. 255, Act 222, Eff. Sep. 23.

Act 329, 1966, p. 592; Imd. Eff. Jul. 19.

AN ACT to prevent the discharge of untreated or inadequately treated sewage or other liquid wastes into any waters of the state; to provide financial assistance to local agencies for the construction of treatment works to prevent such discharge; and to abate and prevent pollution of the waters in and adjoining the state; and to implement Act No. 76 of the Public Acts of 1968. Am. 1969, p. 37, Act 21, Eff. Jun. 15.

The People of the State of Michigan enact:

323.111 Water pollution control fund; establishment; purpose; definitions.

Sec. 1. (1) A fund to be known as the state water pollution control fund is established to be used for assisting counties, cities, villages, townships or other public bodies created by or pursuant to state law and having jurisdiction over disposal of sewage or other liquid wastes, hereinafter referred to as local agencies, in financing their construction of treatment works.

(2) As used in this act:

(a) "Treatment works" means the various devices used in treatment of sewage or industrial wastes of a liquid nature, and extensions, improvements, remodeling, additions and alterations thereof, including necessary intercepting sewers, outfall sewers, pumping, power and other equipment and their appurtenances.

(b) "Intercepting sewer" means a sewer, including necessary pumping stations, designed or constructed for 1 or more of the following purposes:

(i) To receive the existing flow of untreated or inadequately treated sewage or other liquid waste from 1 or more sewers or outlets, other than from a building or dwelling, that discharge or formerly discharged the flow into any waters of the state; and convey the flow to a treatment works.

(ii) To serve in lieu of an existing or proposed treatment works.

(iii) To convey sewage from a sewage collection system directly to a treatment works.

(c) "Outfall sewer" means a sewer designed or constructed to convey the effluent from a treatment works to the point of final disposal.

(d) "Construction" means the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other similar action necessary to the construction of treatment works; the erection, building, acquisition, extension, improvement, remodeling and additions to or alterations of treatment works; and the inspection and supervision of the construction of treatment works. "Construction" may include acquisition of lands where land is to substitute for chemical or mechanical facilities or both, as approved by the water resources commission and if federal funds as authorized by Public Law 84-660, as amended, may be used for such purposes, but shall not include acquisition of rights of way.

HISTORY: New 1966, p. 592, Act 329, Imd. Eff. Jul. 19;—Am. 1968, p. 124, Act 75, Eff. Jul. 1;—Am. 1969, p. 37, Act 21, Eff. Jun. 15;—Am. 1970, p. 595, Act 214, Imd. Eff. Oct. 4.

323.112 Water pollution control fund; deposit; disbursements, approval; income.

Sec. 2. The proceeds of sale of \$285,000,000.00 of the bonds authorized by Act No. 76 of the Public Acts of 1968, being sections 323.371 to 323.382 of the Compiled Laws of 1948, or any series thereof, and any premiums and accrued interest received on the delivery thereof, shall be deposited with the state treasurer in the water pollution control fund. Disbursements from the fund shall be made only for specific eligible treatment works projects approved, as provided in section 16 of this act, by the appropriation committees and by the legislature by concurrent resolution adopted by a roll call vote of a majority of the members elected to and serving in each house. A concurrent resolution shall include all or part of the projects on the priority list of eligible projects reported to the legislature by the water resources commission as provided in section 16, but in case of a part only it shall be the entire part containing all projects on the list having priorities higher than those of projects not included in the resolution and shall not include projects lower in the order of priority. The income from temporary investments of the proceeds shall be deposited in the general fund.

HISTORY: New 1966, p. 592, Act 329, Imd. Eff. Jul. 19;—Am. 1968, p. 124, Act 75, Eff. Jul. 1;—Am. 1969, p. 37, Act 21, Eff. Jun. 15;—Am. 1970, p. 420, Act 133, Imd. Eff. Jul. 29.

323.113 Projects; eligibility for federal grants, amount; advances; replaced works.

Sec. 3. (1) Grants shall be made under this act only for treatment works eligible for federal grants under United States Public Law 84-660, as amended, and on which construction commenced after June 30, 1967, and shall be made in an amount equal to 25% of that portion of the treatment works cost that is eligible for such federal grant. However, (a) treatment works which receive federal grants only under federal laws other than United States Public Law 84-660, as amended, and on which construction commenced after June 30, 1967, are eligible for state grants not to exceed 25% of the cost of treatment works, and; (b) the sum of state and federal grants on treatment works which receive federal grants only under federal law other than United States Public Law 84-660, as amended, shall not exceed 75% of the cost of the portions of such treatment works which are or would have been eligible for grants under United States Public Law 84-660, as amended.

(2) Commencing July 1, 1967 and ending June 30, 1971, a treatment works qualifying for a 25% state grant under this act and a federal grant under United States Public Law 84-660, as amended, is eligible to receive an additional payment from the state water pollution control fund as an advance against the prospective federal share of the eligible treatment works cost authorized by United States Public Law 84-660, as amended, so that the combined state grant, state advance of the federal share, and federal grant apportioned to the treatment works shall not be less than 55% of the eligible cost. After June 30, 1971, the combined state grant and state advance of the federal share shall not be less than 50% of the eligible treatment works cost.

(3) Financial assistance shall be given under this act to a local agency only if it has agreed, when filing its application for assistance under this act, to adjust the amount of its request for federal grants to the amount that is determined by the water resources commission to be available for apportionment. This agreement shall not affect the eligibility of the local agency for future reimbursement from any federal funds which may become available, of that part of the federal share of costs of the treatment works, which were prefunded by the local agency and which would have been eligible for federal grants if funds therefor had been available.

(4) Financial assistance shall be given under this act to a local agency only for treatment works on which eligibility for a federal grant has been established and construction contracts awarded or construction commenced after June 30, 1967.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section, when a treatment works owned by a local agency is to be replaced in whole or in part by a system of another local agency under an official plan approved by the water resources commission after June 30, 1967, the present value of the treatment works or part thereof that is to be replaced, less the land value and any state or federal grants used in the construction thereof, shall be eligible for a state grant equal to 50% of such value. The present value shall be based on a straight line depreciated cost including any capital improvements thereto based on a maximum life of 40 years for structures and 20 years for equipment from the date the treatment works was placed in operation. The grant shall be made only if the regional local agency has entered into an agreement for acquisition of the treatment works or part thereof to be replaced and applies the grant toward such acquisition.

HISTORY: New 1966, p. 592, Act 329, Imd. Eff. Jul. 19;—Am. 1966, p. 124, Act 75, Eff. Jul. 1;—Am. 1969, p. 38, Act 21, Eff. Jun. 15;—Am. 1970, p. 490, Act 133, Imd. Eff. Jul. 29.

CITED IN OTHER SECTIONS: The above section is cited in § 323.401.

323.113a Disbursements; purposes; certificate of eligibility; plans and specifications, time.

Sec. 3a. (1) Disbursements from the fund shall be made by the director of the department of administration and the state treasurer in accordance with the accounting laws of the state only for the following purposes for which the bonds have been authorized:

(a) Expense of issuing the bonds.

(b) Grants and advances to local agencies as provided in subsections (1) and (2), subsection (5) of section 3 and subsection (3) of this section.

(2) Before any disbursement from the fund, as provided in subsection (3), is made to a local agency to assist it in constructing treatment works, the water resources commission shall certify to the director of the department of administration and the state treasurer the amount of state grant and advance which such agency is eligible to receive under this act. The certificate shall include or have attached thereto a certificate by the water resources commission, or by the state department of public health when so requested by the commission, of the necessity and sufficiency of the treatment works and all portions thereof.

(3) Disbursements from the fund to a local agency, as authorized by section 3, shall be made on certification to the director of the department of administration and the state treasurer by the water resources commission that such disbursements are due. A local agency is eligible for this certification at the same time and in the same proportions that federal grant payments are authorized. However, a disbursement shall be made from the fund to a local agency for 50% of the reasonable cost of preparing completed final construction plans and specifications for that part of the treatment works that is eligible for a federal grant, on (a) issuance of a construction permit by the department of public health for the treatment works for which the construction plans and specifications have been prepared, (b) receipt of evidence satisfactory to the commission of the local agency's ability and intent to finance the local share of the project cost and (c) certification to the director of the department of administration and the state treasurer by the water resources commission of the necessity and sufficiency of the plans and specifications.

HISTORY: Add. 1969, p. 38, Act 21, Eff. Jun. 15;—Am. 1970, p. 421, Act 133, Imd. Eff. Jul. 29.

323.114 Water resources commission; rules and regulation.

Sec. 4. The water resources commission shall promulgate rules and regulations to carry out the functions of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and

subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 503, Act 339, Imd. Eff. Jul. 19;—Am. 1968, p. 124, Act 75, Eff. Jul. 1.

323.115 Priority of funding; amount; carryovers.

Sec. 5. Grants and advances to local agencies shall be funded from the state water pollution control fund for treatment works projects in the descending order of their priority, as established by the water resources commission, until all projects which have been approved under the provisions of sections 2 and 16 have been funded. No local agency shall be allocated a combined sum of grants and advances which exceeds 25% of the state funds available. The cumulative grant funds chargeable to a local agency project that provides treatment or transportation for sewage collected outside the corporate limits of that agency shall be computed on the basis of the ratio that the population served by that project within such corporate limits bears to the total population served thereby. If funds available for the last project on the approved priority list are less than the amount of the grant and any advance to which the project is entitled, the balance shall be allocated for payment when due, from receipts of the fund in the next succeeding fiscal year, before grants or advances are allocated to any other projects.

HISTORY: Add. 1968, p. 125, Act 75, Eff. Jul. 1;—Am. 1970, p. 422, Act 133, Imd. Eff. Jul. 29.

323.116 Federal funds; advances, reimbursements.

Sec. 6. Federal funds allocated to the state before July 1, 1971, in excess of 5% of the eligible costs of treatment works that have been certified for financial assistance under this act, shall be used under the reimbursement provisions of United States Public Law 84-660, as last amended by United States Public Law 89-753, to reimburse local agencies in full, for that portion of the federal share which they advanced, before such federal funds are used for reimbursement to the state of any portion of the federal share which the state has advanced. Federal funds received by the state, for reimbursement of the portion of the federal share which the state advanced, shall be deposited in the state water pollution control fund for state assistance in financing treatment works under this act.

HISTORY: Add. 1968, p. 125, Act 75, Eff. Jul. 1;—Am. 1969, p. 39, Act 21, Eff. Jun. 15.

323.117 Official plans; adoption and submission prerequisite to grants; joint submission.

Sec. 7. Effective July 1, 1968, a grant shall not be made until the local agency's governing body has adopted and submitted to the water resources commission a comprehensive long-range plan for the control of pollution in the area within its jurisdiction, hereinafter referred to as the official plan. If more than 1 local agency has authority to provide service for sewage collection in the same area, the required plan may be submitted jointly by the local agencies concerned or by 1 local agency with the concurrence of the others.

HISTORY: Add. 1968, p. 125, Act 75, Eff. Jul. 1.

CITED IN OTHER SECTIONS: The above section is cited in § 323.405.

323.118 Official plans; contents, review.

Sec. 8. An official plan shall:

(a) Provide for timely construction of treatment works which will prevent the discharge of untreated or inadequately treated sewage or other wastes as defined by Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948, into the waters of the state.

(b) Provide for adequate planning, zoning, population projections and engineering and economic studies to delineate with all practicable precision those portions of the area which public sewerage systems may reasonably be expected to serve within 10

years, and within 20 years, and any areas in which the provision of such services is not reasonably foreseeable.

(c) Be in compliance with the state pollution control plan required by United States Public Law 84-660, as amended.

(d) Set forth a time schedule and proposed method of financing, construction and operation of the pollution control system.

(e) Be reviewed by the official planning agencies having jurisdiction within the local agency, including the regional planning agency, if any, for consistency with programs of planning for the area, which reviews shall be transmitted to the water resources commission with the plan.

HISTORY: Add. 1968, p. 125, Act 75, Eff. Jul. 1;—Am. 1969, p. 39, Act 21, Eff. Jun. 15.

CITED IN OTHER SECTIONS: The above section is cited in § 323.405.

323.119 Official plans; preparation, grants.

Sec. 9. The water resources commission may administer grants to local agencies to assist them in preparing official plans. Such grants shall be made from specific appropriations made by the legislature and from federal appropriations authorized by United States Public Law 89-753, and shall equal 1/2 the cost of the preparation of such plans.

HISTORY: Add. 1968, p. 125, Act 75, Eff. Jul. 1.

323.120 Official plans; approval; technical assistance; priority list.

Sec. 10. (1) The water resources commission may approve the official plan as submitted or, if it finds the plan to be inconsistent with proper local or regional water pollution control, it may return the plan for appropriate modification. Where more than 1 local agency is involved in an official plan and the local agencies are unable to agree upon an official plan which the commission will approve, the commission shall develop the necessary official plan.

(2) The commission may provide technical assistance to local agencies in coordinating official plans.

(3) The commission shall cooperate with all appropriate federal, state, interstate and local agencies and with appropriate private organizations.

(4) The commission shall submit to the appropriations committees of the house and senate a detailed priority list of projects to be submitted to the federal agency for approval. The list shall be submitted at least 30 days before submission to federal agencies.

HISTORY: Add. 1968, p. 125, Act 75, Eff. Jul. 1;—Am. 1970, p. 422, Act 133, Imd. Eff. Jul. 29.

323.121 Water resources commission; assistance to state agencies; records; audits.

Sec. 11. (1) The water resources commission, with consent of the head of any other agency of this state, shall utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this act.

(2) A recipient of assistance under this act shall keep such records as the commission shall prescribe, including records which fully disclose the amount and disposition by the recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The commission, the legislative auditor general and the state treasurer or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the recipient that are pertinent to grants received under this act.

HISTORY: Add. 1968, p. 126, Act 75, Eff. Jul. 1;—Am. 1969, p. 40, Act 21, Eff. Jun. 15;—Am. 1970, p. 422, Act 133, Imd. Eff. Jul. 29.

323.122 Grants or advances; prerequisites; point system, purpose.

Sec. 12. Notwithstanding any other provision of this act or of any rule of the water resources commission, compliance with sections 12 to 16 is a prerequisite to the making of a grant or advance under this act. Sections 12 to 16 provide procedures for establishing the priority of eligible projects and for certifying projects for an allocation of grants and advances for treatment works construction. The point system is designed to give 1/2 weight to financial needs and 1/2 weight to water pollution control needs.

HISTORY: Add. 1989, p. 40, Act 21, Eff. Jun. 15.

323.123 Financial need; application of point system.

Sec. 13. (1) Points assigned to a treatment works project as a complete measure of financial needs shall not exceed 15.

(2) One-fifth of a point shall be assigned for each \$5.00 or major fraction thereof, based on estimated reasonable cost of the treatment works as entered on the application issued therefor by the administering federal agency, per capita of equivalent population established by the applicant's engineer as the basis of design of the treatment works.

(3) One-fifth of a point shall be assigned for each \$5.00 or major fraction thereof, based on applicant's outstanding financial obligations, exclusive of school debt, on the date the application is filed, per capita of population established by the latest federal census. In case of a project to be constructed by 1 local agency to serve any other local agency or portions thereof, or a project to be constructed by a new local agency formed by existing local agencies to be served, debt obligations per capita shall be based on the combined financial obligations and population of the areas served.

HISTORY: Add. 1989, p. 40, Act 21, Eff. Jun. 15.

323.124 Pollution control needs; application of point system.

Sec. 14. (1) Points assigned to a treatment works project as a complete measure of pollution control needs shall not exceed 15.

(2) Two points shall be assigned for total elimination of wastewater disposal to waters of the state, other than disposal to ground water that is approved by the commission, and for each of the following interests subject to pollution-caused injuries, which injuries will be corrected or substantially lessened by the proposed project:

- (a) Public health, safety or welfare but not including bathing.
- (b) Public water supply for domestic use.
- (c) Water supply for commercial or industrial use.
- (d) Irrigation or livestock water supply for agricultural use.
- (e) Organized public recreational use including bathing.
- (f) Aesthetic value or utility of riparian lands.
- (g) Water supply for wild animals, birds and fish, and adverse effects on aquatic life or plants.
- (h) Usefulness of fish or game for human consumption.

(3) A treatment works required to be constructed in compliance with a judgment rendered by a court of competent jurisdiction, or with a stipulation or an order of the water resources commission, or an agreement with the department of public health, shall be assigned from 1 to 4 points in accordance with the following schedule, if the stipulation, order or agreement specifically recites the existence of unlawful pollution and was in effect not less than 30 days before the deadline for filing applications, and if the pollution abatement date is such that compliance therewith would make it necessary to start construction during the year ending:

- (a) June 30 of the fiscal year for which the application is filed 4 points

- (b) June 30 of the first succeeding fiscal year 3 points
- (c) June 30 of the second succeeding fiscal year 2 points
- (d) June 30 of the third succeeding fiscal year 1 point

(4) An applicant in default of a performance date specified by an order, stipulation or agreement may be assigned points under the preceding schedule only at the discretion of the water resources commission.

(5) A treatment works project for which construction contracts were awarded before the deadline date for filing applications, shall be assigned 4 points. The combined total points assigned pursuant to subsections (3) to (5) shall not exceed 4.

HISTORY: Add. 1969, p. 40, Act 21, Eff. Jun. 15;—Am. 1970, p. 422, Act 133, Imd. Eff. Jul. 29.

323.125 Total priority points; computations; tied projects, assignment of priority.

Sec. 15. (1) Total priority points for a treatment works project shall be the sum of the points assigned for financial needs and for water pollution control needs.

(2) If 2 or more projects receive the same priority point totals the water resources commission shall assign priorities to the tied projects in the relative order of their points for water pollution control needs. If the projects have the same point totals for water pollution control needs the commission shall assign priorities after considering factors such as waters affected, extent of public interests involved, relative magnitude of pollution injury and other factors as the commission deems appropriate.

HISTORY: Add. 1969, p. 41, Act 21, Eff. Jun. 15.

323.126 Fiscal year; applications, filing; assignment of point total; priority certification, condition; duration; reports.

Sec. 16. (1) For the purposes of sections 12 to 16 the fiscal year is July 1 to June 30.

(2) An application for a treatment works construction grant for a specific fiscal year and the official plan specified in section 8 if not submitted before filing the application shall be filed with the water resources commission not later than September 15 of the fiscal year for which the application is filed. An application postmarked not later than midnight of September 15 will meet this requirement.

(3) A point total shall be assigned by the commission to each application that has been timely filed and conforms to the requirements of this act and of the administering federal agency no later than the following January 1.

(4) Projects entitled to construction grants shall be certified to the administering federal agency from the eligibility list as established by the water resources commission as approved by the legislature. Certification shall be made within 30 days after approval by the legislature or after receipt of federal authorization to certify projects whichever occurs last.

(5) Priority certification of a project to the administering federal agency is subject to the condition that construction contracts for the project be awarded not later than October 1 following the end of the fiscal year for which application for a state grant has been filed. Failure to comply with this condition of certification will be considered cause for the commission to request the administering federal agency to take action necessary to withdraw any grant offered that may have been obligated to the project. However, on a showing satisfactory to the water resources commission that the project will proceed within an extended period, the commission may allow 30 day extensions totaling not more than 90 days.

(6) An application for a treatment works construction grant and advance filed with the commission is valid only for the fiscal year in which the application is filed.

(7) The commission shall report to both houses of the legislature by January 15 of each year, the treatment works projects eligible for grants and advances and the points

and priorities assigned to them pursuant to this act and the projects which failed to comply with the condition of certification set forth in subsection (5) and on which the commission has requested the administering federal agency to withdraw the federal grant offer. Within 10 days after the effective date of this act, the commission shall submit to the legislature its June 27, 1968 list of projects and points and priorities assigned to them for projects which it appears can now be certified in accordance with the terms of this act and for which the applicants have provided assurance that they intend to award construction contracts before December 31, 1969. If legislative approval or rejection of eligible projects is not given each year within 45 days after receipt of the commission's list of eligible projects, the commission list will be considered approved.

HISTORY: Add. 1969, p. 41, Act 21, Eff. Jan. 15;—Am. 1970, p. 423, Act 133, Imd. Eff. Jul. 29.

323.127 Unlawful water pollution; abatement.

Sec. 17. It is the intent of this act that the water resources commission encourage local agencies to use grants provided herein to assist in abatement of any unlawful pollution of waters of this state. When the commission is petitioned relative to such pollution and determines that untreated or inadequately treated sewage or other liquid wastes are being discharged into the waters of the state from any system of sewers, drains or existing treatment works, including but not limited to combined sewer overflows from regulating structures owned, operated or maintained by a local agency or a combination of local agencies, the commission shall take prompt and timely action under procedures prescribed by law to obtain the abatement of unlawful pollution caused by such discharges.

HISTORY: Add. 1969, p. 42, Act 21, Eff. Jan. 15.

323.128 Public corporations; petition to alleviate water pollution.

Sec. 18. Notwithstanding any other provision of law to the contrary a petition under chapters 20 or 21 of the drain code of 1956 may be filed by 1 public corporation when the purpose thereof is to alleviate pollution of the waters of the state.

HISTORY: Add. 1969, p. 42, Act 21, Eff. Jan. 15.

Act 211, 1956, p. 441; Eff. Aug. 11.

AN ACT to prescribe certain powers and duties of the water resources commission; to authorize the commission to make surveys, studies and investigations of the water resources of the state and of the sewage disposal requirements of local units of government; to authorize the establishment of sewage disposal and water supply districts; to define the powers and duties of the districts; to provide for the exercise of such powers of the districts, including the power to acquire property by condemnation, purchase, gift or otherwise; to empower districts to adopt programs, to acquire, construct, extend, improve and operate sewage disposal systems and water supply systems; to provide for the issuance of bonds by the districts, to authorize districts to make contracts and agreements with municipalities for said purposes; and to empower municipalities to finance by taxes or issuance of bonds the carrying out of the contracts.

The People of the State of Michigan enact:

323.151 Sewage disposal and water supply district act; definitions.

Sec. 1. As used in this act:

(a) "Sewage disposal systems" includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other

plants, works, instrumentalities and properties used or useful in connection with the collection, treatment and disposal of sewage and industrial wastes.

(b) "Water supply system" includes all plants, work, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water and the distribution of water.

(c) "Municipality" includes any metropolitan district, water and/or sewer authority heretofore created under existing statutes, county, township, charter township, incorporated city or incorporated village. An incorporated village, for the purposes of this act, shall be considered a governmental unit separate and distinct from the township or townships in which it is located.

(d) "Water supply and sewage disposal district" means a governmental subdivision of this state and a public body corporate and politic organized in accordance with the provisions of this act for the purpose, with the powers and subject to the restrictions hereinafter set forth.

(e) "United States or agencies of the United States" includes the United States of America or any bureau, department, agency or instrumentality of the United States or otherwise created by the congress of the United States.

(f) "Due notice" means notice published at least twice, with an interval of at least 7 days between the 2 publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to the notice, at the time and place designated in the notice, adjournment may be made from time to time without the necessity of renewing the notice for such adjournment dates.

(g) "Commission" means the water resources commission.

HISTORY: New 1956, p. 441, Act 211, Eff. Aug. 11.

323.152 Water resources commission; duties.

Sec. 2. The water resources commission under this act shall have the following powers and perform the following duties and functions:

(a) To foster and encourage the organization of sewage disposal and water supply districts and to act as the administrative agency in the proceedings incident to the formation of districts and to offer and lend such assistance as may be appropriate to the directors of districts organized as provided hereinafter in the carrying out of any of their powers, functions and programs;

(b) To cooperate, negotiate and enter into contracts with the other governments, governmental units and agencies thereof in matters concerning water supply systems and sewage disposal systems; to take such steps and perform such acts and execute such documents as may be necessary to take advantage of any act heretofore or hereafter enacted by the congress of the United States which may make available funds for any of the purposes enumerated in this act or be otherwise of assistance in carrying out the purposes of this act; to disburse moneys which may be appropriated by the state legislature for the use and benefit of the districts hereinafter created or municipalities or local units of government of the state of Michigan in accordance with the formula prescribed in this act or in the acts of appropriation, and to disburse moneys that may be received by the state of Michigan from the United States government for the purposes provided for in this act in accordance with the formula set forth by the act of congress applicable thereto;

(c) To act as the fiscal agent for the state of Michigan, for the purpose of making available to local units of government and the districts as may be organized under this

act, moneys, funds or other instruments of indebtedness which may be approved by the legislature or the people of this state for the construction and operation of sewage disposal systems by such municipalities, local units of government or districts;

(d) To coordinate its duties and functions with similar or related duties and functions that are presently performed by other state agencies or governmental units to the end that all of the agencies and units shall coordinate and cooperate in their efforts for accomplishing the purposes of this act.

HISTORY: New 1956, p. 442, Act 211, Eff. Aug. 11.

323.153 Sewage disposal and water supply districts; joint municipal action to form district, petition.

Sec. 3. Any 2 or more municipalities, by resolution of their legislative body, may file a petition with the commission requesting that a sewage disposal district or a water supply district or a combination of both be organized to function in the territory described in the petition. The petition shall set forth:

- (a) The proposed name of the district;
- (b) That there is need in the interests of public health and welfare for such a district to function in the territory described in the petition;
- (c) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivision, but shall be deemed sufficient if generally accurate and designates the local units of governments comprised therein: Provided, That such territory shall include only area within the boundaries of the municipality so petitioning;
- (d) A request that a referendum be held within the territory so defined on the question of creation of such a district in the territory; and that the agency determine that such a district be created.

When more than 1 petition is filed covering parts of the same territory the agency may consolidate all or any such petitions.

HISTORY: New 1956, p. 443, Act 211, Eff. Aug. 11.

323.154 Sewage disposal and water supply districts; petition; hearing, notice, adjournment; determination as to territory affected.

Sec. 4. Within 30 days after the petition has been filed with the commission or within such further time as the commission may determine as being necessary, but which extended time shall not exceed 90 days, it shall cause due notice to be given of a hearing upon the question of the desirability and necessity in the interests of public health and welfare of the creation of the district, upon the question of appropriate boundaries to be assigned to the district, upon the propriety of the petition and of the proceedings taken under this act, and upon all other questions relative to such matter. All interested parties, shall have the right to attend the hearings and be heard. Notice of the time and place of holding the hearing shall be given to all of the executive officials of the municipalities included within the territory involved in accordance with section 1, subdivision (f) of this act. If it shall appear upon the hearing that it is desirable to include within the proposed district territory outside of the area within which due notice has been given, or if it is made to appear that more data or information is needed, the hearing shall be publicly adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district and such further hearing held. The commission shall cooperate to the fullest extent possible with the local units of government included within the territorial limits of the proposed district in the making of the necessary investigations and engineering and financial studies that may be required for the proper decisions to be made by the commission upon the conclusion of the hearing. After the hearing, if the commission shall determine upon the facts presented and upon such other relevant facts and informa-

tion as may be available to it, that there is need in the interests of public health and welfare for a sewage disposal or water supply district, or both, to be created and function in the territory considered at the hearing, it shall make and record such determination and shall define in a practical manner the boundaries of such districts by the territorial limits of municipalities included therein or by metes and bounds. In making the determination and in defining the boundaries the commission may give due weight and consideration to the physical and topographical conditions of the area considered, availability or nonavailability of water resources, the engineering and economic feasibility of the construction and management of the works required and all other relevant and pertinent facts that may be brought to its attention or of which it may have knowledge. Such additional territory shall not be included without the approval by resolution of the legislative body of any municipality affected, including the original petitioners.

HISTORY: New 1956, p. 443, Act 211, Eff. Aug. 11.

323.155 Sewage disposal and water supply districts; hearing; determination of no necessity; record.

Sec. 5. (a) If the commission shall determine after the hearing, having given due consideration to all of the relevant facts, that there is no need for such a district to be formed in the territory considered at the hearing and that the operation of the district within the defined boundaries is not practicable and feasible from the standpoint of engineering, administration and financing, it shall make and record the determination and shall deny any petition filed with it.

Determination of necessity; referendum, qualification of electors.

(b) If the commission has made and recorded a determination that there is need in the interests of public health and welfare for the formation, organization and functioning of a district in a particular territory and has defined the boundaries thereof, it shall consider the question of whether the operation of such a district within the boundaries with the powers conferred upon such districts in this act is desired by a majority of the electors within the boundaries of the district. To assist the commission in the determination of such question it shall be the duty of the commission, within a reasonable time of entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to order a referendum within the proposed district upon the proposition of the creation of the district and to order the municipalities affected to cause due notice of the referendum to be given. The commission shall direct the officials in charge of the holding of elections in the local units of government included within the district to call a special election or to place the referendum on the ballot at the next general election to be held in all of the territory comprising the district. The question shall be submitted by ballots prepared by the commission which shall succinctly describe the district proposed to be formed, the area in which it shall function and in appropriate language require those voting on the proposition to vote for or against the creation of the district, all in accordance with the requirements of law for the holding of referendums on state questions. The costs of the preparation of such ballots shall be borne by the municipalities affected. Only electors who have property assessed for taxes within the boundaries of the district shall be eligible to vote in the referendum. Upon the completion of the referendum, the commission shall publish the result thereof.

Expenses of referendum.

(c) The commission shall pay all expenses for the issuance of the notice and the conduct of the hearings and shall supervise the conduct of the hearings. The referendum shall be held by the regular established election officials and any costs shall be borne

by the municipalities affected. It shall promulgate and adopt appropriate regulations governing the conduct of the hearings.

Creation of district.

(d) If the referendum is favorable to the formation of the proposed district the commission shall call a conference of all the officials of all of the municipalities within the boundaries of the proposed district and every effort shall be made by the commission to foster and encourage the municipalities to incorporate an authority for the purpose of constructing and operating a sewage disposal system or water supply system, as the case may be, under the terms and authority vested in the municipalities by Act No. 233 of the Public Acts of 1955, being sections 124.281 to 124.294, inclusive, of the Compiled Laws of 1948, or any other appropriate act. If after the expiration of 180 days from the holding of the conference, or within such additional period as the commission may in its discretion deem necessary, the municipalities have not brought into being such authority as is provided in this act, the commission shall make, file and publish as herein provided a determination creating the district as contained in the application and as approved by the referendum.

Temporary governing body of district.

(e) Upon the making and filing of the determination due notice thereof shall be served and published and the commission shall appoint 5 directors who are electors for the purpose of this act within the territory comprising the district and who shall comprise a temporary governing body of the district, who shall hold office until the officers of the first permanent governing body have been elected and qualified.

District; application for incorporation, contents.

(f) The district shall be a governmental subdivision of this state and a public body corporate upon the taking of the following proceedings:

The appointed directors shall present to the secretary of state an application signed by them which shall set forth:

(1) That a petition for the creation of the district was filed with the commission pursuant to the provisions of this act and that the proceedings specified in this act were taken in pursuance thereof; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body corporate under this act and that they are the temporary directors thereof;

(2) The name and official residence of each of the directors together with a certification of their appointment;

(3) The name which is proposed for the district;

(4) The location of the present office which has been selected for the district by the directors.

Same; certified statement, contents.

(g) The application shall be subscribed and sworn to by at least a majority of the directors before an officer authorized by the laws of the state to administer oaths, which officer shall certify upon the application that he personally knows the directors and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a certified statement made by the commission that a petition was filed, notice issued and hearing held as aforesaid; that the commission did duly determine that there is need in the interests of public health and welfare for such a district to function in the proposed territory and did define the boundaries thereof; that notice was given and referendum held in the question of creation of such district and that the result of the referendum showed a majority of the votes cast in the referendum to be in favor of the creation of such a district; that the commission did duly determine that the operation of the proposed district is administratively practicable and feasible, and the statement shall set forth the boundaries of the district.

Same; public body corporate, certificate of organization.

(h) The secretary of state shall examine the application and statement and if he finds that the name proposed for the district is not identical with any similar district of this state or so nearly identical as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. When the application and statement have been made, filed and recorded as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate. The secretary of state shall make and issue to the directors a certificate under the seal of the state of the due organization of the district and shall record such certificate with the application and statement.

Same; additional territory.

(i) Petitions for including additional territory within an existing district may be filed with the commission and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form for the petitions, which shall be as nearly as possible to the form prescribed in this act for petitions to organize a district. The petition shall be filed with the commission and upon its receipt it shall be referred to the governing body of the district to be affected thereby and if, after due consideration, the governing body determines against the inclusion of such additional territory, such petition shall be duly denied.

Same; evidence of establishment.

(j) In any suit, action or proceedings involving the validity or enforcement of or relating to any contract, proceedings or action of the district, the district shall be deemed to have been duly and legally established in accordance with the provisions of this act upon proof of the issuance of the certificate by the secretary of state, and shall be admissible in evidence in any such suit, action or proceedings and shall be proof of the filing and contents thereof.

HISTORY: New 1956, p. 444, Act 211, Eff. Aug. 11.

323.156 Permanent governing body; members, election, terms, vacancy; quorum; compensation, expenses.

Sec. 6. The first permanent governing body of the district after it has been organized and has received the certificate provided for by the secretary of state shall consist of 5 directors. The directors shall be nominated and elected at the next general state election, providing the election falls at least 90 days prior thereto, in the same manner and in accordance with the election laws applicable to members of the house of representatives. They shall hold office for a term of 6 years: Provided, however, That among the first directors to be elected, the 2 receiving the highest number of votes shall hold office for the full term of 6 years; the 3 receiving the next highest number of votes shall hold office for 4 years. Thereafter, upon the expiration of their terms, they shall be elected for the full 6 year term. The secretary of state shall be responsible for the certification of the election of the directors. Any vacancy occurring shall be filled by appointment made by the remaining directors for the unexpired term. A majority of the directors shall constitute a quorum for the transaction of business and the concurrence of a majority of the total number of directors in any matter shall be required for its determination. A director shall receive no compensation for his services, but he shall be reimbursed for his expenses necessarily incurred in the discharge of his duties.

HISTORY: New 1956, p. 446, Act 211, Eff. Aug. 11.

323.157 Permanent governing body; officers, employees, technical assistance, records, rules, municipal representatives.

Sec. 7. The directors may employ an executive secretary, technical experts and such other officers, agents and employees, permanent or temporary, as they may require

and shall determine their qualifications, duties and compensation. The directors may delegate to their chairman, to one or more directors, or to one or more agents or employees, such powers and duties as they may deem proper. The directors shall furnish to the commission upon request copies of all rules, regulations, orders, contracts, forms, minutes, proceedings and other documents which they shall adopt or employ and such other information concerning their activities as it may require in the performance of its duties under this act. The directors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all rules, regulations and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. The directors shall invite the legislative body and executive officers of any municipality located within the territory comprised within the district to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, water supply or sewage disposal problems or other interests of such municipalities.

HISTORY: New 1956, p. 446, Act 211, Eff. Aug. 11.

323.158 Sewage disposal and water supply districts; powers.

Sec. 8. Any district organized under the provisions of this act shall constitute a governmental subdivision of this state and a body corporate, exercising public powers, with power to sue and to be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its organization and those incident thereto and enumeration of any powers herein shall not be construed as a limitation upon such general powers. The district is hereby authorized and empowered:

Construction of sewage disposal and water supply systems.

(a) Pursuant to the terms of any contract entered into under section 9 of this act to construct and operate sewage disposal systems and water supply systems within the area comprising its territorial limits and to acquire, extend and improve the systems.

Investigation as to new sources of supply of water.

(b) To make and cause to be made surveys, studies and investigations of water resources of the area within its territorial limits for the purpose of determining the feasibility and practicability of developing new sources of water supply to municipalities, industrial and commercial establishments, as well as to agricultural and residential lands and areas to the end that water shall be made available to the aforesaid of a quantity and quality necessary for the protection of the public health and the promotion of the general welfare within the areas.

Investigation as to sewage disposal facilities.

(c) To make and cause to be made surveys, studies and investigations for the purpose of ascertaining the requirements of municipalities, industrial and commercial establishments, individual and collective groups or occupants of lands for sewage disposal systems to the end that sewers and sewage disposal facilities shall be made available to the aforesaid which are situated within the territorial limits of the district and which may need or require the facilities in the protection of public health and the promotion of the general welfare.

Acquisition of property, condemnation.

(d) To cooperate with or enter into agreements with any municipality or any other unit of government or with any other persons, firms, associations or corporations as may be necessary for the full performance of its functions and duties and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise any property, real or personal, or rights or interests therein, either within or without its territorial limits; to maintain, administer and improve any properties so acquired; to receive income

from same and to expend the income in carrying out the purposes and provisions of this act; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this act. The district is herewith invested with the power of eminent domain in acquiring private property for public use and for the purposes of exercising the power, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, or any other statute which grants to any municipality or public body the authority to acquire private property for public use.

Acceptance of appropriations from state.

(e) To accept and receive such moneys as may be appropriated to said district, directly or indirectly, by the legislature of the state of Michigan and to accept and receive such moneys as may be appropriated for its use and benefit to the state agency herein created for such purposes as shall be provided in the act or acts of appropriation or other legislative enactments.

Acceptance of federal funds.

(f) To accept and receive any funds or moneys which may be appropriated by any act of congress either directly from any federal governmental agency responsible for the disbursement and allocation of the funds or through the commission and for that purpose the districts are authorized to execute such contracts, documents or agreements as may be required by the provisions of the congressional acts as a prerequisite to the securing of the funds.

HISTORY: New 1956, p. 446, Act 211, Eff. Aug. 11.

323.159 Sewage disposal and water supply districts; contracts with municipalities; construction, improvements; pledge of payment, tax levy.

Sec. 9. (a) The district may enter into contracts with any municipality located within its territorial limits providing for the acquisition, construction, improvement, enlargement, extension, operation and financing of a sewage disposal system or water supply system, which contracts shall provide for the allocation and payment of the share of the total cost to be borne by the municipality in annual installments for a period not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract, in which event it shall be the duty of each contracting municipality to include in its annual tax levy an amount sufficient so that the estimated collections therefrom will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection. The district shall make a reasonable charge for its services which it renders to the users thereof in order to cover the retirement of outstanding indebtedness, costs of operation, maintenance and replacement of its plants and reserves for capital improvements. Should there be any excess money in the treasury of the district after all of the contingencies have been met, the excess shall be rebated to the contracting municipalities in proportion to the total amount which the municipalities have paid for services it has received from the district. No limitation in any statute or charter shall prevent the levy and collection by each of the contracting municipalities of the full amount of taxes necessary for the payment of the contractual obligation. If at the time of making the annual tax levy, there are other funds on hand earmarked for the payment of the contractual obligation, then credit therefor may be taken upon the annual levy for the payment of the obligation. Such other funds may be raised by each contracting municipality by the use of any, or all, or any combination of the following additional methods:

(1) The levy of special assessments on property benefited by such sewage disposal system or water supply system, the procedures relative to the levying and collection of

the special assessments to conform as near as may be to applicable charter or statutory provisions therefor;

(2) The levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the sewage disposal system or water supply system;

(3) From moneys received, or to be received, derived from the imposition of taxes by the state of Michigan, except as the use of such money for such purpose is expressly prohibited by the constitution of the state of Michigan; and

(4) From any other fund or funds which may be validly used for the purpose. The contract may provide for any and all matters relating to the acquisition, construction, operation and financing of the sewage disposal system or water supply system as are deemed necessary, including authorization to the district to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized hereinafter. The contract may provide for appropriate remedies in case of default, including, but not limited to the right of the municipalities to authorize the county treasurer or other official charged with the disbursement of funds derived from the state sales tax levy under the provisions of Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78, inclusive, of the Compiled Laws of 1948, and returnable to the governmental units pursuant to section 23 of article 10 of the Michigan constitution, to withhold sufficient funds to make up any default or deficiency in funds.

Contracts by municipality, petition for referendum, special election.

(b) Any municipality desiring to enter into a contract with the district under the provisions of this section shall authorize, by resolution of its governing body, the execution of the contract, which resolution shall be published in some newspaper of general circulation within the municipality, and the contract may be executed without a vote of the electors thereon upon the expiration of 30 days after the date of the publication unless, within the 30 day period, a petition signed by not less than 10% of the registered electors residing within the limits of the municipality shall have been filed with the clerk thereof requesting a referendum upon the execution of such contract, and in that event the contract shall not be executed until approval by the vote of a majority of the electors of the municipality qualified to vote and voting thereon at a general or special election to be held not more than 90 days after the filing of the petition. Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any petition shall be verified by some person under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk of the municipality shall have the same power to reject signatures as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Compiled Laws of 1948. The number of registered electors in any municipality shall be determined by the registration books as of the date of the filing of the petition.

District bonds based on municipal pledges.

(c) For the purpose of obtaining funds for the acquisition, construction, improving, enlarging or extending of the sewage disposal system or water supply system authorized by this act, the district, after the execution of the contract or contracts authorized by this act, upon ordinance or resolution duly adopted by it, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization contained in this act and the contracts entered into pursuant thereto. The bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 4 years from the date of issuance, and the last of which shall fall due not more than 40 years from the date of issuance, and no maturity after 4 years from date of issuance shall be less than 1/4 the amount of any subsequent

maturity. Save as herein otherwise provided, bonds shall be issued and sold and subject to all other applicable provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948. The ordinance or resolution authorizing the issuance of the bonds shall have embodied therein the terms of the contracts.

HISTORY: New 1956, p. 447, Act 211, Eff. Aug. 11.

323.160 Sewage disposal and water supply districts; contract sewage treatment; income, application.

Sec. 10. The district may enter into a contract for the furnishing of sewage treatment services by any sewage treatment plant owned or operated by the district as a part of its sewage disposal system or the furnishing of water service from any water facilities owned or operated by the district, which contract shall provide for reasonable charges or rates for the service furnished. Any income derived from such contracts shall be applied by the district to the costs of operation and maintenance of its sewage disposal system or its water supply system, and any balances remaining after payment of its cost in reduction of its outstanding bonded indebtedness incurred for the acquisition or improvement of its sewage disposal system or water supply system. No contract shall be for a period exceeding 40 years.

HISTORY: New 1956, p. 449, Act 211, Eff. Aug. 11.

323.161 Detachment of territory from participating municipality; contractual obligations; bonds, redemption.

Sec. 11. Whenever territory is detached from a municipality which is part of a district created under this act and transferred to a municipality which is not part of such district, such territory shall remain a part of the municipality from which detached only for the purpose of carrying out any contractual obligations or for the purpose of levying a tax to retire any bonded indebtedness incurred by such district for which the territory is liable, in whole or in part, until such contractual obligations have been fulfilled or such bonds redeemed, or sufficient funds are available in the district's debt retirement fund for such purposes. Such territory shall be a part of the municipality to which transferred for all other purposes and subsequent to the redemption of such bonds or the time when sufficient funds are available to redeem such bonds, such territory shall no longer be a part of the district.

HISTORY: New 1956, p. 449, Act 211, Eff. Aug. 11.

323.162 Existing systems; self-liquidating revenue bonds.

Sec. 12. If any district formed under the provisions of this act by its governing body determines and decides to acquire or extend, improve and operate a sewage disposal system or water supply system or decides and determines to provide for the sale and purchase of sewage disposal service or water supply service from any existing system or systems and executes such contracts as may be necessary for same, the authority may, pursuant to any contract or contracts entered into under section 9 of this act, issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.131, inclusive, of the Compiled Laws of 1948, or any other act providing for the issuance of revenue bonds, which bonds shall be payable solely from the revenues of the sewage disposal system or the water supply system. The charges specified in any contract shall be subject to increase by the district at any time if necessary in order to provide funds to meet its obligations and any contract authorized herein shall be for a period of not exceeding 40 years. The legislative body of any municipality which has entered into a contract with the district is authorized to raise by taxes or pay from its general funds any moneys required to be paid under the terms of the contract for the purpose of ob-

taining maps, plans, designs, specifications and cost estimates of the proposed sewage disposal system or water supply system.

HISTORY: New 1956, p. 449, Act 211, Eff. Aug. 11.

Act 13, 1956 (Ex. Ses.), p. 15; Imd. Eff. Nov. 13.

AN ACT to authorize the state water resources commission to comply with the provisions of Public Law 660 of the 84th congress; to appropriate funds therefor, and to provide for the disbursement thereof.

The People of the State of Michigan enact:

323.201 Water pollution; state water resources commission; expenditure of funds.

Sec. 1. The state water resources commission is hereby authorized, subject to the requirements of Act No. 88 of the Public Acts of 1943 and Act No. 197 of the Public Acts of 1952, to take such steps as may be necessary to comply with the provisions of Public Law 660 of the 84th congress, known as the water pollution control act amendments of 1956, and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution. This act shall not be construed as authorizing the commission to expend nor to incur any obligation to expend any state funds for such purpose in excess of any amount which may be appropriated by the legislature.

HISTORY: New 1956, 1st Ex. Ses., p. 16, Act 13, Imd. Eff. Nov. 13.

323.202 Available federal funds; appropriation.

Sec. 2. The amount of federal funds available to this state under the provisions of section 5 of Public Law 660 of the 84th congress, not to exceed \$55,373.00, is hereby appropriated to the water resources commission to carry out the purposes of this act for the fiscal year ending June 30, 1957.

HISTORY: New 1956, 1st Ex. Ses., p. 16, Act 13, Imd. Eff. Nov. 13.

323.203 Available federal funds; appropriation, accounting, disbursement.

Sec. 3. The amount hereby appropriated shall be paid out of the state treasury and the expenditure thereof shall be accounted for at such time and in such manner as is or may be provided by law, and the disbursement thereof shall be governed by the provisions of Act No. 219 of the Public Acts of 1956.

HISTORY: New 1956, 1st Ex. Ses., p. 16, Act 13, Imd. Eff. Nov. 13.

Act 58, 1959, p. 59; Imd. Eff. Jun. 5.

AN ACT to authorize the water resources commission to supervise the chemical treatment of certain waters of the state for the control of swimmers' itch; to provide for the lawful use of copper and other chemicals for the purpose; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

323.221 Chemical treatment of waters; swimmers' itch, suppression; experiments; rules and regulations.

Sec. 1. The water resources commission shall supervise the chemical treatment of the waters of the state for the suppression of swimmers' itch, and other nuisance-producing organisms, in accordance with the provisions of this act. The commission may conduct experiments for the purpose of ascertaining the best methods for control,

and may purchase equipment and materials for control. The commission may adopt rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, governing the control and administration of this act.

HISTORY: New 1959, p. 59, Act 58, Imd. Eff. Jun. 5.

323.222 Chemical treatment of waters; chemicals, application.

Sec. 2. The application of copper or other necessary chemicals in powder, crystal or solution form to the waters of this state for the control of aquatic nuisances, such as swimmers' itch, is declared to be lawful and not in contravention of the pollution laws of this state or of private or public rights to the use and enjoyment of abutting property by the owners or occupants thereof when the application is made in accordance with the provisions of this act.

HISTORY: New 1959, p. 59, Act 58, Imd. Eff. Jun. 5.

323.223 Chemical treatment of waters; permit, expiration.

Sec. 3. The necessary control work may be conducted by the state or any political subdivision or by organized lake or improvement associations in behalf of their members, or by the owner of property abutting on the waters of the state, or by his authorized agent, or by private contractor, after obtaining a permit from the water resources commission. The permit when issued shall expire on December 31 of the calendar year in which issued.

HISTORY: New 1959, p. 59, Act 58, Imd. Eff. Jun. 5.

323.224 Chemical treatment of waters; conduct, conditions, safeguards.

Sec. 4. The necessary work shall be conducted at such times, under such conditions, and with such safeguards, as the water resources commission shall require. The commission may provide permits for the suppression of swimmers' itch, where applicants provide at their own expense chemicals and other equipment and services called for in the rules and regulations adopted by the commission.

HISTORY: New 1959, p. 59, Act 58, Imd. Eff. Jun. 5.

323.225 Violation of act; penalty.

Sec. 5. Any person who fails to obtain the necessary permit in advance of undertaking such work, or who fails to abide by the rules and regulations of the commission or the conditions of any valid permit, is guilty of a misdemeanor; and shall be fined not less than \$25.00 nor more than \$100.00, and costs of prosecution.

On the filing of a sworn complaint by an authorized agent of the commission, the prosecuting attorney of the county in which the violation occurs shall take charge of and prosecute all cases arising under the provisions of this act.

HISTORY: New 1959, p. 59, Act 58, Imd. Eff. Jun. 5.

Act 143, 1959, p. 203; Eff. Mar. 19, 1960.

AN ACT to authorize permits for the use of water for the operation of low grade iron ore mining property; to prescribe the terms and conditions of water use permits; and to prescribe the powers and duties of the state water resources commission.

The People of the State of Michigan enact:

323.251 Low grade iron ore; mining and beneficiation, water permits.

Sec. 1. Substantial deposits of low grade iron ore are located in the Upper Peninsula of this state. The development and continuation of the industry of mining and beneficiating such low grade ores will provide employment and generally improve economic

conditions in that area and will be in the public interest and for the public welfare of this state. As the mining and beneficiating of the low grade iron ore requires considerable quantities of water, it is necessary that persons engaged in or about to engage in the mining and beneficiation of such ores be assured of an adequate and continuing supply of water for such operations to protect the large capital expenditures required for mills, plants and other improvements. It is, therefore, declared that the use of water as herein defined in connection with the mining and beneficiation of such low grade iron ores is in the public interest, for the public welfare and for a public purpose; and permits for the use of water or waters, as herein defined, may be issued by the commission in connection with the mining and beneficiation of such low grade iron ores as herein provided.

HISTORY: New 1959, p. 203, Act 143, Eff. Mar. 19, 1960.

CITED IN OTHER SECTIONS: Sections 323.251 to 323.256 are cited in §§ 281.311 and 323.319.

323.252 Use of water in low grade iron ore mining property; definitions.

Sec. 2. As used in this act:

(1) "Low grade iron ore" means iron-bearing rock in the Upper Peninsula of this state which is not merchantable as ore in its natural state and from which merchantable ore can be produced only by beneficiation or treatment.

(2) "Low grade iron ore mining property" includes the ore beneficiation or treatment plant, other necessary buildings, facilities and lands located in the Upper Peninsula of this state.

(3) "Commission" means the state water resources commission.

HISTORY: New 1959, p. 203, Act 143, Eff. Mar. 19, 1960.

323.253 Water permits; application, contents, hearing, notice, publication; findings.

Sec. 3. The commission may grant permits for the drainage, diversion, control or use of water when necessary for the operation of a low grade iron ore mining property. The operator of the low grade iron ore mining property may make application for the permit to the commission in the form prescribed by the commission and which shall contain such information and data as may be prescribed by the commission in its rules and regulations. Not later than 60 days following receipt of any such application the commission shall fix the time and place for a public hearing thereon and shall publish notice of the hearing. The notice shall be published twice in each county involved in at least 1 newspaper of general circulation in the county. At the hearing the applicant and any other interested party may appear, present witnesses and submit evidence. Following the hearing, the commission may grant the permit and publish notice thereof in the manner provided for publication of notice of hearing, upon finding the following conditions:

(1) That the proposed drainage, diversion, control or use of waters is necessary for the mining of substantial deposits of low grade iron ore and that other feasible and economical methods of obtaining a continuing supply of water therefor are not available to the applicant;

(2) That the proposed drainage, diversion, control or use of waters will not unreasonably impair the interests of the public or of riparians in lands or waters or the beneficial public use thereof, and will not endanger public health or safety.

HISTORY: New 1959, p. 203, Act 143, Eff. Mar. 19, 1960.

323.254 Water permits; liability of state.

Sec. 4. Neither the state nor any of its officers, agents or employees shall incur any liability because of the issuance of a permit under this act or of any act or omission of the permittee, his agents or servants, under or in connection with any permit.

HISTORY: New 1950, p. 204, Act 143, Eff. Mar. 19, 1960.

323.255 Water permits; term.

Sec. 5. Every permit granted shall be for such term as shall be necessary to permit the mining to exhaustion and beneficiation of all low grade iron ore referred to in the application but not to exceed 50 years. The commission may prescribe in the permit such time as it deems reasonable for the commencement or completion of any operations or construction under the permit or the exercise of the rights granted thereby. The original term of the permit or the time allowed for the performance of any condition thereof may be extended by the commission upon application of the permittee.

HISTORY: New 1950, p. 204, Act 143, Eff. Mar. 19, 1960.

323.256 Water permits; rights; violation, revocation; emergency order for abatement.

Sec. 6. Every permit issued by the commission under the provisions of this act shall give to the permittee the right to use the water specified therein at such times, in such manner and in such quantity and under such circumstances as is specified therein, all subject to the conditions therein contained, and shall be irrevocable except for a breach or violation of the terms and conditions thereof. If the commission finds, upon consideration of the needs of the applicant, the public interest to be served by the use of the water by the applicant and all other facts relating to the use of the water, that the public interest requires the inclusion in the permit of a provision which will authorize modification or revocation thereof, then the commission may provide therefor by including in the permit the specific grounds upon which the permit may be modified or revoked by the commission in the public interest. No permit issued pursuant to this act shall be revoked for breach or violation of the terms and conditions thereof or be revoked or modified upon such other grounds as may be specified in the permit unless the permittee has been given an opportunity to be heard thereon after 30 days' written notice to the permittee. No permit shall be revoked for breach or violation of the terms and conditions thereof unless the permittee has been given an opportunity to correct or remedy the alleged breach or violation within a reasonable time and has failed to do so. Every notice shall specify the grounds for the proposed revocation or modification and, in the event of a proposed modification, the extent thereof. If violation of the conditions of a permit exists which in the judgment of the chairman of the commission so threatens the public interest in the waters involved as to require abatement without first giving 30 days' written notice to the permittee, he may issue an emergency order for abatement, which order shall have the same validity as if a 30 days' written notice had been given and the permittee granted a hearing. The emergency order shall remain in force no longer than 21 days from its effective date. Failure to comply with an emergency order constitutes grounds for revocation of the permit.

HISTORY: New 1950, p. 204, Act 143, Eff. Mar. 19, 1960.

323.257 Administration of act; state water resources commission, hearing.

Sec. 7. (1) The authority to administer this act is hereby conferred upon the commission which shall be charged with the responsibility of enforcing the provisions hereof; and such authority shall be exercised by and through such officer or employee of the commission as the commission shall designate.

(2) At any hearing the commission or its duly authorized agents shall have power to

administer oaths, to take testimony and compel the introduction of written evidence, to issue subpoenas and to compel the attendance of witnesses.

HISTORY: New 1950, p. 204, Act 143, Eff. Mar. 19, 1950.

323.258 State water resources commission; rules and regulations; judicial review.

Sec. 8. The commission shall make rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and all proceedings under this act shall be in conformity with the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, and any interested person shall have the right of judicial review from any decision, order or permit made or granted by the commission in accordance with the provisions of said act.

HISTORY: New 1950, p. 205, Act 143, Eff. Mar. 19, 1950.

Act 136, 1969, p. 281; Imd. Eff. Jul. 31.

AN ACT to require persons engaged in removing liquid industrial wastes from the premises of other persons to be licensed and bonded; to provide for the inspection and licensing of vehicles; to provide for the control of disposal of wastes; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

323.271 Removal of liquid industrial wastes; definitions.

Sec. 1. As used in this act:

(a) "Commission" means the water resources commission, its staff, or its designated representative.

(b) "Liquid industrial waste" means any liquid waste, other than unpolluted water, which is produced by or incident to or results from an industrial or commercial activity or the conduct of any enterprise.

(c) "Tank" means any container when placed on a vehicle to carry in transport liquid industrial wastes.

(d) "Person" means any individual, partnership, firm, association, corporation or a person carrying on a business under an assumed name.

HISTORY: New 1969, p. 281, Act 136, Imd. Eff. Jul. 31.

323.272 Removal of liquid industrial wastes; licenses and bonds required.

Sec. 2. A person shall not engage in or carry on the business of removing liquid industrial wastes from the premises of another person unless he is duly licensed therefor. Any person who engages in or carries on such business shall be bonded as provided in this act.

HISTORY: New 1969, p. 281, Act 136, Imd. Eff. Jul. 31.

323.273 Contracts with unlicensed persons prohibited.

Sec. 3. A person shall not engage, employ or contract with any other person except a licensee under this act, to remove liquid industrial wastes from his premises.

HISTORY: New 1969, p. 281, Act 136, Imd. Eff. Jul. 31.

323.273a Removal of liquid industrial wastes; record, forms.

Sec. 3a. Every person who engages, employs or contracts with any other person to remove liquid wastes from his premises shall maintain detailed records of all such waste removals effectuated on forms provided by the commission and shall submit

such information in such detail and with such frequency as the commission may require.

HISTORY: New 1969, p. 281, Act 136, Imd. Eff. Jul. 31.

323.274 Municipal waste collection; exemption from act.

Sec. 4. The provisions of this act shall not be construed to prevent the removal of liquid industrial waste from the premises of another person by a municipal waste collection and treatment entity nor to prevent a person from contracting or otherwise arranging with a municipal waste collection and treatment entity for such removal.

HISTORY: New 1969, p. 282, Act 136, Imd. Eff. Jul. 31.

323.275 Licenses; application, fee; bond.

Sec. 5. After December 31, 1969, before engaging in the business of removing liquid industrial wastes from the premises of another, a person shall obtain a license using an application blank prepared by the commission. The application shall be accompanied by a license fee of \$100.00 and by a surety bond covering the period and any renewal thereof for which the license is issued by a surety company registered in the state, to indemnify the commission for the abatement of pollution of waters which result from any improper disposal of industrial waste by the licensee. The bonds shall be \$15,000.00 for residents of the state and \$30,000.00 for nonresidents. The commission shall be the obligee and the bond shall be for the benefit and purpose to indemnify the state for the elimination of hazardous or nuisance conditions and for the abatement of any pollution of waters which result from the improper disposal of industrial waste by the licensee. In lieu of surety bonds, the licensee may deposit cash or other securities acceptable to the commission in the required amounts. The surety, upon 30 days notice in writing to the commission and to the licensee, may cancel any such bond, but such cancellation shall not affect any rights which shall have accrued on the bond before the effective date of the cancellation.

HISTORY: New 1969, p. 282, Act 136, Imd. Eff. Jul. 31.

323.276 Licenses; issuance.

Sec. 6. If the commission, after such investigation as it deems necessary, is satisfied that the applicant has the qualifications, experience, reputation and equipment to perform the services in a manner not detrimental to the public interest, in a way that will not cause unlawful pollution of the waters of the state and meets the bonding requirements of this act, it shall issue a license to the applicant.

HISTORY: New 1969, p. 282, Act 136, Imd. Eff. Jul. 31.

323.277 Vehicles; licenses; application, fee, expiration; marking.

Sec. 7. (1) All trucks or other vehicles used to transport or carry liquid industrial wastes shall carry a license by the commission for inspection by its representative or any law enforcement agent. The application for the vehicle license shall state the make, model and year of the vehicle, as well as the capacity of the tank used in transporting industrial wastes and such other information as the commission requires. Each application shall be accompanied by a license fee of \$10.00 for each vehicle sought to be licensed, payable to the state and if the commission, after such investigation as it deems necessary, is satisfied that the truck or vehicle and equipment is proper and adequate for the purpose, it shall issue a license for the use of the vehicle. The license is not transferable from 1 vehicle to another. In addition to the vehicle license, which shall be carried on the vehicle at all times, there shall be painted on both sides of the vehicle in letters not less than 2 inches high the words "licensed industrial waste hauling vehicle", which words shall be followed with the vehicle license number. Directly adjacent to the words and vehicle license number shall be affixed a seal furnished by the commission which shall designate the year for which the license was issued. The

year on the seal shall correspond to the year which appears on the license plate of the vehicle.

(2) All licenses issued under the provisions of this act shall expire on the last day of February of each year. Application for renewal of a license may be made after November 30 of each year. The fee for renewal shall be the same as for an original license.

HISTORY: New 1969, p. 282, Act 136, Imd. Eff. Jul. 31.

323.278 Licensee; duties.

Sec. 8. (1) The tank shall be kept tightly closed in transit, to prevent the escape of contents or odors and the outside of all vehicles and accessory equipment shall be kept clean.

(2) The licensee shall dispose of all wastes in conformance with the provisions of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948.

(3) The licensee shall keep records of all trips where the pickup, hauling or disposal of liquid wastes are involved. The records shall state the date, source of the waste, quantity, type, and the point and method of disposal, and total mileage of the trip. Trip records for the last 2 months shall be carried on the vehicle for inspection. The licensee shall preserve trip records for 2 years.

(4) The licensee shall not dispose of wastes onto or into the ground except at locations specifically approved by the commission. Waste oil may be spread upon roadways and earth surfaces for dust control or soil stabilization purposes if authorized in writing by the owner of such property and if done in a manner that precludes hazardous or nuisance conditions. No waste shall be placed in a location where it could enter any public or private drain, pond, stream or other body of surface or ground water.

HISTORY: New 1969, p. 283, Act 136, Imd. Eff. Jul. 31.

323.279 Violations of act; notice; indemnification.

Sec. 9. If the commission determines hazardous or nuisance conditions or that unlawful pollution of the waters of the state has resulted or may result from the handling or disposal of liquid industrial wastes by a licensee, it shall first notify the licensee thereof and shall afford him the opportunity to take corrective action or to abate the pollution or take the necessary means to prevent the occurrence of unlawful pollution. If the licensee does not effect the correction, abatement or prevention within a reasonable time, the commission shall do so and shall be entitled to indemnification by the bond for the actual costs thereof.

HISTORY: New 1969, p. 283, Act 136, Imd. Eff. Jul. 31.

323.280 Violation of act; penalty.

Sec. 10. Any person who violates or refuses to comply with any of the provisions of this act shall be subject to the revocation of his license by the commission, and upon conviction thereof by a court of competent jurisdiction shall be fined not less than \$500.00 and costs of prosecution, and in default of payment of fine and costs, imprisoned for not less than 10 days nor more than 30 days. When the violation is of a continuing nature, each day upon which a violation occurs is a separate offense.

HISTORY: New 1969, p. 283, Act 136, Imd. Eff. Jul. 31.

Act 253, 1964, p. 380; Eff. Aug. 28.

AN ACT to enable local units of government to cooperate in planning and carrying out a coordinated water management program in the watershed which they share.

The People of the State of Michigan enact:

323.301 Local river management act; short title.

Sec. 1. This act shall be known and may be cited as the “local river management act”.

HISTORY: New 1964, p. 380, Act 253, Eff. Aug. 28.

323.302 Local river management act; definitions.

Sec. 2. As used in this act:

- (a) “Council” means a watershed council created under the terms of this act.
- (b) “District” means a river management district established under the terms of this act.
- (c) “Board” means a river management board created as the governing body of a river management district in accordance with the terms of this act.
- (d) “Commission” means the state water resources commission.
- (e) “Watershed” means the drainage area of a stream.
- (f) “Local governments” means cities, villages, counties, townships and charter townships.
- (g) “Local agencies” means local governments, special districts or other legally constituted agencies of local government exercising powers which may affect water resources.
- (h) “River management” means the control of river flow by the operation of dams, reservoirs, conduits and other man-made devices in order to improve and expand the uses of the river for those who depend upon it for a variety of private and public benefits.
- (i) “Level of stream flow” means a measure of water quantity including the amount of water passing a designated point over a designated period and the levels of lakes which are an integral part of the surface drainage system of the watershed.

HISTORY: New 1964, p. 380, Act 253, Eff. Aug. 28.

323.303 Watershed council; petition, contents; organizational meeting, notice.

Sec. 3. (1) To promote cooperation among local governments in river management, a watershed council shall be established by the commission upon a petition from 3 or more local governments lying wholly or partially in the watershed as defined in the petition. The petition shall provide a statement of necessity, a description of general purposes and functions to be performed, a description of the area, including a map, and a list of all local governmental units, lying wholly or partly within the watershed, which shall be eligible for membership on the watershed council.

(2) Upon finding that the petition is in conformance with this statute the commission shall adopt an order establishing the council, schedule an organizational meeting, and notify all local governments eligible for membership by registered mail. The date for such meeting shall be not less than 60 nor more than 90 days after the date of mailing the notice.

HISTORY: New 1964, p. 380, Act 253, Eff. Aug. 28.

323.304 Watershed council; membership, voting rights, term; river management board.

Sec. 4. (1) The watershed council shall be composed of representatives of local governments within the watershed who shall be appointed and maintain membership in the council in the following manner:

- (a) Each local government using the river for water supply or waste disposal shall appoint 1 representative for each 20,000 population or fraction thereof. The governing

body of each local government shall determine the method by which its representatives shall be selected.

(b) Each county having 15% or more of its area in the watershed shall appoint 1 representative, and 1 additional representative for each 20,000 population or fraction thereof which aggregate total shall be computed from population of eligible townships not otherwise represented. Such townships shall be eligible under this section if they shall have 15% or more of their respective areas in the basin. The methods by which the county representatives are selected shall be determined by the county board of supervisors.

(c) Any local agency wholly or partly within the basin may appoint a representative to the council upon a finding by the council that the agency is so affected by or concerned with the use and development of water resources in the basin as to warrant representation. If any township is represented under this subdivision, its population shall not be counted in determining the eligible total representatives of its county.

Term, eligibility to vote.

(2) Representatives on the watershed council shall be appointed for 2 years, but shall be subject to replacement at the pleasure of the appointing authority. No representative shall be eligible to vote on the council unless the local government he represents has met its financial obligations to the council.

River management boards.

(3) Representatives to the watershed council may also represent their local governments if so designated thereby on river management boards established in accordance with this act.

HISTORY: New 1964, p. 361, Act 253, Eff. Aug. 28;—Am. 1966, p. 139, Act 119, Imd. Eff. Jun. 23.

323.305 Watershed council; bylaws, budget, annual meeting, officers.

Sec. 5. In carrying out its authorized functions, the council shall:

- (a) Adopt bylaws which shall govern its operations.
- (b) Prepare an annual operating budget, including apportionment of costs to member governments.
- (c) Hold an annual meeting at which time it shall elect a chairman, vice chairman and secretary-treasurer, submit an annual report to the member governments and adopt an annual budget which constitutes the council's authorization of activities for the year.

HISTORY: New 1964, p. 361, Act 253, Eff. Aug. 28.

323.306 Watershed council; powers.

Sec. 6. A watershed council may perform the following:

- (a) Conduct, or cause to be conducted, studies of the water resources of the watershed, including investigations of water uses, water quality and the reliability of the water resource.
- (b) Prepare periodic reports concerning, among other things, trends in water use and availability, emerging water problems and recommendations for appropriate public policies and programs necessary to maintain adequate water resources for the watershed area.
- (c) Request the commission to survey the watershed for the purpose of determining minimum levels of stream flow necessary for health, welfare and safety as provided in sections 13 through 18.
- (d) Recommend the creation of a river management district or districts under the provisions of sections 7 through 12 when the need for river management seems to warrant such an action.

(e) Advise agencies of federal, state and local governments as to the council's view of the watershed's problems and needs.

(f) Cooperate with federal, state and local agencies in providing stream gauges, water quality sampling stations, or other water resource data-gathering facilities or programs that aid the council in its responsibility for studying and reporting on water conditions.

(g) Employ an executive secretary and such other professional, administrative or clerical staff, including consultants, as may be provided for in an approved budget.

(h) Establish such subcommittees or advisory committees as are deemed helpful in the discharge of its functions.

(i) Establish special project funds as needed to finance special studies outside its annual budget capacity and for this purpose the council may accept gifts and grants from private individuals, corporations and local, state or federal governments.

HISTORY: New 1964, p. 381, Act 253, Eff. Aug. 28.

323.307 River management district; establishment, powers, consolidation, coordination.

Sec. 7. The governing bodies of any two or more local governments may petition the water resources commission to establish a river management district in order to provide an agency for the acquisition, construction, operation and financing of water storage and other river control facilities necessary for river management. The petition shall be accompanied by a statement of necessity, a description of the district purposes, functions and operating procedures, which shall include methods of financing capital improvements and of apportioning benefit charges, and a general plan of development. Not later than 60 days following receipt of such a petition the commission shall fix the time and place for a public hearing thereon and shall publish notice of the hearing. The notice shall be published twice in each county involved in at least 1 newspaper of general circulation in the county. At the hearing the applicant and any other interested party may appear, present witnesses and submit evidence. Following the hearing, the commission may adopt an order establishing the district and publish notice thereof in the manner provided for publication of notice of hearing, upon finding the following conditions:

(1) That the proposal is consistent with the public interest in the conservation, development and use of water resources, and the proposed district is geographically suitable to effectuation of the district purposes.

(2) That the establishment and operation of the district will not unreasonably impair the interests of the public or of riparians in lands or waters or the beneficial public use thereof, and will not endanger public health or safety.

No management district shall be created which affects any city now or hereafter having a population of more than 1,500,000 except with the concurrence of the governing body of this city.

Prior to approving the establishment of a district consisting of a portion of a river basin, the commission shall determine the feasibility of establishing the district to include the entire river basin or as large a portion of the basin as is possible. Approval of districts consisting of a portion of a river basin shall be on the basis that at such time as in the judgment of the commission it becomes feasible to form a district including the entire river basin, the river managements boards shall initiate proceedings to combine the smaller districts into larger districts or into an entire watershed-wide district.

Any plans for a river management district shall be coordinated with plans of adjacent river basins, organizations or agencies and with any comprehensive regional master programs for river management.

HISTORY: New 1904, p. 382, Act 253, Eff. Aug. 28.

323.308 River management district; organizational meeting, notice, date; board, membership, voting rights.

Sec. 8. Within 60 days after the adoption of an order establishing a district the commission shall schedule an organizational meeting of the district board and shall provide notice thereof by registered mail to the governing bodies of all local governments comprising the district. The date for such meeting shall be not less than 60 nor more than 90 days after the date of mailing the notice. At the meeting the executive secretary of the water resources commission shall serve as temporary chairman. The board shall elect a chairman, vice chairman, secretary and treasurer and adopt by-laws.

A district shall be governed by a river management board composed of representatives of local governments within the district. The representation of each local government on the board may be provided as part of the operating procedures submitted to the commission in the petition of local governments made in accordance with section 7. If the composition of the board is not so designated, representation shall be established under the provisions of section 4.

Representatives on the river management board shall be appointed for 2 years but shall be subject to replacement at the pleasure of the appointing authority. No representative shall be eligible to vote on the board unless the local government he represents has met its financial obligations to the district.

Representatives to the river management board may also serve as representatives of their local governments if so designated thereby on the watershed council.

HISTORY: New 1904, p. 382, Act 253, Eff. Aug. 28.

323.309 River management board; powers.

Sec. 9. A river management board may perform any of the following:

(a) Conduct continuing study of river use requirements and needs for river management within its area of jurisdiction; analyze alternative methods of meeting needs; and develop and adopt a river management program, including plans for constructing, operating and financing water storage and river control structures and negotiating coordinated policies and programs relating to river use among local governments within the district.

(b) Impound and control the waters of the river system within the district, subject to minimum levels of stream flow established pursuant to sections 13 and 14, through acquisition, construction, maintenance and/or operation of water storage reservoirs, dams or other river control structures as necessary to assure adequate quantity, quality and stability of river flow to protect the public health, welfare and safety. A river management district shall not release water in such an amount as to produce or increase flooding or otherwise damage downstream interests.

(c) Contract with or enter into agreement with the federal government or any agency or department thereof or with other governmental agencies or with private individuals or corporations which may maintain and operate reservoirs and control structures or which may construct, maintain and operate new reservoirs and control structures as necessary to carry out the purposes of this act.

(d) Perform, with respect to the area within the district, the functions assigned to a

watershed council by sections 3 through 6 whenever a relevant watershed council has not been formed, or if the appropriate watershed council's failure to act impairs the functions and programs of a district.

HISTORY: New 1964, p. 383, Act 253, Eff. Aug. 28.

323.310 River management district; body corporate, powers, financing.

Sec. 10. A district formed under this act is a body corporate with powers to contract; to sue and be sued; to exercise the right of eminent domain; to apportion administrative costs and benefit charges for river management and related facilities among the local government members which costs shall be payable from general funds or taxes raised by the local governments; to collect revenues for services rendered by the exercise of its functions; to issue bonds; to apply for and receive grants, gifts and other devises from any governmental agency, or from the federal government; and to exercise such other powers as necessary to carry out the purposes of this act. The river management district shall have no direct taxing power.

HISTORY: New 1964, p. 383, Act 253, Eff. Aug. 28.

323.311 River management board; duties; bylaws, budgets, assessments, annual meeting, records.

Sec. 11. A river management board shall:

- (a) Adopt bylaws to govern its operations.
- (b) Prepare an annual operating budget and levy an annual assessment of local government members to cover costs of organizing, developing plans and maintaining general overhead administration.
- (c) Adopt and maintain a schedule of benefit assessments upon local governments in the district levied to help defray the costs of capital improvements, which schedule, shall constitute a legal obligation upon those assessed.
- (d) Hold an annual meeting at which it shall report to its members and to the watershed council, elect officers and adopt an annual budget.
- (e) Maintain a public record of its transactions.
- (f) Do all other things necessary for the operation of the district.

HISTORY: New 1964, p. 383, Act 253, Eff. Aug. 28.

323.312 Executive secretary; additional staff.

Sec. 12. The executive secretary of a watershed council may serve as executive secretary to the river management board. If no relevant watershed council exists, or if the executive secretary of a watershed council is otherwise unavailable, the board may employ an executive secretary. In addition, the board may employ such additional staff as it may determine within its approved budget.

HISTORY: New 1964, p. 383, Act 253, Eff. Aug. 28.

323.313 Minimum level of stream flow; industrial use of water.

Sec. 13. Upon request of a council or a board, the commission shall determine, within the watershed subject to the council, the minimum level of stream flow necessary to safeguard the public health, welfare and safety, but no determination or order shall prevent any industry along the stream from using water from the stream for industrial use sufficient for the industry's requirement if all the water so used is returned to the stream within 72 hours of the taking.

HISTORY: New 1964, p. 384, Act 253, Eff. Aug. 28.

323.314 Minimum level of stream flow; order of determination; notice, publication; review.

Sec. 14. In carrying out its authority to determine minimum levels of stream flow, the commission, after public hearing, shall adopt an order of determination setting forth minimum levels at such locations as necessary to carry out the purposes of this

act. Notice of such order of determination shall be published and the order may be reviewed in the circuit court in accordance with Act No. 197 of the Public Acts of 1952 upon petition filed by any person within 15 days following the last date of such publication.

HISTORY: New 1964, p. 384, Act 253, Eff. Aug. 28.

323.315 Minimum level of stream flow; water shed council, request.

Sec. 15. A river management board may request a watershed council to seek a determination of minimum levels of stream flow in accordance with sections 13 and 14, or the board may request the commission to make such determinations whenever no watershed council has been formed for the larger watershed of which the district is a part, or when an appropriately established council fails to act within 90 days upon the district's request.

HISTORY: New 1964, p. 384, Act 253, Eff. Aug. 28.

323.316 Minimum level of stream flow; measurement, lake levels, water quality.

Sec. 16. The commission may maintain such gauges and sampling devices to measure stream flow, lake levels and water quality as are necessary to carry out the purposes of this act, and may enter at all reasonable times in or upon any public property for the purpose of inspecting and investigating conditions relating to carrying out the provisions of this act.

HISTORY: New 1964, p. 384, Act 253, Eff. Aug. 28.

323.317 Water resources commission; plan, approval; functioning of district, supervision.

Sec. 17. The commission may cooperate and negotiate with any government, unit of government, agency thereof, or with any person in establishing and maintaining gauges and sampling devices to measure stream flow, lake levels or water quality or in carrying out any other provision of this act. When requested by a council or board, the commission shall provide technical advice and assistance in the preparation of a river management plan of the district. No river management plan shall be placed into effect until it shall have been approved by the commission as conforming to the stated objectives of the petition. The commission shall maintain supervision over the functioning of the district to the extent it deems necessary for the purpose of insuring conformance with the plan in the public interest.

HISTORY: New 1964, p. 384, Act 253, Eff. Aug. 28.

323.318 Water resources commission; rules and regulations.

Sec. 18. The commission shall make rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 384, Act 253, Eff. Aug. 28.

323.319 Water resources commission; powers under other acts not abridged.

Sec. 19. Nothing in this act shall be construed so as to abridge the authority vested in the commission by Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12 of the Compiled Laws of 1948. Permits granted by the commission in accordance with Act No. 143 of the Public Acts of 1959, being sections 323.251 to 323.258 of the Compiled Laws of 1948 shall not be affected by this act. The granting of future permits under Act No. 143 of the Public Acts of 1959 shall proceed without regard to anything contained in this act.

HISTORY: New 1964, p. 384, Act 253, Eff. Aug. 28.

323.320 State health commissioner; powers unaffected.

Sec. 20. The functions, powers and duties of the state health commissioner as provided for by Act No. 98 of the Public Acts of 1913, as amended, being sections 325.201 to 325.214 of the Compiled Laws of 1948, shall remain unaffected by this act.

HISTORY: New 1964, p. 385, Act 253, Eff. Aug. 28.

Act 167, 1970, p. 513; Eff. Jan. 1, 1971.

AN ACT to regulate the disposal of oil and sewage from watercraft; and to prohibit littering of waterways.

The People of the State of Michigan enact:

323.331 Watercraft pollution control; short title.

Sec. 1. This act shall be known and may be cited as the "watercraft pollution control act of 1970".

HISTORY: New 1970, p. 513, Act 167, Imd. Eff. Jan. 1, 1971.

323.332 Watercraft pollution control; definitions.

Sec. 2. As used in this act:

(a) "Act" means Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948.

(b) "Commission" means the water resources commission of the department of natural resources.

(c) "Litter" means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

(d) "Sewage" means all human body wastes, treated or untreated.

(e) "Oil" means oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge and oil refuse.

(f) "Marine toilet" means any toilet on or within a watercraft used to discharge sewage.

(g) "Watercraft" means any contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including foreign and domestic vessels engaged in commerce upon the waters of this state, passenger or other cargo-carrying vessels and privately owned recreational watercraft.

(h) "Waters of this state" means all of the waterways on which watercraft may be used or operated including, but not limited to, the Great Lakes and connecting waterways under the jurisdiction of this state.

(i) "Person" means an individual, partnership, firm, corporation, association or other entity.

(j) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

HISTORY: New 1970, p. 513, Act 167, Imd. Eff. Jan. 1, 1971.

323.333 Prohibition of discharges into water.

Sec. 3. (1) A person shall not place, throw, deposit, discharge or cause to be discharged into or onto the waters of this state, any litter, sewage, oil or other liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.

(2) It is unlawful to discharge, dump, throw or deposit garbage, litter, sewage or oil from a recreational, domestic or foreign watercraft used for pleasure or for the pur-

pose of carrying passengers, cargo or otherwise engaged in commerce on the waters of this state.

HISTORY: New 1970, p. 514, Act 167, Imd. Eff. Jan. 1, 1971.

323.334 Foreign watercraft; pollution control devices, approval.

Sec. 4. (1) Any pleasure or recreational watercraft operated on the waters of this state which is moored or registered in another state or jurisdiction, if equipped with a pollution control device approved by that jurisdiction, may be approved by the commission to operate on the waters of this state.

(2) A person owning, operating or otherwise concerned in the operation, navigation or management of a watercraft having a marine toilet shall not own, use or permit the use of such toilet on the waters of this state unless the toilet is equipped with 1 of the following pollution control devices:

(a) A holding tank or self-contained marine toilet which will retain all sewage produced on the watercraft for subsequent disposal at approved dockside or onshore collection and treatment facilities.

(b) An incinerating device which will reduce to ash all sewage produced on the watercraft. The ash shall be disposed of onshore in a manner which will preclude pollution.

HISTORY: New 1970, p. 514, Act 167, Imd. Eff. Jan. 1, 1971.

323.335 Marinas on state bottomlands; pump-out facilities; penalty.

Sec. 5. All marinas operating on the bottomlands of the Great Lakes under lease from the department of natural resources under Act No. 247 of the Public Acts of 1955, as amended, being sections 322.701 to 322.715 of the Compiled Laws of 1948 and all those operating on the bottomlands of inland lakes and streams under permit from the department of natural resources under Act No. 291 of the Public Acts of 1965, as amended, being sections 281.731 to 281.752 of the Compiled Laws of 1948 if selling marine fuel or otherwise providing a dockside service center shall provide pump-out facilities approved by the department of public health for marine toilet holding tanks on pleasure watercraft. Failure to comply with the provisions of this section by any marina owner or operator is just cause for revoking the permit or prohibiting the issuance of a lease for the use of the state's bottomlands. The owner or operator of a marina shall be given written notice and opportunity of hearing before any action is taken.

HISTORY: New 1970, p. 514, Act 167, Imd. Eff. Jan. 1, 1971.

323.335a Waterways commission marinas; pump-out facilities.

Sec. 5a. All marinas owned and/or operated or leased by the Michigan waterways commission shall by July 1, 1971 provide pump-out facilities approved by the department of public health for marine toilet holding tanks or pleasure and commercial watercraft.

HISTORY: New 1970, p. 514, Act 167, Imd. Eff. Jan. 1, 1971.

323.335b Public operated marinas; pumping stations.

Sec. 5b. Any marina or dock which is equipped to handle watercraft of the size capable of being equipped with a marine toilet, owned, leased or operated by the state, any of its departments or agencies or any local unit of government shall maintain a pumping station for pumping out the holding tank required on watercraft.

HISTORY: New 1970, p. 515, Act 167, Imd. Eff. Jan. 1, 1971.

323.335c Marinas; exemption from act.

Sec. 5c. Any marina or dock that holds 15 watercraft or less is exempt from section 5 of this act.

HISTORY: New 1970, p. 515, Act 167, Imd. Eff. Jan. 1, 1971.

323.336 Watercraft subject to tonnage tax; disclosures, marine toilet pollution control device.

Sec. 6. An applicant for a boat plate registration for a watercraft pursuant to section 1a of Act No. 70 of the Public Acts of 1911, as amended, being section 207.51a of the Compiled Laws of 1948 shall disclose at such time to the commission whether the watercraft has in or on it a marine toilet, and if so, whether the toilet is equipped with a pollution control device as required by this act. The commission may request the secretary of state to provide it with the name of registrant whose registration indicates the absence of such pollution control device on a marine toilet.

HISTORY: New 1970, p. 515, Act 167, Imd. Eff. Jan. 1, 1971.

323.337 Oil or oily wastes; prohibition of discharge; duty to remove.

Sec. 7. (1) A person owning, operating or otherwise concerned in the operation, navigation or management of a watercraft operating on the waters of this state shall not discharge or permit the discharge of oil or oily wastes from the watercraft into or onto the waters of this state if the oil or oily wastes threaten to pollute or contribute to the pollution of the waters or adjoining shorelines or beaches.

(2) The owner or operator of any watercraft who, whether directly or through any person concerned in the operation, navigation or management of the watercraft, discharges or permits or causes or contributes to the discharge of oil or oily wastes into or onto the waters of this state or adjoining shorelines or beaches shall immediately remove the oil or oily wastes from the waters, shorelines or beaches. If the state removes the oil or oily wastes which were discharged by an owner or operator, the watercraft and the owner or operator are liable to the state for the full amount of the costs reasonably incurred for its removal. The state may bring action against the owner or operator to recover such costs in any court of competent jurisdiction.

HISTORY: New 1970, p. 515, Act 167, Imd. Eff. Jan. 1, 1971.

323.338 Inspection of watercraft, marinas and docks; facilities required.

Sec. 8. All watercraft moored, operated or located upon the waters of this state are subject to inspection by the commission, any lawfully designated agent or inspector thereof or any peace, conservation or police officer for the purpose of determining if the watercraft is equipped in compliance with the requirements of this act. The commission may inspect marinas and other waterside facilities used by watercraft for launching, docking or mooring purposes to determine if they are equipped with trash receptacles, sewage disposal equipment or both. Commercial docks and wharfs designed for receiving and loading cargo and/or freight from commercial watercraft must furnish facilities, if determined necessary, as prescribed by the commission, to accommodate discharge of sewage from heads and galleys, and for deposit of litter, garbage, trash, or bilge waters from the watercraft which utilize the docks or wharfs.

HISTORY: New 1970, p. 515, Act 167, Imd. Eff. Jan. 1, 1971.

323.339 State rights reserves; prohibition of local regulations.

Sec. 9. The state fully reserves to itself the exclusive right to establish requirements with reference to the disposal or discharge of sewage, litter and oil from all watercraft. In order to assure statewide uniformity, the regulation by any political subdivision of the state of waste disposal from watercraft is prohibited.

HISTORY: New 1970, p. 515, Act 167, Imd. Eff. Jan. 1, 1971.

323.340 Water resources commission; rules.

Sec. 10. The commission may promulgate all rules necessary or convenient for the carrying out of duties and powers conferred by this act.

HISTORY: New 1970, p. 516, Act 167, Imd. Eff. Jan. 1, 1971.

323.341 Penalty for violations; enforceability.

Sec. 11. Any person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than \$500.00. To be enforceable, the provision or the rule shall be of such flexibility that a watercraft owner, in carrying out the provision or rule, is able to maintain maritime safety requirements and comply with the federal marine and navigation laws and regulations.

HISTORY: New 1970, p. 516, Act 167, Imd. Eff. Jan. 1, 1971.

323.342 Effective date of act.

Sec. 12. This act shall take effect January 1, 1971.

HISTORY: New 1970, p. 516, Act 167, Imd. Eff. Jan. 1, 1971.

Act 222, 1966, p. 268; Imd. Eff. Jul. 11.

AN ACT to provide for the exemption of water pollution control facilities from certain taxes.

The People of the State of Michigan enact:

323.351 Tax exemption of water pollution control facilities; definitions.

Sec. 1. As used in this act:

(a) "Facility" means any disposal system, including disposal wells, or any treatment works, appliance, equipment, machinery or installation constructed, used or placed in operation primarily for the purpose of reducing, controlling or eliminating water pollution caused by industrial waste.

(b) "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacture, trade or business, or from the development, processing or recovery of any paper or wood which is capable of polluting the waters of the state.

(c) "Treatment works" means any plant, pumping station, incinerator or other works or reservoir used primarily for the purpose of treating, stabilizing, isolating or holding industrial waste.

(d) "Disposal system" means system used primarily for disposing of or isolating industrial waste and includes pipelines or conduits, pumping stations and force mains, and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial waste to a point of disposal, treatment or isolation except that which is necessary to the manufacture of products.

HISTORY: New 1966, p. 268, Act 222, Imd. Eff. Jul. 11.

323.352 Tax exemption certificate; application, filing; manner, form; water resources commission, approval; hearing.

Sec. 2. (1) An application for a water pollution control tax exemption certificate shall be filed with the state tax commission in such manner and in such form as may be prescribed by the commission. The application shall contain plans and specifications of the facility including all materials incorporated or to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of industrial waste pollution control together with the proposed operating procedure for the control facility.

(2) Before issuing a certificate the state tax commission shall seek approval of the water resources commission and give notice in writing by certified mail to the department of revenue and to the assessor of the taxing unit in which the facility is located or to be located, and shall afford to the applicant and the assessor an opportunity for a hearing. Tax exemption granted under this act shall be reduced to the extent of any

commercial or productive value derived from any materials captured or recovered by any facility.

HISTORY: New 1966, p. 269, Act 222, Imd. Eff. Jul. 11.

323.353 Water resources commission; issuance of certificate, grounds; effective date.

Sec. 3. If the water resources commission finds that the facility is designed and operated primarily for the control, capture and removal of industrial waste from the water, and is suitable, reasonably adequate and meets the intent and purposes of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948, he shall so notify the state tax commission who shall issue a certificate. The effective date of the certificate shall be the date of issue of the certificate.

HISTORY: New 1966, p. 269, Act 222, Imd. Eff. Jul. 11.

323.354 Tax exemption certificate; effective date; duration.

Sec. 4. (1) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, a facility covered thereby is exempt from personal property taxes imposed under Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948.

(2) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, tangible personal property which becomes affixed and made a structural part of the real estate of such facility shall be exempt from:

(a) Sales taxes imposed under Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948.

(b) Use taxes imposed under Act No. 94 of the Public Acts of 1937, being sections 205.91 to 205.111 of the Compiled Laws of 1948.

(3) This act shall not be construed to affect the industrial processing exemptions under the act referred to in subdivisions (a) and (b) of subsection (2).

(4) The certificate shall state the total acquisition cost of the facility entitled to exemption.

HISTORY: New 1966, p. 269, Act 222, Imd. Eff. Jul. 11.

323.355 Tax exemption certificate, issuance; mailing to applicant, local tax assessors and revenue department; filing; notice of refusal of certificate.

Sec. 5. The state tax commission shall send a water pollution control tax exemption certificate, when issued, by certified mail to the applicant, and certified copies by certified mail to the assessor of the taxing unit in which any property to which the same relates is located or to be located and to the department of revenue, which copies shall be filed of record in their offices. Notice of the commission's refusal to issue a certificate shall be sent by certified mail to the applicant, to the department of revenue, and to the assessor.

HISTORY: New 1966, p. 269, Act 222, Imd. Eff. Jul. 11.

323.356 Tax exemption certificate; modification or revocation, grounds; notice and hearing; statute of limitations.

Sec. 6. (1) The state tax commission, on notice by certified mail to the applicant and opportunity for a hearing, shall on its own initiative or on complaint of the water resource commission, the department of revenue or by the assessor of the taxing unit in which any property to which the certificate relates is located, modify or revoke the certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation.

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a facility or to operate the facil-

ity for the purpose and degree of control specified in the certification, or an amended certificate.

(c) The facility covered by the certificate is no longer used for the primary purpose of pollution control and is being used for a different purpose.

(2) On the mailing by certified mail to the certificate holder, the department of revenue, and the local assessor of notice of the action of the state tax commission modifying or revoking a certificate, the certificates shall cease to be in force or shall remain in force only as modified. When a certificate is revoked because obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by applicable law. No statute of limitations shall operate in the event of fraud or misrepresentation.

HISTORY: New 1968, p. 270, Act 222, Imd. Eff. Jul. 11.

323.357 Tax exemption certificate; appeals.

Sec. 7. A party aggrieved by the issuance or refusal to issue, revocation or modification of a pollution control tax exemption certificate may appeal from the finding and order of the state tax commission in the manner and form and within the time provided by Act No. 197 of the Public Acts of 1952, as amended.

HISTORY: New 1968, p. 270, Act 222, Imd. Eff. Jul. 11.

323.358 State tax commission; rules and regulations.

Sec. 8. The state tax commission may adopt such rules and regulations as it deems necessary for the administration of this act subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. These rules and regulations shall not abridge the authority of the water resources commission to determine whether or not industrial waste pollution control exists within the meaning of this act.

HISTORY: New 1968, p. 270, Act 222, Imd. Eff. Jul. 11.

Act 76, 1968, p. 126; Imd. Eff. Jun. 4.

AN ACT to authorize the issuance of general obligation bonds of the state of Michigan and to pledge the full faith and credit of the state of Michigan for the payment of principal and interest thereon for the planning, acquisition and the construction of facilities for the prevention and abatement of water pollution and for the making of grants, loans and advances to municipalities of the state for such purposes; to provide for other matters relating to said bonds and the use of the proceeds of sale of said bonds; and to provide for the submission of the question of the issuance of said bonds to the electors of the state of Michigan.

The People of the State of Michigan enact:

323.371 Municipality; definition.

Sec. 1. The terms "municipality" or "municipalities" as herein used shall be construed to mean and include any county, city, village, township, school district, metropolitan district, port district, drainage district, authority or other governmental authority, agency or department within or of the state with power to acquire, construct, improve or operate facilities for the prevention or abatement of water pollution or any combination thereof.

HISTORY: New 1968, p. 126, Act 76, Imd. Eff. Jun. 4.

CITED IN OTHER SECTIONS: Sections 323.371 to 323.382 are cited in §§ 323.112 and 323.404.

323.372 Water pollution abatement bonds; public necessity.

Sec. 2. The legislature hereby determines that it is essential for the public health, safety and welfare of the state and the residents thereof to undertake a complete program of construction of facilities to abate and prevent pollution of the water in and adjoining the state, the program to be undertaken by the state in cooperation with any municipalities, with such aid from the United States government or its agencies as is available.

HISTORY: New 1968, p. 126, Act 76, Imd. Eff. Jun. 4.

323.373 Bond issuance; authorization; amount; purpose.

Sec. 3. The state shall borrow the sum of \$335,000,000.00 and issue the general obligation bonds of the state, pledging the faith and credit of the state for the payment of the principal and interest thereon for the purpose of providing money for the planning, acquisition and construction of facilities for the prevention and abatement of water pollution, consisting of trunk and interceptor sewers, sewage treatment plants and facilities, improvements and additions to existing sewage treatment plants and facilities and such other structures, devices or facilities as will prevent or abate water pollution, and for the making of grants, loans and advances to municipalities, in accordance with conditions, methods and procedures therefor to be established by law.

HISTORY: New 1968, p. 127, Act 76, Imd. Eff. Jun. 4.

323.374 Bonds; series, interest, redemption; disposition of proceeds, sale.

Sec. 4. The bonds shall be issued in 1 or more series, each series to be in such principal amount, to be dated, to have such maturities which may be either serial, term or term and serial, to bear interest at such rate or rates not exceeding 6% per annum, to be subject or not subject to prior redemption and if subject to prior redemption with such call premiums, to be payable at such place or places, to have or have not such provisions for registration as to principal only or as to both principal and interest, to be in such form and to be executed in such manner as shall be determined by resolution to be adopted by the administrative board. The administrative board may in the resolution provide for the investment and reinvestment of bond sales proceeds, and such other details for said bonds and the security thereof as may be deemed to be necessary and advisable. The bonds or any series thereof shall be sold for not less than the par value thereof and shall be sold at public sale after publication of a notice of sale thereof in a newspaper circulating in the state, which carries as part of its regular service notices of sale of municipal bonds, at least 7 days before the date fixed for sale of said bonds or series thereof. The bonds prior to their issuance shall be approved by the municipal finance commission, but shall not otherwise be subject to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 127, Act 76, Imd. Eff. Jun. 4.

323.375 Revenues; disposition.

Sec. 5. The proceeds of sale of the bonds or any series thereof and any premium and accrued interest received on the delivery thereof shall be deposited in the treasury in a separate account and shall be disbursed from the separate account only for the purposes for which the bonds have been authorized and the expense of issuing said bonds. Proceeds of sale of said bonds or any series thereof shall be expended for the purposes set forth in this act in such manner as shall be provided by law.

HISTORY: New 1968, p. 127, Act 76, Imd. Eff. Jun. 4.

323.376 Bonds; negotiability; tax exempt.

Sec. 6. Bonds issued under this act shall be fully negotiable under the provisions of Act No. 174 of the Public Acts of 1962, as amended, being sections 440.1101 to

440.9994 of the Compiled Laws of 1948, and the bonds and the interest thereon shall be exempt from all taxation by the state or any of its political subdivisions.

HISTORY: New 1968, p. 127, Act 76, Imd. Eff. Jun. 4.

323.377 Legal investments.

Sec. 7. Bonds issued under the provisions of this act are hereby made securities in which all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all administrators, executors, guardians, trustees and other fiduciaries may properly and legally invest any funds, including capital, belonging to them or within their control.

HISTORY: New 1968, p. 127, Act 76, Imd. Eff. Jun. 4.

323.378 Bond issue; referendum, ballot, form.

Sec. 8. The question of borrowing the sum of \$335,000,000.00 and issuing bonds of the state for the purpose set forth in this act shall be submitted to vote of the electors of the state qualified to vote thereon in accordance with the provisions of article 9, section 15 of the Michigan constitution of 1963, at the general November election to be held on November 5, 1968. The question submitted shall be substantially as follows:

“Shall the state of Michigan borrow the sum of \$335,000,000.00 and issue general obligation bonds of the state therefor pledging the full faith and credit of the state for the payment of principal and interest thereon for the purpose of planning, acquiring and constructing facilities for the prevention and abatement of water pollution and for the making of grants, loans and advances to municipalities, political subdivisions and agencies of the state for such purposes, the method of repayment of said bonds to be from the general fund of the state?”

Yes ☐

No ☐

HISTORY: New 1968, p. 127, Act 76, Imd. Eff. Jun. 4.

323.379 Submission to electors.

Sec. 9. The secretary of state shall take such steps and perform all acts as are necessary to properly submit said question to the electors of the state qualified to vote thereon at the general November election to be held on November 5, 1968.

HISTORY: New 1968, p. 128, Act 76, Imd. Eff. Jun. 4.

323.380 Appropriation for bonds.

Sec. 10. After the issuance of the bonds authorized by this act or any series thereof it shall be the duty of the legislature and the legislature hereby covenants that it will each year make appropriations fully sufficient to pay promptly when due the principal of and interest on all outstanding bonds authorized by this act and all costs incidental to the payment thereof.

HISTORY: New 1968, p. 128, Act 76, Imd. Eff. Jun. 4.

323.381 Approval of electors; requirement.

Sec. 11. No bonds shall be issued under this act unless the question set forth in section 8 of this act is approved by a majority vote of the qualified electors voting thereon at the general November election to be held on November 5, 1968.

HISTORY: New 1968, p. 128, Act 76, Imd. Eff. Jun. 4.

323.382 Effective date of act.

Sec. 12. This act shall be finally effective at such time as the question set forth in section 8 is approved by a majority vote of the qualified electors of the state as required by article 9, section 15 of the Michigan constitution of 1963.

HISTORY: New 1968, p. 128, Act 76, Imd. Eff. Jun. 4.

Act 159, 1969, p. 320; Imd. Eff. Aug. 5.

AN ACT to provide financial assistance to local agencies for the construction of collecting sewers to prevent the discharge of untreated or inadequately treated sewage or other liquid wastes into the waters of the state and to abate and prevent pollution of the waters in and adjoining the state; and to implement Act No. 76 of the Public Acts of 1968.

The People of the State of Michigan enact:

323.401 Collecting sewer construction grants; definitions.

Sec. 1. As used in this act:

(a) "Collecting sewers" means lateral, branch, submain and trunk sewers consisting of pipes or conduits including pumps, lift stations, force mains and other appurtenances necessary for a system to prevent or eliminate discharges of raw or inadequately treated sewage of human origin into any waters of the state. "Collecting sewers" does not include pipes or conduits which carry storm water, surface water and street wash, or which convey sewage from a building to a common public sewer except that part lying within a public right of way; and sewers eligible for grants under Act No. 329 of the Public Acts of 1966, as amended, being sections 323.111 to 323.128 of the Compiled Laws of 1948.

(b) "Commission" means the water resources commission.

(c) "Construction" means the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other similar actions necessary to the construction of collecting sewers; the installation, erection and building of collecting sewers; and the inspection and supervision of the construction of such sewers. "Construction" does not include acquisition of lands and rights of way.

(d) "Local agencies" means counties, cities, villages, townships or parts thereof, or other public bodies created by or pursuant to state law and having jurisdiction over collecting sewers.

HISTORY: New 1969, p. 320, Act 159, Imd. Eff. Aug. 5;—Am. 1970, p. 528, Act 176, Imd. Eff. Aug. 3.

323.402 State sewer construction fund; grants, funding.

Sec. 2. Grants to local agencies shall be funded from the state sewer construction fund for collecting sewer projects in the descending order of their priority as established by the commission under sections 9 to 12.

HISTORY: New 1969, p. 321, Act 159, Imd. Eff. Aug. 5;—Am. 1970, p. 529, Act 176, Imd. Eff. Aug. 3.

323.403 State sewer construction fund; establishment; sewers eligible.

Sec. 3. A fund to be known as the state sewer construction fund is established to be used for state grants to local agencies for their construction of collecting sewers. Grants shall be made only for collecting sewers on which contracts for construction were awarded by local agencies after June 30, 1968 and before July 1, 1975, or until the fund is exhausted, whichever occurs first.

HISTORY: New 1969, p. 321, Act 159, Imd. Eff. Aug. 5.

323.404 State sewer construction fund; deposits.

Sec. 4. The proceeds of the sale of \$50,000,000.00 of the bonds authorized by Act No. 76 of the Public Acts of 1968, being sections 323.371 to 323.382 of the Compiled Laws of 1948, or any series thereof, and any premiums and accrued interest received on the delivery thereof, shall be deposited with the state treasurer in the state sewer construction fund. Disbursements from the fund shall be made only for specific eligible collecting sewer projects approved, as provided in section 12, by the appropriations committees and by the legislature by concurrent resolution adopted by a roll call vote of a majority of the members elected to and serving in each house. A concurrent resolution shall include all or part of the projects on the priority list of eligible projects reported to the legislature by the commission as provided in section 12, but in case of a part only it shall be the entire part containing all projects on the list having priorities higher than those of projects not included in the resolution and shall not include projects lower in the order of priority. The income from temporary investments of the proceeds shall be deposited in the general fund.

HISTORY: New 1969, p. 321, Act 159, Imd. Eff. Aug. 5;—Am. 1970, p. 529, Act 176, Imd. Eff. Aug. 3.

323.405 Grants; application; amount; limitations.

Sec. 5. (1) A local agency may apply to the commission for a grant under this act.

(2) A grant shall be made in an amount equal to 1/2 that portion of the cost of construction of collecting sewers, computed upon the cost of the current year's project only, in excess of 10% of the state equalized value of all taxable property within the political boundaries of the unit of government served by the collecting sewers certified under subsection (2) of section 6 or \$1,000,000.00, whichever is less.

(3) Grants are subject to the following limitations:

(a) A grant shall not be made for collecting sewers required under Act No. 288 of the Public Acts of 1967, being sections 560.101 to 560.293 of the Compiled Laws of 1948.

(b) A grant shall not be made for collecting sewers for which a federal grant has been made if the amount of the federal grant equals or exceeds the amount of the state grant that the collecting sewers would have received if there had been no federal grant. If the amount of the federal grant made for such collecting sewers is less than the amount of state grant that the collecting sewers would have received if there had been no federal grant, the amount of state grant made for such collecting sewers shall not exceed the difference between the state grant that the collecting sewers would have received if there had been no federal grant, and the federal grant.

(c) A grant shall not be made for collecting sewers, the construction of which would result in the discharge of untreated or inadequately treated sewage to the waters of the state.

(d) A grant shall not be made unless the local agency has received approval by the commission of an official pollution control plan as required by sections 7 and 8 of Act No. 329 of the Public Acts of 1966, being sections 323.117 and 323.118 of the Compiled Laws of 1948; and the collecting sewers are in conformity with the official plan.

(e) A grant shall not be made for collecting sewers which the commission determines would not meet an existing or imminent need or would constitute an uneconomic or speculative project.

(f) A local agency shall not be allotted more than 2% of the fund.

HISTORY: New 1969, p. 321, Act 159, Imd. Eff. Aug. 5.

323.406 State sewer construction fund; disbursements.

Sec. 6. (1) Disbursements from the state sewer construction fund shall be made by the director of the department of administration and the state treasurer in accordance

with the accounting laws of the state only for the following purposes for which the bonds have been authorized:

(a) Expense of issuing the bonds.

(b) Grants to local agencies as provided in subsections (2) and (3) of section 5.

(2) Before any disbursement from the fund, as provided in subsection (3), is made to a local agency for a grant for the construction of collecting sewers, the commission shall certify to the director of the department of administration and the state treasurer the amount of the grant which the agency is eligible to receive under this act. The certificate shall include or have attached thereto a certificate by the commission, or by the state department of public health when so requested by the commission, of the necessity and sufficiency of the collecting sewers.

(3) A disbursement from the fund to a local agency shall be made for projects on the priority list established under the provisions of sections 4 and 12 upon certification to the director of the department of administration and the state treasurer by the commission that such disbursement is due. A local agency may request and receive disbursement of the state grant in not more than 5 installments:

(a) An installment of 50% of the reasonable cost for preparing completed final construction plans and specifications, but not to exceed the amount of the grant, for the collecting sewers which have been certified as eligible for a state grant, on issuance of a construction permit by the state department of public health for the collecting sewers for which the construction plans and specifications have been prepared and on receipt of evidence satisfactory to the commission of the local agency's ability and intent to finance the local share of the project cost. A disbursement shall not be made under this subsection to a local agency which has received federal or other state grants for the preparation of final plans and specifications.

(b) An installment when not less than 25% of the cost of construction of the collecting sewers is completed.

(c) An installment when not less than 50% of the cost of construction of the collecting sewers is completed.

(d) An installment when not less than 75% of the cost of construction of the collecting sewers is completed.

(e) A final installment of the unpaid balance of the grant based upon the actual cost of the collecting sewers when construction is completed.

HISTORY: New 1969, p. 322, Act 159, Imd. Eff. Aug. 5;—Am. 1970, p. 529, Act 176, Imd. Eff. Aug. 3.

323.407 State aid for local sewers; rules.

Sec. 7. The commission may promulgate rules to implement this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 322, Act 159, Imd. Eff. Aug. 5.

323.408 State agencies; officers and employees; use, purpose; grant recipients, records.

Sec. 8. (1) The commission, with consent of the head of any other agency of this state, shall use the officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this act.

(2) A recipient of a grant under this act shall keep such records as the commission shall prescribe, including records which fully disclose the amount and disposition by the recipient of the proceeds of such grant, the total cost of construction of the collecting sewers in connection with such grant given or used, and the amount of that portion of the cost of construction of the collecting sewers supplied by other sources, and such

other records as will facilitate an effective audit. The commission, the legislative auditor and the state treasurer or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the recipient that are pertinent to grants received under this act.

HISTORY: New 1969, p. 322, Act 159, Imd. Eff. Aug. 5.

323.409 Priority establishment and project certification procedures; compliance prerequisite to grant.

Sec. 9. Notwithstanding any other provision of this act or of any rule of the commission, compliance with sections 9 to 12 is a prerequisite to the making of a grant under this act. Sections 9 to 12 provide procedures for establishing the priority of eligible projects and for certifying projects for grants for construction of collecting sewers.

HISTORY: New 1969, p. 323, Act 159, Imd. Eff. Aug. 5.

323.410 Collecting sewer projects; pollution control needs; assignment of points.

Sec. 10. (1) Points assigned to a collecting sewer project as a complete measure of pollution control needs shall not exceed 15.

(2) Two points shall be assigned for each of the following interests subject to pollution-caused injuries, which injuries will be corrected or substantially lessened by the proposed project:

- (a) Public health, safety or welfare but not including bathing.
- (b) Public water supply for domestic use.
- (c) Water supply for commercial or industrial use.
- (d) Irrigation or livestock water supply for agricultural use.
- (e) Organized public recreational use including bathing.
- (f) Aesthetic value or utility of riparian lands.
- (g) Water supply for wild animals, birds and fish and adverse effects on aquatic life or plants.
- (h) Usefulness of fish or game for human consumption.

(3) Collecting sewers required to be constructed in compliance with a judgment rendered by a court of competent jurisdiction, or with a stipulation or an order of the commission, or an agreement with the department of public health, shall be assigned from 1 to 4 points in accordance with the following schedule, if the stipulation, order or agreement specifically recites the existence of unlawful pollution and was in effect not less than 30 days before the deadline for filing applications and if the pollution abatement date is such that compliance therewith would make it necessary to start construction during the year ending:

- (a) June 30 of the fiscal year for which the application is filed, 4 points.
- (b) June 30 of the first succeeding fiscal year, 3 points.
- (c) June 30 of the second succeeding fiscal year, 2 points.
- (d) June 30 of the third succeeding fiscal year, 1 point.

(4) An applicant in default of a performance date specified by an order, stipulation or agreement may be assigned points under the preceding schedule only at the discretion of the commission.

(5) A collecting sewer project for which construction contracts were awarded before the deadline date for filing applications, shall be assigned 4 points. The combined total points assigned pursuant to subsections (3) to (5) shall not exceed 4.

HISTORY: New 1969, p. 323, Act 159, Imd. Eff. Aug. 5;—Am. 1970, p. 530, Act 176, Imd. Eff. Aug. 3.

323.411 Total priority points; computation; tied projects, assignment of priority.

Sec. 11. (1) Total priority points for a collecting sewer project shall be the sum of the points assigned for water pollution control needs.

(2) If 2 or more projects receive the same priority point totals, the commission shall assign priorities to the tied projects after considering factors such as waters affected, extent of public interests involved, relative magnitude of pollution injury and other factors as the commission deems appropriate.

HISTORY: New 1969, p. 323, Act 159, Imd. Eff. Aug. 5.

323.412 Fiscal year; applications for grants, filing; assignment of point totals; certification of projects; applications, validity; annual reports.

Sec. 12. (1) For the purposes of sections 9 to 12, the fiscal year is July 1 to June 30.

(2) Applications for collecting sewer construction grants for the calendar year ending December 31, 1969 shall be filed with the commission not later than August 15, 1969. Applications postmarked not later than midnight of August 15 meet this requirement. For the fiscal year ending June 30, 1970 and for subsequent fiscal years, applications for collecting sewer construction grants shall be filed with the commission not later than September 15 of the fiscal year for which the application is filed. The official pollution control plan required by sections 7 and 8 of Act No. 329 of the Public Acts of 1966, as added and amended, being sections 323.117 and 323.118 of the Compiled Laws of 1948, shall be filed with the commission not later than September 15 of the period or fiscal year for which the application is filed. Applications postmarked not later than midnight of September 15 meet this requirement.

(3) A point total shall be assigned by the commission to each application that has been timely filed and conforms to the requirements of this act no later than the following January 1.

(4) Projects entitled to construction grants shall be certified to the director of the department of administration and the state treasurer from the eligibility list established by the commission and as approved by the legislature. Certification shall be made within 30 days following approval by the legislature.

(5) Certification of a project for a grant shall be subject to the condition that construction contracts for the project be awarded not later than October 1 following the end of the fiscal year for which application for a state grant has been filed. Failure to comply with this condition of certification is cause for the commission to take any action necessary to withdraw any grant offer that may have been obligated to such project. However, on a showing satisfactory to the commission that the project will proceed within an extended period, the commission may allow 30-day extensions totaling not more than 90 days.

(6) An application for a collecting sewer construction grant filed with the commission is valid only for the fiscal year in which the application is filed.

(7) The commission shall report to the legislature by September 10, 1969 the collecting sewer projects eligible for grants, the points and priorities assigned to them pursuant to this act and a list of projects that are recommended to be funded. Thereafter, the commission shall report to the legislature by January 15 of each year commencing with January 15, 1970. A list of collecting sewer projects eligible for grants, the points and priorities assigned to them pursuant to this act, a list of projects that are recommended to be funded and a list of projects which failed to comply with the conditions

of certifications set forth in subsection (5) and on which the commission has taken action to withdraw offers of state grants. If legislative approval or rejection of eligible projects is not given each year within 45 days after receipt of the commission's list of eligible projects, the commission list shall be considered approved.

HISTORY: New 1969, p. 324, Act 159, Imd. Eff. Aug. 5;—Am. 1970, p. 531, Act 176, Imd. Eff. Aug. 3.

CHAPTER 325. HEALTH—STATE DEPARTMENT

STATE DEPARTMENT OF HEALTH

Act 146 of 1919

- 325.1 State health commissioner; appointment, term; qualifications.
- 325.2 State health commissioner; powers and duties, removal, notice, hearing; annual salary.
- 325.3 State health commissioner; deputy, appointment, qualifications, duties, annual salary, oath and bond.
- 325.4 State health board; abolition, transfer of powers and duties to state health commissioner.
- 325.4a State health commissioner; contracts with state and local governmental agencies or educational institutions; copper country tuberculosis sanatorium, use.
- 325.5 State council of health; members, number, terms, compensation and expenses; meetings; duties.
- 325.6 State health commissioner and council of health; oaths; bond of commissioner.
- 325.7 State health commissioner; rules and regulations, conformity to federal government requirements; hospitals, maintenance and operation, inspection, certified list; rules and regulations, publication.
- 325.7a Family planning services; notice of availability to medically indigent women.
- 325.8 State health commissioner; administration of health laws and regulations in municipalities; exceptions.
- 325.9 Epidemic; order regulating public meetings.
- 325.10 Clerical assistants; appointment, duties; quarters, facilities; expenses.
- 325.11 Local health officers; powers and duties, co-operation.
- 325.12 Violation of act; penalty; individual's right as to selection of physician.
- 325.13 Branch bacteriological laboratories; establishment, limit.
- 325.14 Director of department, representative and employees; nonliability for damages, exception for negligence.

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Act 109 of 1907

- 325.21 Bacteriologist and assistant; appointment, salaries.
- 325.22 Bacteriologist; duties.
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- 325.31 Branch bacteriological laboratory; establishment; bacteriologist, duties; fees.
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CLINICAL LABORATORIES

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- 325.81 Licensing of clinical laboratories; definitions.
- 325.82 Inapplicability of act.
- 325.83 Director of public health; powers and duties.
- 325.84 Clinical laboratory; license required.
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- 325.87 Laboratory facilities council; members, appointment, qualifications, terms, compensation and expenses.
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- 325.89 Clinical laboratory license or certificate; revocation, suspension; procedure, grounds.
- 325.90 Violation of act; penalty.
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- 325.92 Effective date of act.

STATE CRIME DETECTION LABORATORY

Act 62 of 1941

- 325.101 State crime detection laboratory; purpose; rules and regulations.
- 325.102 State crime detection laboratory; organization by state commissioner of health; equipment, personnel; use; expenses.
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LABORATORY IN KENT COUNTY

Act 15 of 1952

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ABOLISHMENT OF OFFICE OF HOSPITAL SURVEY AND CONSTRUCTION

Act 13 of 1959

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- 325.151 Tuberculosis sanatorium commission; transfer of powers and duties to state health commissioner, abolition.
 325.152 Tuberculosis sanatorium commission; transfer of staff, records, files and property to state health commissioner.
 325.153 Tuberculosis sanatorium commission; transfer of hearings to state health commissioner; orders, rules and regulations, continuation.
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 325.155 Advisory council on tuberculosis sanatoriums; duties, membership, terms, meetings, vacancies.
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- 325.161 State council of health; additional members; ex officio membership.
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- 325.191 Fluoridation of water; nonauthorized by state department.
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 325.202 State health commissioner, agents and representatives; inspection powers; waterworks system and sewerage system, definitions.
 325.203 Waterworks, sewerage and filtration plants; rules and regulations; examination of operators; orders to cleanse; sewage treatment works, classification.
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 325.208 Water and sewerage treatment works; reports; perjury, penalty.
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 325.211 Sewerage system; planning; construction and operation; counsel with governmental agencies; stream control commission, agent; corporation.
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- 325.236 Advisory board; terms, vacancies.
- 325.237 Advisory board; meetings, compensation, expenses.
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- 325.403 Use of animals for experimental purposes; administration of act by commissioner, expenses; advisory committee, expenses.
- 325.404 Use of animals for experimental purposes; commissioner, authority to inspect premises; regulations.
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- 325.502 State health commissioner to maintain instruments for test; blanks, forms and supplies; rules and regulations.
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- 325.511 Health services to school children; provision on equal basis to public and non-public students.
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- 325.555 Poliomyelitis vaccine; unexpected or unencumbered balance, reversion; emer-

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- 325.561 Poliomyelitis vaccine; appropriation to department of health for purchase.
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Act 230 of 1966

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- 325.631 Public bathing beaches; water test; injunctions prohibiting use.
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- 325.651 Campgrounds; definitions.
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- 325.801 Food service establishments; definitions.
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325.810 Certified health department; what deemed; forfeiture of state grants.
325.811 Violation of act; penalty.
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Act 146, 1919, p. 264; Imd. Eff. Apr. 30.

AN ACT to protect the public health; to provide for the appointment of a state health commissioner, deputy state health commissioner and state advisory council of health; to prescribe the compensation, powers and duties thereof; to provide immunity from liability for personnel of the department of public health; the powers and duties of the township, village and city health officers and health boards; and to abolish the state board of health. Am. 1966, p. 170, Act 147, Eff. Mar. 10, 1967.

The People of the State of Michigan enact:

325.1 State health commissioner; appointment, term; qualifications.

Sec. 1. Immediately upon the taking effect hereof, the governor shall, with the advice and consent of the senate, appoint a state health commissioner, who shall assume office as soon as may be and shall continue therein to and including the thirtieth day of June, 1923. The successors of said commissioner shall be appointed by the governor, with the advice and consent of the senate, for terms of 4 years, beginning on the first day of July, 1923, and each 4 years thereafter: Provided, however, That any commissioner shall hold office until his successor is appointed and qualified. No person shall be appointed to the office of health commissioner unless he shall be a registered physician and shall have had at least 5 years' experience as a practicing physician, or in lieu of such experience shall have the degree of doctor of public health or its equivalent.

HISTORY: CL 1929, 6446;—CL 1948, 325.1. This act supersedes Act 81 of 1873, being CL 1915, 4968-4968, repealed as obsolete by Act 309 of 1929, being CL 1929, 121. Act 81 of 1873 provided for the state board of health.

EX OFFICIO MEMBERSHIP: The state health commissioner is an ex officio member of the following boards and commissions:

Hotel inspection commission, Sec. 8 of Act 188 of 1913, being Compilers' § 427.8;

Plumbing board, Act 266, 1929, as amended by Act 260, 1933, see Compilers' § 338.907;

Stream control commission, Act 245 of 1929, being Compilers' § 323.1 et seq.;

Medical milk commissions, Sec. 9 of Act 248 of 1911, being Compilers' § 327.259.

OFFENSES: For purely criminal statutes which deal with offenses against public health, see Compilers' § 750.466 et seq.

HOUSING LAW: See Act 167 of 1917, being Compilers' § 125.401 et seq.

COUNTY TUBERCULOSIS SANATORIA: Approval, see Compilers' §§ 332.111 and 332.117.

Also see Act 177 of 1925, being Compilers' §§ 332.151 to 332.164 and Compilers' § 331.101 et seq.

RECREATIONAL GROUNDS: Under supervision of state department of health, see Act 287 of 1919, being Compilers' § 32.231 et seq.

CITED IN OTHER SECTIONS: Sections 325.1 to 325.14 are cited in § 560.105.

325.2 State health commissioner; powers and duties, removal, notice, hearing; annual salary.

Sec. 2. The state health commissioner shall have general charge and supervision of the enforcement of the health laws of the state of Michigan and shall have the specific powers and duties hereinafter expressed. He shall be subject to removal by the governor for cause after due notice and hearing. He shall receive such annual salary as the legislature shall appropriate payable in the same manner as are the salaries of other state officials and shall devote his entire time to the performance of the duties of his office.

HISTORY: CL 1929, 6447;—Am. 1933, p. 84, Act 69, Imd. Eff. May 5;—CL 1948, 325.2.

325.3 State health commissioner; deputy, appointment, qualifications, duties, annual salary, oath and bond.

Sec. 3. The state health commissioner may appoint a deputy who shall be a registered physician or who shall hold the degree of doctor of public health or its equivalent, for whose acts the commissioner shall be responsible and who shall perform such duties in connection with the enforcement of the health laws of the state as may be assigned to him by the commissioner. During the illness, absence or disability of the state health commissioner, the deputy may execute all the duties of said office. He shall receive an annual salary to be fixed by the commissioner to be paid in the same

manner and at the same time as the salaries of other state officers are paid. The appointment of the deputy may be revoked at any time by the commissioner. He shall qualify by taking and filing the constitutional oath of office and by executing and filing with the commissioner such bond as the commissioner may require from him.

HISTORY: CL 1929, 6448;—Am. 1933, p. 84, Act 69, Imd. Eff. May 5;—CL 1948, 325.3.

325.4 State health board; abolition, transfer of powers and duties to state health commissioner.

Sec. 4. The state health commissioner shall exercise all of the powers and perform all the duties now vested by law in the state board of health or in any member, committee or officer thereof, including the secretary, subject to the provisions of this act. The state board of health is hereby abolished; Provided, however, That the rules, regulations and ordinances of said board, heretofore regularly adopted thereby and in force at the time of the passage of this act, shall be and remain in force and effect unless and until the same shall be altered, modified or repealed in accordance herewith. Such orders, regulations and ordinances shall be deemed to be, and shall have, the same force and effect as orders, regulations and ordinances made or adopted hereunder by said commissioner with the advice and consent of the advisory council of health.

HISTORY: CL 1929, 6449;—CL 1948, 325.4.

DEPARTMENT OF HEALTH: In addition to the organization provided in this act the following officials and bureaus within the department are on a statutory basis: State bacteriologist, see Compilers' § 325.21; state sanitary engineer, see Compilers' § 325.212; director and bureau of vital statistics, see Compilers' § 326.2.

POWERS AND DUTIES: Act 81 of 1873, being CL 1915, 4968 to 4998, which was repealed by Act 309 of 1929, being CL 1929, 121, set forth powers and duties of the state board of health.

325.4a State health commissioner; contracts with state and local governmental agencies or educational institutions; copper country tuberculosis sanatorium, use.

Sec. 4a. Other provisions of law to the contrary notwithstanding, the state health commissioner, acting within the limits of available funds, is authorized to enter into such contracts or agreements with other state or local governmental agencies or with educational institutions as may be approved by the state administrative board, and which will permit the use of the copper country tuberculosis sanatorium for research or other programs designed to improve the health, welfare or education of the people of the state.

HISTORY: Add. 1965, p. 142, Act 110, Imd. Eff. Jun. 30.

325.5 State council of health; members, number, terms, compensation and expenses; meetings; duties.

Sec. 5. Immediately upon the taking effect hereof, the governor shall appoint 5 persons, with the consent of the senate, who shall constitute the state council of health. In the first instance, the term of 1 member so appointed shall expire on the thirtieth day of June, 1921; the term of 2 members shall expire on the thirtieth day of June, 1923; and the term of 2 members shall expire on the thirtieth day of June, 1925. The governor shall indicate in his commissions, the term for which each said member is appointed. The members of said council shall serve without compensation, but shall be entitled to their actual expenses incurred in performing the duties of their office. The council shall convene on the call of the state health commissioner, providing they shall have at least 4 regular meetings each year, to be held at such times and places as the council may by its resolution fix. Except as herein provided, the duties of said council shall be advisory only. Upon the expiration of the term of office of each member, the governor shall appoint a successor who shall assume office on the first day of July following the appointment and shall hold the same for a term of 6 years and until his successor is appointed and qualified.

HISTORY: CL 1929, 6450;—Am. 1933, p. 84, Act 69, Imd. Eff. May 5;—CL 1948, 325.5.

CITED IN OTHER SECTIONS: Sections 325.5 to 325.7 are cited in §§ 16.529 and 325.161.

325.6 State health commissioner and council of health; oaths; bond of commissioner.

Sec. 6. The state health commissioner, and each member of the council appointed in accordance with the preceding section, shall, before entering on the performance of the duties of his office, take the constitutional oath of office and file the same in the office of the secretary of state. The health commissioner shall also give a bond to the people of the state of Michigan in the sum of 10,000 dollars for the faithful performance of the duties of his office and for the proper accounting of such moneys as may come into his possession by virtue of his office.

HISTORY: CL 1929, 6451;—CL 1948, 325.6.

325.7 State health commissioner; rules and regulations, conformity to federal government requirements; hospitals, maintenance and operation, inspection, certified list; rules and regulations, publication.

Sec. 7. With the concurrence of the state council of health, any 3 of whom shall constitute a quorum, the state health commissioner may make and declare rules and regulations in accordance with the laws of the state for the proper safeguarding of the public health and for preventing the spread of diseases, or the existence of sources of contamination. When necessary to conform to the requirements of the federal government in regard to the payment of old age assistance, aid to the blind, or aid to the disabled for the purpose of insuring the maximum amount of federal subsidy under these programs, the state health commissioner shall establish and enforce reasonable standards of maintenance and operation for all hospitals within the state; shall define a hospital; shall make or cause to be made periodic inspections for the purpose of determining which hospitals have complied with such standards, and shall annually certify to the Michigan department of social welfare a list of all hospitals which have complied with said standards: Provided, That said standards shall not be construed so as to authorize any regulation of the medical or surgical personnel within said hospitals: And provided further, That the authority hereby conferred on said health commissioner shall not extend to any hospitals which are responsible to any other authority, department or agency of this state charged with establishment and maintenance of standards for any such hospital or hospitals. Such rules and regulations shall be published in such manner as may be directed by the advisory council of health.

HISTORY: CL 1929, 6452;—CL 1948, 325.7;—Am. 1954, p. 102, Act 83, Eff. Aug. 13.

CITED IN OTHER SECTIONS: The above section is cited in §§ 331.652 and 400.66a.

325.7a Family planning services; notice of availability to medically indigent women.

Sec. 7a. The state health commissioner, and under his supervision, health departments or boards of counties, districts and cities may provide written or oral notice to medically indigent women of the availability of family planning services. Such notice shall state that receipt of public health services is in no way dependent upon a request or nonrequest for family planning services. No effort shall be made to suggest or persuade any medically indigent woman to request or not request family planning services. The state health commissioner, and under his supervision, health departments or boards of counties, districts and cities may provide family planning services to medically indigent women upon their request in accordance with rules and regulations promulgated by the commissioner under law.

HISTORY: Add. 1965, p. 578, Act 303, Imd. Eff. Jul. 22.

325.8 State health commissioner; administration of health laws and regulations in municipalities; exceptions.

Sec. 8. Whenever in the opinion of the state health commissioner, conditions found by him to exist in any township, village or city of the state are such as to constitute a

menace to the public health, either within or without the limits of such municipality, such commissioner may by himself, or by his deputy, or medical inspector, enter such township, village or city and take full charge of the administration of the health laws, rules, regulations and ordinances applicable thereto: Provided, however, That said commissioner shall not act hereunder in any city maintaining a health department with a full-time health office, except with the consent of the advisory council of health.

HISTORY: CL 1929, 6453;—CL 1948, 325.8.

325.9 Epidemic; order regulating public meetings.

Sec. 9. In case of an epidemic of any infectious or dangerous communicable disease within this state or any community thereof, the state health commissioner may, if he deem it necessary to protect the public health, forbid the holding of public meetings of any nature whatsoever except church services which may be restricted as to number in attendance at 1 time, in said community, or may limit the right to hold such meetings in his discretion. Such action shall not be taken, however, without the consent and approval of the advisory council of health. Any order made pursuant to this section shall be published in such manner as the advisory council of health may direct and shall become effective at a date specified in said order. Such order shall be signed by the health commissioner and if applicable to the entire state be countersigned by the governor.

HISTORY: CL 1929, 6454;—CL 1948, 325.9.

325.10 Clerical assistants; appointment, duties; quarters, facilities; expenses.

Sec. 10. The state health commissioner may appoint such clerical assistants as may be necessary to enable him to perform the duties hereby imposed, or imposed by any other law of the state. It shall be the duty of the board of auditors to provide suitable quarters and facilities for the accommodation of the state health commissioner and the health department. All salaries and expenses incurred under this act shall be paid out of the amount specifically appropriated for the purpose of carrying out the provisions of this act with the approval of the state health commissioner.

HISTORY: CL 1929, 6455;—CL 1948, 325.10.

ADMINISTRATIVE BOARD: As to supervisory power of administrative board, see Compilers' § 17.3.

325.11 Local health officers; powers and duties, co-operation.

Sec. 11. Subject to the provisions of this act, all city, village and township health officers, health board and health departments shall respectively perform the duties and exercise the powers now imposed and granted by law. It shall be the duty of all local health officials to co-operate in every way possible with the state health commissioner and the state advisory council of health. Wilful failure to do so shall be deemed to be misfeasance in office.

HISTORY: CL 1929, 6456;—CL 1948, 325.11.

325.12 Violation of act; penalty; individual's right as to selection of physician.

Sec. 12. Any person violating any regulation, rule or order of the state health commissioner, or of the state health commissioner and the state advisory council of health, shall be deemed to be guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not more than 200 dollars or to imprisonment in the county jail not more than 6 months, or to both such fine and imprisonment in the discretion of the court. Nothing in this act shall be construed or operate to empower or authorize the state commissioner of health, or any health officer, or their representatives, to restrict in any manner the individual's right to select the physician or mode of treatment of his

choice: Provided, That sanitary laws and the laws, rules and regulations relating to infectious and contagious diseases are complied with.

HISTORY: CL 1929, 6457;—CL 1948, 325.12.

325.13 Branch bacteriological laboratories; establishment, limit.

Sec. 13. Subject to the approval of the state administrative board the state health commissioner is authorized and empowered to establish, equip and maintain such number of branch bacteriological laboratories at suitable places within the state as may be found necessary for the proper protection of the public health and the furnishing of adequate laboratory service to those entitled thereto: Provided, however, That such number of branch laboratories, including the laboratory now maintained in the upper peninsula, shall not exceed 3.

HISTORY: Add. 1925, p. 258, Act 182, Eff. Aug. 27;—CL 1929, 6458;—CL 1948, 325.13.

LABORATORY IN UPPER PENINSULA: See Compilers' § 325.31.

325.14 Director of department, representative and employees; nonliability for damages, exception for negligence.

Sec. 14. The director of the state department of public health, his representative or an employee of the department shall not be personally liable for damages sustained by any person because of any action performed or done by the director, his representative or an employee of the department in the performance of their duties in the administration and enforcement of the health laws of this state. This provision does not apply where the damages were sustained as a result of negligence by the director of the state department of public health, his representative or an employee of the department.

HISTORY: Add. 1966, p. 170, Act 147, Eff. Mar. 10, 1967.

Act 109, 1907, p. 132; Imd. Eff. May 22.

AN ACT to provide for the appointment of a bacteriologist by the state board of health; to provide for the purchase of the necessary appliances and apparatus for bacteriological examinations, and providing an appropriation therefor.

The People of the State of Michigan enact:

325.21 Bacteriologist and assistant; appointment, salaries.

Sec. 1. The state board of health is hereby authorized and empowered to employ a competent bacteriologist, whose duties shall be such as are or may be defined by law or defined by said board of health and shall be performed in connection with the department of public health. The salary of the person appointed bacteriologist shall be fixed by the said board of health. The state board of health is further authorized and empowered to employ such assistant bacteriologists as may be necessary to perform the work contemplated in this act; the salaries of such assistant bacteriologists shall be fixed by the state board of health.

HISTORY: CL 1915, 5001;—Am. 1917, p. 522, Act 247, Eff. Aug. 10;—CL 1929, 6459;—CL 1948, 325.21.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

ADMINISTRATIVE BOARD: For supervisory power of administrative board, see Compilers' § 17.3.

LABORATORY IN UPPER PENINSULA: By Compilers' § 325.33 unless otherwise expressly provided, the provisions of this act govern this branch laboratory.

325.22 Bacteriologist; duties.

Sec. 2. The bacteriologist whose appointment is herein provided for shall conduct the routine work in connection with bacteriological examinations and analyses that may be necessary, authorized or required by the provisions of this act or ordered or directed by the said board of health, all of which shall be under the supervision of the secretary of said board.

HISTORY: CL 1915, 5002;—CL 1929, 6480;—CL 1948, 325.22.

325.23 Bacteriological examinations and water analyses; requirements, charge.

Sec. 3. The various boards of health, health officers, and all state institutions may require a bacteriological examination or analysis of blood, sputum, urine, water, milk, or other substance in localities where there is an outbreak of any contagious disease or epidemic in which bacteriological examination or analysis may be necessary to the public health and welfare, or for the purpose of locating sources of infection, or contamination of water, milk, ice, etc., as the case may be. The said state board of health shall also be required to make an examination and analysis of the water used by the public, and of public water supplies, when contamination is suspected, whenever the examination or analysis is required by the mayor of any city, the president of any village, or the supervisor of any township. Such boards or officers shall forward or deliver to the secretary of the state board of health a sample of the substance required to be analyzed, in a sealed package or jar accompanied by a statement from such board or officer, indicating the necessity for the analysis. The examination or analysis for the boards or officers above named shall be made free of charge.

HISTORY: Am. 1909, p. 278, Act 122, Imd. Eff. May 26;—CL 1915, 5003;—CL 1929, 6461;—Am. 1941, p. 72, Act 63, Eff. Jan. 10, 1942;—CL 1948, 325.23.

FEES: Receipt and disposition, see Compilers' § 21.10.

325.24 Apparatus and appliances; purchase; expenses, limitation, apportionment.

Sec. 4. The said board of health is hereby given authority to purchase any and all such apparatus and appliances as shall be necessary to carry out the provisions of this act: Provided, That the amount paid as salary to the bacteriologist and expended for apparatus and appliances, in any 1 year, shall not exceed the amount of the yearly appropriation provided for in this act: Provided further, That any part of the appropriation herein provided for, not expended for the salary of the bacteriologist or for purchasing apparatus, material and appliances, may be used by the said board of health in compiling general information in regard to bacteriological examinations and for such other purposes in connection with the bacteriological work of the department of public health as shall be deemed advisable and necessary by the said board.

HISTORY: CL 1929, 6462;—CL 1948, 325.24.

Sec. 5. (This was an appropriation and tax clause section.)

HISTORY: Am. 1909, p. 279, Act 122, Imd. Eff. May 26;—CL 1915, 5005;—Am. 1917, p. 522, Act 247, Eff. Aug. 10;—CL 1929, 6463;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

Act 164, 1915, p. 277; Imd. Eff. May 7.

AN ACT to provide for the establishment of a branch bacteriological laboratory in the upper peninsula of the state and authorizing the employment of a bacteriologist to take charge thereof; to authorize the purchase of the necessary appliances and apparatus for such laboratory, and providing an appropriation therefor.

The People of the State of Michigan enact:

325.31 Branch bacteriological laboratory; establishment; bacteriologist, duties; fees.

Sec. 1. The state board of health is hereby authorized and empowered to establish a branch bacteriological laboratory in the upper peninsula of the state, and to employ a competent bacteriologist to take charge of such laboratory, whose duties shall be such as are or may be defined by law or defined by the state board of health, and shall be performed in connection with the department of the state board of health. The same fees shall be paid for examinations and analysis made by this said bacteriologist as are required by Act 109 of the Public Acts of 1907, as amended from time to time.

HISTORY: CL 1915, 5006;—CL 1929, 6464;—CL 1948, 325.31.

NOTE: Act 109 of 1907, above referred to, is Compilers' §§ 325.21 to 325.24.

STATE BOARD OF HEALTH: Abolished, powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

BRANCH LABORATORIES: See Compilers' § 325.13.

325.32 Branch laboratory; bacteriologist, salary; fees, disposition.

Sec. 2. The salary of the person appointed bacteriologist under this act shall be fixed by the state board of health, but shall not exceed the salary paid to the bacteriologist appointed under the provision of Act 109 of the Public Acts of 1907. Such salary shall be paid in the same manner as other employes of the state board of health are paid, and all fees paid or received by the said bacteriologist shall be immediately forwarded to the secretary of the state board of health at Lansing to be by him covered into the state treasury to the general bacteriological fund of the state as provided in section 3 of Act 109 of the Public Acts of 1907.

HISTORY: CL 1915, 5007;—CL 1929, 6465;—CL 1948, 325.32.

NOTE: Sec. 3 of Act 109 of 1907, above referred to, is Compilers' § 325.23.

FEES: Receipt and disposition, see Compilers' § 21.10.

325.33 Branch laboratory; apparatus, appliances; expenses, limitation; location.

Sec. 3. The state board of health is hereby authorized to purchase any and all such apparatus and appliances as shall be necessary to equip the branch laboratory authorized in this act: Provided, That the amount paid as salary to the bacteriologist and expended for the apparatus and appliances in any 1 year shall not exceed the amount of the yearly appropriation provided for in this act. The state board of health shall select and designate a central point in the upper peninsula for the location of said laboratory. In all matters not herein otherwise expressly provided for, the said branch laboratory shall be governed by the provisions of Act 109 of the Public Acts of 1907, as amended from time to time.

HISTORY: CL 1915, 5008;—CL 1929, 6466;—CL 1948, 325.33.

NOTE: Act 109 of 1907, above referred to, is Compilers' § 325.21 et seq.

Secs. 4-5. (These were appropriation and tax clause sections.)

HISTORY: CL 1915, 5009-5010;—CL 1929, 6467-6468;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

Act 105, 1927, p. 143; Imd. Eff. May 3.

AN ACT to protect the public health; to provide for the manufacture and distribution by the state commissioner of health of antitoxin and other biological products for use in the control of communicable diseases; and to repeal Act 370 of Public Acts of 1921.

The People of the State of Michigan enact:

325.41 Biological products; manufacture and distribution by state, rules and regulations.

Sec. 1. The state commissioner of health may manufacture and/or purchase antitoxin, sulphonamides, biological products, silver nitrate ampules, arsphenamines and heavy metals and distribute same throughout the state for use in the control of communicable diseases. Said commissioner is hereby authorized to adopt rules and regulations governing such distribution. Subject to the rules and regulations so prescribed, health officers and health boards, county hospitals and municipal hospitals of the various counties, cities, villages and townships of the state may from time to time make requisition on the state commissioner of health for such antitoxin, sulphonamides, biological products, silver nitrate ampules, arsphenamines and heavy metals for use in the control of communicable diseases, which requisitions shall, if deemed reasonable and necessary, be honored in the order in which the same are presented to said commissioner.

HISTORY: CL 1929, 6469;—Am. 1941, 2nd Ex. Ses., p. 70, Act 20, Imd. Eff. March 2, 1942;—CL 1948, 325.41.
FORMER ACT: Act 370 of 1921.

325.42 Animals; labor and supplies.

Sec. 2. The commissioner may purchase such number of animals as may be required, and may employ necessary labor and purchase supplies requisite for the manufacture and distribution of such products.

HISTORY: CL 1929, 6470;—CL 1948, 325.42.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1929, 6471;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 370, 1921, amended by Act 121, 1923 and Act 199, 1925.

Act 308, 1927, p. 570; Eff. Sep. 5.

AN ACT to protect the public health; to provide for the registration and supervision of laboratories where live pathogenic germs are handled; to prevent the use of bacteria for criminal purposes; to eliminate careless methods of transporting live germs, and to prescribe penalties for the violation of this act.

The People of the State of Michigan enact:

325.51 Laboratories handling live pathogenic germs; registration, term.

Sec. 1. All laboratories and other places where live pathogenic germs are handled or cultivated, shall be registered with the Michigan department of health, and a registration number shall be issued to each place registered. Registration and application for this registration number shall be made by the person, firm or corporation in charge of the laboratory or other place where such germs are handled. The registration number shall be valid for 1 year, at the expiration of which time it may be renewed upon application.

HISTORY: CL 1929, 6472;—CL 1948, 325.51.

325.52 Pathogenic germs or cultures; container labels, contents; records.

Sec. 2. All live pathogenic germs or cultures of such germs when given away or sold by a laboratory or other person, shall bear a label on the container showing the registration number of the laboratory or other person, the name of the person or firm obtaining same, and the destination of the germs, and no person or laboratory shall sell or convey any live germs or culture to any other person or laboratory without the permission of the state commissioner of health. Such person or laboratory shall also keep a record of every sale, gift or other distribution of live germs, giving the name and resi-

dence of the recipient or purchaser, which record shall at all times be open to examination by any person or authority, and a copy of which record shall be filed with the department of health.

HISTORY: CL 1929, 6473;—CL 1948, 325.52.

325.53 Violation of act; penalty.

Sec. 3. Any violation of this act shall be deemed a misdemeanor punishable by a fine of 200 dollars or 6 months' imprisonment, or both.

HISTORY: CL 1929, 6474;—CL 1948, 325.53.

325.71-325.75 Repealed. 1968, p. 362, Act 235, Eff. Jan. 1, 1969.

Sections related to registration of public laboratories; defined, laboratorian, inspection, penalty.

Act 235, 1968, p. 359; Eff. Jan. 1, 1969.

AN ACT to protect the public health; to provide for the licensing and supervision of clinical laboratories making laboratory tests to aid in the diagnosis, prevention or treatment of disease or the assessment of medical condition; to establish minimum standards for the performance of laboratory procedures; to prescribe penalties for the violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

325.81 Licensing of clinical laboratories; definitions.

Sec. 1. As used in this act:

(a) "Director" means the director of public health.

(b) "Clinical laboratory" means a facility which may be patronized by any physician, health officer or other person authorized by law for the purpose of obtaining information for the diagnosis, prevention or treatment of disease or the assessment of medical condition by the microbiological, serological, histological, hemotological, immunohematological, biophysical, cytological, pathological or biochemical examination of materials derived from the human body, except as provided in section 2.

(c) "Laboratory director" means the individual responsible for the administration of the technical and scientific operation of a clinical laboratory, including the supervision of procedures and reporting of findings.

(d) "Owner" means a person, partnership, association or corporation which owns and controls a clinical laboratory.

(e) "Council" means the laboratory facilities council.

HISTORY: New 1968, p. 359, Act 235, Eff. Jan. 1, 1969.

325.82 Inapplicability of act.

Sec. 2. (1) This act does not apply to:

(a) A laboratory operated by a person licensed or registered to practice medicine, osteopathy, dentistry or podiatry who performs laboratory tests or procedures, personally or through his employees, solely as an adjunct to the treatment of his own patients.

(b) A laboratory of any college, university or school approved by the department of education which is conducted for the training of its students, if the results of any examinations performed in the laboratory are not used in the diagnosis and treatment of disease.

(c) Laboratories operated by the federal government.

(2) Nothing in this act shall be construed as affecting the power of the state to enact and enforce laws relating to matters covered by this act if such laws are not inconsistent with this act.

HISTORY: New 1968, p. 359, Act 235, Eff. Jan. 1, 1969.

325.83 Director of public health; powers and duties.

Sec. 3. The director shall administer the provisions of this act and may incur such expenses as shall be authorized by the legislature. The director, with concurrence of the council, shall promulgate, amend and rescind rules with reference to clinical laboratories necessary to accomplish the purposes of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 359, Act 235, Eff. Jan. 1, 1969.

325.84 Clinical laboratory; license required.

Sec. 4. A clinical laboratory may not solicit or receive any specimen for laboratory examination unless licensed as provided in this act. A license shall authorize the performance of laboratory procedures in 1 or more categories.

HISTORY: New 1968, p. 359, Act 235, Eff. Jan. 1, 1969.

325.85 Clinical laboratory; license; application; requirements; term; fee; contents; void.

Sec. 5. (1) An application for a clinical laboratory license shall be made by the owner and shall contain the name of the owner, the name of the laboratory director, the laboratory procedures and categories for which the license is sought, the location and physical description of the facility at which tests are to be performed and such other information as the director may require.

(2) A license shall not be issued unless (a) the laboratory director holds a valid certificate of qualification issued under section 8, (b) the director finds that the clinical laboratory is competently staffed, properly located and constructed and properly equipped to perform the laboratory procedures for which the license is sought, and (c) the owner agrees and the director determines that the public laboratory will be operated in the manner required by this act.

(3) A license is valid for 1 year and shall be renewed annually in such a manner as the director may prescribe. The director shall require the payment of a \$150.00 fee each year for the issuance of a license. All fees under this act shall be paid to the department of public health and deposited in the general fund of the state.

(4) A license shall indicate on its face the name of the owner of the clinical laboratory, the name of the laboratory director, the laboratory procedures or categories authorized to be performed in the laboratory, and the location at which said procedures may be performed. The license and certificate of qualification issued under section 8 shall be displayed at all times in a prominent place in the clinical laboratory.

(5) A license automatically becomes void by a change in the laboratory director, or 30 days following a change in the ownership or location of the clinical laboratory. A new application for a license may be filed with the director prior to any such change, or prior to the expiration of such 30 days, in order to permit the uninterrupted operation of the clinical laboratory.

HISTORY: New 1968, p. 359, Act 235, Eff. Jan. 1, 1969.

325.86 Director or designee; reports; test samples, analysis.

Sec. 6. (1) The director, or his designee, at any reasonable time may inspect the facilities, methods, procedures, materials, staff and equipment of a clinical laboratory.

(2) The director shall require a clinical laboratory to submit periodic reports of tests performed and other information the director determines necessary or appropriate to facilitate the administration of this act. The director shall require a clinical laboratory to submit lists of personnel employed to perform laboratory procedures and the technical qualifications of such personnel, and to notify the director promptly of any changes in personnel.

(3) The director shall require a clinical laboratory to analyze test samples submitted by him and to report to him on the results of such analyses except that proficiency evaluation programs of recognized professional organizations may be acceptable to the director in lieu thereof. Such analyses and reports may be considered by the director in making any findings under section 9.

HISTORY: New 1968, p. 360, Act 235, Eff. Jan. 1, 1968.

325.87 Laboratory facilities council; members, appointment, qualifications, terms, compensation and expenses.

Sec. 7. (1) The director shall appoint a laboratory facilities council to assist with the development of rules with reference to clinical laboratories as are necessary to accomplish the purposes of this act as provided for in section 3. The council shall be composed of 3 pathologists, 1 physician who is not a pathologist and is not directly associated with a clinical laboratory, 2 laboratory directors who are not physicians, 1 clinical chemist and 1 microbiologist. The pathologists and physicians appointed to the council shall be persons licensed to practice medicine in all its branches in this state and 1 shall be an osteopathic physician. The clinical chemist and microbiologist shall hold degrees above the bachelor level. The director is a member of the council, ex officio, without vote but may cast the deciding vote on any issues in which the vote of the council results in a tie.

(2) Each member shall hold office for a term of 4 years except that the members first appointed under this act shall be appointed for the following terms: 2 for 1 year, 2 for 2 years, 2 for 3 years and 2 for 4 years as designated by the director at the time of appointment. A member shall not be eligible for reappointment for more than 2 full terms. Any appointment to fill a vacancy shall be for the unexpired portion of the term.

(3) Members of the laboratory facilities council shall serve without pay, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

HISTORY: New 1968, p. 360, Act 235, Eff. Jan. 1, 1968.

325.88 Laboratory director; qualifications; certificate; fee.

Sec. 8. (1) A person shall not act as laboratory director of a clinical laboratory unless a certificate of qualification has been issued to him as provided in this section. Application for a certificate of qualification shall specify the procedures and categories for which the certificate is sought and other information the director may require. A certificate of qualification shall be issued authorizing the holder to direct qualified personnel in 1 or more laboratory procedures in 1 or more categories.

(2) The director shall prescribe minimum qualifications for laboratory directors in microbiology, serology, hematology, immunohematology, biophysics and biochemistry.

(3) A certificate of qualification for laboratory director shall be issued to any person who meets the minimum qualifications prescribed by the director and who otherwise demonstrates that he possesses the character, training and ability to administer properly the technical and scientific operation of a clinical laboratory, including supervision of procedures and reporting of findings of tests.

(4) A certificate of qualification is valid for 1 year from the date of its issuance and shall be renewed for each successive 1-year thereafter. The director shall collect a fee

of \$25.00 for the issuance of a certificate of qualification and for each renewal thereof.

(5) The director may issue a temporary certificate of qualification to any person pending the issuance of a regular certificate under this section, but a temporary certificate is valid for only 30 days and may be renewed for not to exceed 4 successive periods of 30 days.

HISTORY: New 1968, p. 361, Act 235, Eff. Jan. 1, 1969.

325.89 Clinical laboratory license or certificate; revocation, suspension; procedure, grounds.

Sec. 9. (1) A clinical laboratory license or certificate of qualification may be revoked, suspended or limited if the director, after notice and opportunity for hearing, finds that the owner of the laboratory, the holder of the certificate of qualification, or any employee of the clinical laboratory has done any of the following:

(a) Been guilty of misrepresentation in obtaining the license or certificate or in the operation of the clinical laboratory.

(b) Knowingly accepted or permitted to be accepted a specimen or assignment for laboratory examination from or rendered a report thereon to, a person not authorized under the laws of this state.

(c) Engaged or attempted to engage or represent himself as entitled to perform any laboratory procedures or category of procedures not authorized in the license or certificate.

(d) Rendered a report on laboratory work actually performed in another laboratory without designating the fact that the examination or procedure was performed in another laboratory.

(e) Demonstrated incompetence or has shown consistent errors in the performance of laboratory examinations or procedures.

(f) Failed to file any report required by this act or by any rule or regulation promulgated thereunder.

(g) Violated or aided and abetted in the violation of any provision of this act or of any rule promulgated hereunder.

(2) A clinical laboratory license or a certificate of qualification may be temporarily suspended without a hearing for not to exceed 30 days if the director determines that the public safety or welfare is in imminent danger.

HISTORY: New 1968, p. 361, Act 235, Eff. Jan. 1, 1969.

325.90 Violation of act; penalty.

Sec. 10. Any person who violates any provision of this act is guilty of a misdemeanor. Each day of violation is considered a separate offense.

HISTORY: New 1968, p. 362, Act 235, Eff. Jan. 1, 1969.

325.91 Repeal.

Sec. 11. Act No. 45 of the Public Acts of 1931, being sections 325.71 to 325.75 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1968, p. 362, Act 235, Eff. Jan. 1, 1969.

325.92 Effective date of act.

Sec. 12. This act is effective January 1, 1969.

HISTORY: New 1968, p. 362, Act 235, Eff. Jan. 1, 1969.

Act 62, 1941, p. 71; Eff. Jan. 10, 1942.

AN ACT to establish a state crime detection laboratory; to provide for the coordination of state laboratory facilities; to prescribe the powers and duties of the state de-

partment of health and the Michigan state police with respect thereto; and to cooperate with law enforcement officers.

The People of the State of Michigan enact:

325.101 State crime detection laboratory; purpose; rules and regulations.

Sec. 1. There is hereby established in the bureau of laboratories of the state department of health a state crime detection laboratory. The purpose of this act is to afford the several prosecuting attorneys, the attorney general, the Michigan state police and law enforcement officers of the state of Michigan facilities for examinations and analyses in matters of a criminal nature, to the end that the laws of this state may be enforced and violators brought to trial. The state commissioner of health and the commissioner of the Michigan state police, acting jointly, are hereby authorized to promulgate the necessary rules and regulations to carry out the provisions and purposes of this act.

HISTORY: CL 1948, 325.101.

325.102 State crime detection laboratory; organization by state commissioner of health; equipment, personnel; use; expenses.

Sec. 2. It shall be the duty of the state commissioner of health to organize, equip and conduct said state crime detection laboratory. Said laboratory shall consist of personnel, apparatus and material necessary to the scientific investigation of matters of a criminal nature, and the facilities of such laboratory, including the personnel thereof, shall at all times be available for use by the several prosecuting attorneys, the attorney general, the Michigan state police and law enforcement officers. Expenses of establishing and maintaining said laboratory, and the fees of expert witnesses of such laboratory, shall be paid from the appropriation to the bureau of laboratories of the state department of health.

HISTORY: CL 1948, 325.102.

325.103 State crime detection laboratories; cooperation regarding violations of law.

Sec. 3. It shall be the duty of the persons in charge of the laboratories of other state departments, boards, institutions and commissions to cooperate with the state crime detection laboratory established under this act, and the state crime detection laboratory shall cooperate with the laboratories of other state departments, boards, institutions and commissions, in all matters involving a violation of the laws of this state.

HISTORY: CL 1948, 325.103.

Act 15, 1952, p. 15; Imd. Eff. Feb. 28.

AN ACT to authorize the state administrative board, the legislative body of the city of Grand Rapids and the board of supervisors of the county of Kent to enter into certain agreements and execute certain documents with respect to the construction and operation of a laboratory under the jurisdiction of the Michigan state department of health in Kent county; and to ratify certain acts and steps taken.

The People of the State of Michigan enact:

325.121 Laboratory in Kent county; agreement for construction, description of land.

Sec. 1. The state administrative board is hereby authorized to enter into any agreement or agreements with the legislative body of the city of Grand Rapids and the

board of supervisors of the county of Kent as shall be necessary in connection with the construction of a laboratory under the jurisdiction of the Michigan state department of health in the county of Kent, and the legislative body of the city of Grand Rapids and the board of supervisors of the county of Kent are hereby authorized to enter into such agreement and to deed to the state of Michigan for such purpose, in consideration of the erection of such laboratory and the operation thereof by the state of Michigan, subject to the participating terms in the agreement by the city of Grand Rapids and the county of Kent, the following described piece or parcel of land situated in the township of Grand Rapids, Kent county, state of Michigan:

All that part of the west 1/2 of the southeast 1/4, section 20, town 7 north, range 11 west, Grand Rapids township, Kent county, Michigan, described as:

Commencing south 1° 30' west 1030.85 feet and south 87° 55' east 40.0 feet from the center of said section 20, thence north 1° 30' east along the east line Fuller avenue 175.0 feet; thence north 54° 05' east 305.0 feet; thence south 87° 09' east 240.0 feet; thence south 1° 07' west 360.0 feet; thence north 87° 55' west 485.0 feet to the point of beginning.

The agreement between the state of Michigan, authorized by the state administrative board, and the city of Grand Rapids, authorized by the legislative body, and the county of Kent, authorized by the board of supervisors, and executed by the secretary of the state administrative board and the clerk of the city of Grand Rapids, shall contain provisions for the furnishing by the city of Grand Rapids of heat, light, gas, electricity, refrigeration, laundry services and routine telephone services (exclusive of tolls), and the payment by the city of Grand Rapids and/or the county of Kent of an annual sum of \$5,000.00 to the state of Michigan, in consideration of which the Michigan state department of health shall furnish the city of Grand Rapids and the county of Kent with necessary public health laboratory services. Such agreement shall be executed for a period not to exceed 25 years.

HISTORY: New 1952, p. 15, Act 15, Imd. Eff. Feb. 28.

325.122 Laboratory in Kent county; appropriation, authorization.

Sec. 2. On receiving a quit claim deed from the city of Grand Rapids covering the aforesaid property, the appropriation made under the provisions of Act No. 272 of the Public Acts of 1951 for the construction of a western Michigan laboratory is hereby authorized to be released by the state administrative board and shall be disbursed in accordance with the accounting laws of the state.

HISTORY: New 1952, p. 16, Act 15, Imd. Eff. Feb. 28.

325.123 Laboratory in Kent county; previous actions validated.

Sec. 3. Any act or steps heretofore taken by the legislative body of the city of Grand Rapids, by the board of supervisors of the county of Kent, by the state administrative board, or the state department of administration in connection with the acquisition of land for and the construction of a western Michigan laboratory in the county of Kent, or any agreement executed with respect thereto, are hereby ratified and declared to be valid.

HISTORY: New 1952, p. 16, Act 15, Imd. Eff. Feb. 28.

Act 39, 1957, p. 46; Eff. Sep. 27.

AN ACT to provide for and safeguard the confidential character of research studies conducted by the state department of health.

The People of the State of Michigan enact:

325.131 State health department; medical research information, confidentiality.

Sec. 1. All information, records of interviews, written reports, statements, notes, memoranda or other data or records furnished to, procured by, or voluntarily shared with the state health commissioner, or any person, agency or organization which has been designated in advance by the state health commissioner with the approval of the state council of health as a medical research project which regularly furnishes statistical or summary data with respect to such project to the state health commissioner, for the purpose of reducing the morbidity or mortality from any cause or condition of health shall be confidential and shall be used solely for statistical, scientific and medical research purposes relating to such cause or condition of health.

HISTORY: New 1957, p. 46, Act 39, Eff. Sep. 27;—Am. 1964, p. 110, Act 112, Eff. Aug. 28.

325.132 Medical research information; nonadmissible as evidence before court or board; nondisclosure.

Sec. 2. The information, records, reports, statements, notes, memoranda or other data shall not be admissible as evidence in any action of any kind in any court or before any other tribunal, board, agency or person and the furnishing of the same to the state health commissioner, his authorized representative or any duly designated medical research project shall not result in the loss of any privilege which the same may otherwise have making them inadmissible as evidence. The information, records, reports, statements, notes, memoranda or other data shall not be exhibited nor their contents disclosed in any way, in whole or in part, by the state health commissioner or any representative of the state health commissioner, nor by any other person, agency or organization, except as may be necessary for the purpose of furthering the research project to which they relate. No person participating in such research project shall disclose, in any manner, the information so obtained except in strict conformity with the research project.

HISTORY: New 1957, p. 46, Act 39, Eff. Sep. 27;—Am. 1964, p. 110, Act 112, Eff. Aug. 28.

325.133 Information from physician, hospital or other source; nonliability of informant.

Sec. 3. The furnishing of information, records, reports, statements, notes, memoranda or other data voluntarily to the state health commissioner or his authorized representative, or to any person, agency or organization duly designated as a medical research project, shall not subject any physician, hospital, sanatorium, rest home, nursing home or other person or agency furnishing such information, records, reports, statements, notes, memoranda or other data to liability in any action for damages or other relief, and shall not be deemed to be the wilful betrayal of a professional secret or the violation of any confidential relationship.

HISTORY: New 1957, p. 47, Act 39, Eff. Sep. 27;—Am. 1964, p. 111, Act 112, Eff. Aug. 28.

325.134 Violation of act; penalty.

Sec. 4. Any disclosure other than is provided for in this act shall be a misdemeanor and punishable as such. Nothing herein contained shall be construed as conferring upon the state health commissioner the power to demand or require that any physician or surgeon furnish any information, records of interviews, written reports, statements, notes, memoranda or other data other than as is expressly required by law.

HISTORY: New 1957, p. 47, Act 39, Eff. Sep. 27.

Act 13, 1959, p. 12; Eff. Mar. 19, 1960.

AN ACT to abolish the office of hospital survey and construction and to transfer the powers and duties to the state health commissioner; to provide for the transfer of staff, records, files and other property; to provide that hearings shall not be abated; to transfer appropriations and other funds; to prescribe the powers, duties and membership of the Michigan hospital advisory council; to prescribe the powers and duties of the office of hospital survey and construction and the state health commissioner; and to fix the effective date of this act.

The People of the State of Michigan enact:

325.141 Office of hospital survey and construction; transfer of powers and duties to state health commissioner, abolition.

Sec. 1. All of the powers and duties of the office of hospital survey and construction as contained in Act No. 299 of the Public Acts of 1947, as amended, being sections 331.501 to 331.516 of the Compiled Laws of 1948, are hereby transferred to and vested in the state health commissioner, who shall continue as the legal successor of the office of hospital survey and construction. The office of hospital survey and construction is hereby abolished, and there is hereby created a division within the department of health known as the "hospital and medical facilities division" which shall include the functions exercised by the office of hospital survey and construction and such other functions as the state health commissioner may determine. Whenever any reference is made in the laws of this state to the office of hospital survey and construction, such reference shall be deemed intended to be made to the state health commissioner.

HISTORY: New 1959, p. 12, Act 13, Eff. Mar. 19, 1960.

325.142 Office of hospital survey and construction; transfer of staff, records, files and property to state health commissioner.

Sec. 2. All of the staff, records, files and other property, including property held in trust, belonging to the office of hospital survey and construction shall be transferred to the state health commissioner and shall be continued as part of the staff, records, files and property of the state health commissioner.

HISTORY: New 1959, p. 13, Act 13, Eff. Mar. 19, 1960.

325.143 Office of hospital survey and construction; transfer of hearings to state health commissioner; orders, rules and regulations, continuation.

Sec. 3. All hearings and proceedings of whatever nature now pending before the office of hospital survey and construction shall not be abated, but shall be transferred to the state health commissioner without notice to interested parties and shall be conducted in the same manner and determined in accordance with the provisions of law concerning such hearings and proceedings. All orders, rules and regulations of the office of hospital survey and construction shall continue in effect as though the transfer were not made, and to the extent applicable, they shall be binding upon the state health commissioner.

HISTORY: New 1959, p. 13, Act 13, Eff. Mar. 19, 1960.

325.144 Office of hospital survey and construction; transfer of appropriations to division of hospital and medical facilities.

Sec. 4. All appropriations and all other funds necessary to carry out the powers, duties and responsibilities of the office of hospital survey and construction shall be transferred to the state health commissioner for the division of hospital and medical facilities within the state department of health.

HISTORY: New 1959, p. 13, Act 13, Eff. Mar. 19, 1960.

325.145 Repealed. 1965, p. 200, Act 129, Imd. Eff. Jul. 8.

Section continued Michigan advisory hospital council; provided for elected chairman; described his duties; provided for meetings and for filling vacancies.

325.146 Office of hospital survey and construction; services and functions, continuation.

Sec. 6. The office of hospital survey and construction and the state health commissioner shall make all other arrangements as are necessary to provide for the uninterrupted conduct of the services and functions of government as prescribed by this act.

HISTORY: New 1959, p. 13, Act 13, Eff. Mar. 19, 1960.

325.147 Effective date of act.

Sec. 7. This act shall take effect on January 1, 1960.

HISTORY: New 1959, p. 13, Act 13, Eff. Mar. 19, 1960.

Act 26, 1959, p. 23; Eff. Mar. 19, 1960.

AN ACT to abolish the tuberculosis sanatorium commission and to transfer the powers and duties to the state health commissioner; to provide for the transfer of the staff, records, files and other property; to provide that hearings shall not be abated; to transfer appropriations and other funds; to create and define the powers and duties of an advisory council on tuberculosis sanatoriums; to prescribe the powers and duties of the tuberculosis sanatorium commission and the state health commissioner; and to fix the effective date of this act.

The People of the State of Michigan enact:

325.151 Tuberculosis sanatorium commission; transfer of powers and duties to state health commissioner, abolition.

Sec. 1. All of the powers and duties of the tuberculosis sanatorium commission as contained in Act No. 115 of the Public Acts of 1929, as amended, being sections 332.1 to 332.7 of the Compiled Laws of 1948, are hereby transferred to and vested in the state health commissioner, who shall continue as the legal successor of the tuberculosis sanatorium commission. The tuberculosis sanatorium commission is hereby abolished. Whenever any reference is made in the laws of this state to the tuberculosis sanatorium commission, such reference shall be deemed intended to be made to the state health commissioner.

HISTORY: New 1959, p. 23, Act 26, Eff. Mar. 19, 1960.

325.152 Tuberculosis sanatorium commission; transfer of staff, records, files and property to state health commissioner.

Sec. 2. All of the staff, records, files and other property, including property held in trust, belonging to the tuberculosis sanatorium commission shall be transferred to the state health commissioner and shall be continued as part of the staff, records, files and property of the state health commissioner.

HISTORY: New 1959, p. 23, Act 26, Eff. Mar. 19, 1960.

325.153 Tuberculosis sanatorium commission; transfer of hearings to state health commissioner; orders, rules and regulations, continuation.

Sec. 3. All hearings and proceedings of whatever matter now pending before the tuberculosis sanatorium commission shall not be abated, but shall be transferred to the state health commissioner, without notice to interested parties, and shall be conducted in the same manner and determined in accordance with the provisions of law concerning such hearings and proceedings. All orders, rules and regulations of the tuberculosis sanatorium commission shall continue in effect as though the transfer were not made, and to the extent applicable, they shall be binding upon the state health commissioner.

HISTORY: New 1959, p. 24, Act 26, Eff. Mar. 19, 1960.

325.154 Tuberculosis sanatorium commission; transfer of appropriation to state health commissioner.

Sec. 4. All appropriations and all other funds necessary to carry out the powers, duties and responsibilities of the tuberculosis sanatorium commission shall be transferred to the state health commissioner.

HISTORY: New 1959, p. 24, Act 26, Eff. Mar. 19, 1960.

325.155 Advisory council on tuberculosis sanatoriums; duties, membership, terms, meetings, vacancies.

Sec. 5. There is hereby created an advisory council on tuberculosis sanatoriums to consist of the 9 members who composed the tuberculosis sanatorium commission as of January 1, 1959. The council shall advise the state health commissioner on policy and programs relating to tuberculosis sanatoriums. The memberships, qualifications and terms of the advisory council shall be the same as those of the tuberculosis sanatorium commission as though such transfer were not made. The advisory council shall elect its own chairman. The chairman of the advisory council shall be an ex officio member of the state council of health with the right to vote. The advisory council shall meet at the call of the state health commissioner or at its own discretion, and in any case at least once a year. All vacancies occurring on the council shall be filled by appointment by the governor with the advice and consent of the senate.

HISTORY: New 1959, p. 24, Act 26, Eff. Mar. 19, 1960.

325.156 Tuberculosis sanatorium commission; services and functions, continuation.

Sec. 6. The tuberculosis sanatorium commission and the state health commissioner shall make all other arrangements as are necessary to provide for the uninterrupted conduct of the services and functions of government as prescribed by this act.

HISTORY: New 1959, p. 24, Act 26, Eff. Mar. 19, 1960.

325.157 Effective date of act.

Sec. 7. This act shall take effect on January 1, 1960.

HISTORY: New 1959, p. 24, Act 26, Eff. Mar. 19, 1960.

Act 41, 1959, p. 45; Eff. Mar. 19, 1960.

AN ACT to increase the membership of the state council of health; and to fix the effective date of this act.

The People of the State of Michigan enact:

325.161 State council of health; additional members; ex officio membership.

Sec. 1. The membership of the state council of health, as provided in sections 5 to 7 of Act No. 146 of the Public Acts of 1919, as amended, being sections 325.5 to 325.7 of

the Compiled Laws of 1948, is hereby increased from 5 to 9, plus ex officio members. The duties, members, qualifications and terms of the present membership of the state council of health shall remain the same. The chairman of the advisory council on hospitals, the chairman of the advisory council on alcoholism, if such advisory council is created, and the chairman of the advisory council of tuberculosis sanatoriums shall be ex officio members of the state council of health with the right to vote.

HISTORY: New 1959, p. 45, Act 41, Eff. Mar. 19, 1960.

325.162 State council of health; additional members, appointment.

Sec. 2. The 4 additional members shall be appointed by the governor, with the advice and consent of the senate, for the terms prescribed by law, except that in the first instance 1 shall be appointed for a term of 1 year, 1 for 3 years, 1 for 4 years, and 1 for 5 years. Appointment to the state council of health shall be made so that at no time will there be more than 5 members, excluding the ex officio members who are representative of the health profession.

HISTORY: New 1959, p. 45, Act 41, Eff. Mar. 19, 1960.

325.163 State council of health; duties, vacancies.

Sec. 3. The duties, responsibilities and functions of the state council of health shall continue as prescribed by law as though the increase were not made. All vacancies occurring on the council shall be filled by appointment by the governor, with the advice and consent of the senate.

HISTORY: New 1959, p. 45, Act 41, Eff. Mar. 19, 1960.

325.164 Effective date of act.

Sec. 4. This act shall take effect on January 1, 1960.

HISTORY: New 1959, p. 45, Act 41, Eff. Mar. 19, 1960.

Act 111, 1961, p. 124; Imd. Eff. May 26.

AN ACT to make appropriations to supplement former appropriations for certain state agencies and special purposes for the fiscal year ending June 30, 1961; and to declare the intent of this act.

The People of the State of Michigan enact:

325.175 Michigan state sanatorium at Howell; transfer to state department of mental health.

Sec. 5. The Michigan state sanatorium at Howell, established under Act No. 254 of the Public Acts of 1905, and transferred to the state health commissioner by Act No. 26 of the Public Acts of 1959, is hereby transferred to the state department of mental health.

All of the personnel of the Michigan state sanatorium at Howell, together with the equipment and supplies in the institution not needed for tuberculosis control, care and treatment, is hereby also transferred to the state department of mental health.

All moneys appropriated to the state health commissioner and specifically allotted for the operation and remodeling of the Michigan state sanatorium by the state health commissioner and approved by the state administrative board and remaining as of the effective date of this act are hereby transferred to the state department of mental health for operation and remodeling of Howell state hospital and remodeling of Ionia state hospital.

There is also hereby appropriated from the balances remaining in the appropriations for 1960-61 to the department of health for the administration and operation of the 4 state sanatoria and to the department of mental health for administration and opera-

tions an amount not to exceed \$160,000.00, for fire protection measures at Howell state hospital.

The state health commissioner, after consultation with the director of the department of mental health, is specifically authorized to remove all files and records pertaining to tuberculosis patients and such equipment and supplies as are for the specific purpose of tuberculosis control, care and treatment.

It shall be the duty of the state health commissioner and the director of the state department of mental health to make such other arrangements as are needed to implement this act and to provide for the uninterrupted conduct of the services and functions of governments.

HISTORY: New 1961, p. 129, Act 111, Imd. Eff. May 26.

Act 346, 1968, p. 668; Imd. Eff. Jul. 19.

AN ACT to prohibit a state department, board, commission or agency from authorizing the addition of fluoride to public drinking water; and to require fluoridation of public drinking water in certain cases.

The People of the State of Michigan enact:

325.191 Fluoridation of water; nonauthorized by state department.

Sec. 1. A state department, board, commission or agency shall not have the authority to order any county, city, township or village or any combination thereof supplying water to the public, which may be consumed by humans, to add fluoride.

HISTORY: New 1968, p. 668, Act 346, Imd. Eff. Jul. 19.

325.192 Public water supply; fluoridation; referendum.

Sec. 2. Every county, city, township or village or any combination thereof supplying water to the public, to which water fluoride is not presently added and which may be consumed by humans, shall add fluoride to such water, in a manner and amount to be prescribed by the department of public health, within 5 years after the effective date of this act, unless such addition of fluoride shall have been rejected by an ordinance of the local governing body or by a majority of the electors of such county, city, township or village voting thereon. The question shall be submitted to such electors upon a petition filed with the clerk of the local government and signed by a number of the registered and qualified electors of the local government not less than 5% of the total number of votes cast for all candidates for the office of secretary of state at the last general election held for such purpose.

HISTORY: New 1968, p. 668, Act 346, Imd. Eff. Jul. 19.

Act 98, 1913, p. 143; Eff. Aug. 14.

AN ACT providing for the supervision and control by the state health commissioner over waterworks systems and sewerage systems, for the submission of plans and specifications for waterworks and/or sewerage systems and the issuance of construction permits therefor, for the supervision and control of such systems, for the classifying of water treatment plants, and sewage treatment works, for the examination, certification, and regulation of persons in charge of such water treatment plants and sewage treatment works, and providing penalties and defining liabilities for violations of this act. Am. 1941, p. 392, Act 239, Eff. Jan. 10, 1942;—Am. 1949, p. 248, Act 219, Eff. Sep. 23.

The People of the State of Michigan enact:

325.201 Waterworks and sewerage systems; control by state health commissioner; governmental agencies, definition.

Sec. 1. The state health commissioner is hereby given supervisory and visitorial power and control as limited in this act over all cities, villages, townships, counties and other governmental agencies, corporations both municipal and private, associations, partnerships and individuals engaged in furnishing water to the public for household or drinking purposes, and/or engaged in furnishing sewerage and/or sewage treatment service, or both, and over the plants and systems owned and operated by such cities, villages, townships, counties and other governmental agencies, corporations, associations, partnerships or individuals. The words "governmental agencies" as hereinafter used in this act shall be taken to mean and include cities, villages, townships, counties, metropolitan districts, or other units of government or the officers thereof now or hereafter authorized to own, construct and/or operate waterworks and/or sewerage systems to serve the public.

HISTORY: CL 1915, 5024;—CL 1929, 6662;—CL 1948, 325.201;—Am. 1949, p. 248, Act 219, Eff. Sep. 23.

CITED IN OTHER SECTIONS: Sections 325.201 to 325.214 are cited in §§ 319.236, 323.320, and 560.102.

325.202 State health commissioner, agents and representatives; inspection powers; waterworks system and sewerage system, definitions.

Sec. 2. The state health commissioner, his agents and representatives, shall have the power and authority to enter upon, at all reasonable times, the waterworks systems or sewerage systems, and other property of such governmental agencies, corporations, associations, partnerships or individuals, for the purpose of inspecting the same and carrying out the authority vested in him by this act. For the purpose of this act:

A waterworks system shall be defined as the system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water to the public for household or drinking purposes.

A sewerage system shall be defined as a system of pipes and structures including pipes, channels, conduits, manholes, pumping stations, sewage or waste treatment works, diversion and regulatory devices, outfall structures, and appurtenances, collectively or severally, actually used or intended for use by the public for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or other industrial liquid wastes of such a nature as to be capable of adversely affecting the public health.

HISTORY: CL 1915, 5025;—CL 1929, 6663;—CL 1948, 325.202;—Am. 1949, p. 248, Act 219, Eff. Sep. 23.

325.203 Waterworks, sewerage and filtration plants; rules and regulations; examination of operators; orders to cleanse; sewage treatment works, classification.

Sec. 3. (a) The state health commissioner shall have authority to make and enforce such rules and regulations as he may deem necessary, governing and providing a method of conducting and operating the entire or any part of the systems of waterworks, including the filtration plants, owned or operated by such governmental agencies, corporations, associations, partnerships or individuals. The state health commissioner shall classify water treatment plants with due regard to the size, type, location, and other physical conditions affecting such plants and according to the skill, knowledge, experience, and character that the person in active operating charge must have to successfully operate said plants and to maintain the public health. The state health commissioner shall examine persons as to their qualifications to operate such plants and issue and revoke certificates for such persons, adopt rules and regulations regard-

ing the classification of such plants and the examinations for certificates for the operators of such plants and for the issuance and revocation of such certificates. Every water treatment plant subject to the provisions of this act shall, within 30 days after the effective date of this act or within such longer period as the state health commissioner shall prescribe, be under the supervision of a properly certified operator: Provided, however, That nothing herein contained shall prevent such governmental agencies, corporations, associations, partnerships and individuals from continuing to employ in such capacity any person now in responsible charge of the operation of a water treatment plant, as provided in this section. And said state health commissioner shall, in addition to the other powers herein vested in him, whenever he shall deem it necessary for the protection of health, have authority to direct such governmental agencies, corporations, associations, partnerships or individuals operating waterworks systems to cleanse any portion of such systems, to make such structural changes in existing systems as may be necessary to produce pure and wholesome water, and to operate the same in such manner as to furnish a pure and wholesome water.

(b) The state health commissioner shall have authority to make and enforce such rules and regulations as he may deem necessary governing and providing a method of conducting and operating the entire or any part of sewerage systems including sewage treatment works, owned or operated by such governmental agencies, corporations, associations, partnerships or individuals. The state health commissioner shall classify sewage treatment works with due regard to size, type, location and other physical conditions affecting such works and according to the skill, knowledge, experience and character that the person in active operating charge must have to successfully operate said works, so as to prevent the discharge therefrom of deleterious matter capable of being injurious to the health of the people, or to other public interests. The state health commissioner shall examine persons or cause them to be examined as to their qualifications to operate such works. He shall with the concurrence of the state council of health make and declare rules and regulations regarding the classification of such works, the examinations for certification of operators for such works and the issuance and revocation of such certificates, and shall issue and revoke certificates in accordance therewith. Every sewage treatment works subject to the provisions of this act shall within 30 days after the effective date of this act, or within such longer periods as the state health commissioner shall prescribe, be under the supervision of a properly certified operator: Provided, however, That nothing herein contained shall prevent governmental agencies, corporations, partnerships and individuals from continuing to employ in such capacity any persons now in responsible charge of the operation of a sewage treatment works: And provided further, That nothing herein contained shall require the employment of a certified operator in a waste treatment works receiving exclusively wastes not potentially prejudicial to the public health.

HISTORY: CL 1915, 5026;—CL 1929, 6664;—Am. 1941, p. 362, Act 239, Eff. Jan. 10, 1942;—CL 1948, 325.203;—Am. 1949, p. 248, Act 219, Eff. Sep. 23.

325.204 Contaminated water; investigation, examination, evidence.

Sec. 4. Whenever the mayor of a city, president of a village, supervisor of a township, health officer or representative of the state health commissioner has reason to believe that the water furnished by any governmental agency, corporation, association, partnership or individual is contaminated, then it shall be the duty of the state health commissioner, upon the request of such officer, to investigate the same and to determine by laboratory analysis the condition of said water, and the certificate of the state bacteriologist showing result of such analysis shall be prima facie evidence of the matters stated in such certificate and also as to the source of the water and the time and place of taking, and of all matters that may be stated in said certificate.

HISTORY: CL 1915, 5027;—CL 1929, 6665;—CL 1948, 325.204;—Am. 1949, p. 249, Act 219, Eff. Sep. 23.

325.205 Contaminated water; expenses of investigation, payment.

Sec. 5. The expenses of the investigation and analysis made by the state health commissioner shall be borne by the locality, and shall be paid for at the rate of \$10.00 per day and necessary traveling expenses not to exceed \$15.00 while making such investigation and analysis, and shall constitute a charge against the governmental agency, corporation, association, partnership or individual owning or operating the water system, when such investigation reveals conditions dangerous to the public health and contrary to the established regulations; the said per diem to be deposited with the state treasury and placed in the general fund.

HISTORY: 1915, 5028;—CL 1929, 6866;—CL 1948, 325.205;—Am. 1949, p. 250, Act 219, Eff. Sep. 23.

325.206 Waterworks and sewerage systems; plans and specification, contents, certification, filing; permit for construction; rules and regulations; misdemeanor.

Sec. 6. It shall be the duty of the mayor of each city, the president of each village, the township supervisor, the responsible executive officer of any governmental agency, and of all corporations, associations, partnerships or individuals now or hereafter operating waterworks or sewerage systems in this state, to file with the state health commissioner a true and correct copy of the plans and specifications of the entire system owned or operated by such governmental agency, corporation, association, partnership or individual, including such filtration or other purification plant or treatment works as may be operated by them in connection therewith, and also plans and specifications of all alterations, additions or improvements to such systems which may be made from time to time. The plans and specifications herein referred to shall, in addition to all other things, show all the sources through or from which water is or may be at any time pumped or otherwise permitted or caused to enter into such system, and such drain, water course, river or lake into which sewage is to be discharged. Such plans and specifications shall be certified by the mayor and city engineer of city corporations, by the president and engineer, if one is employed, for village corporations, and by such proper officer and the engineer employed by any other governmental agency, association or a private corporation for the governmental agency, association, or private corporations, and by some individual member of a partnership, or by the individual owner in case of a waterworks or sewerage system owned and operated by partnerships or individuals, including the engineer employed, if any. Before commencing the construction of any waterworks system, sewerage system, filtration or other purification plant or treatment works or any alteration, addition or improvement to such system or plant which may be undertaken from time to time, it shall be the duty of the mayor of each city, the president of each village and the responsible official of all other governmental agencies, associations, private corporations, and partnerships or individuals to submit the plans and specifications of the same to the state health commissioner and secure from the said state health commissioner a permit for the construction of the same. The state health commissioner with the concurrence of the advisory council of health may make and enforce rules and regulations regarding the preparation and submission of such plans and specifications and for the issuance and period of validity of construction permits for such work. It shall be unlawful for any contractor, builder, governmental agency, corporation, association, partnership or individual to engage in or commence the construction of any waterworks system, sewerage system, filtration or other purification plant or treatment works or any alteration, addition or improvement thereto until a valid permit for the construction of the same has been secured from the state health commissioner. It shall be unlawful for any official of the governmental agency, corporation, association, or partnership, or for any individual to issue any voucher, check or in any other way expend moneys of the govern-

mental agency, corporation, association, partnership or individual for such construction unless a valid permit for the same, issued by the state health commissioner, is in effect. Any municipal officer, officer or agent of a governmental agency, corporation, association, partnership, or individual who shall permit or allow construction to proceed without such valid permit, or in a manner not in accordance with the plans and specifications approved by the state health commissioner, shall be guilty of a misdemeanor.

HISTORY: CL 1915, 5029;—CL 1929, 6667;—Am. 1931, p. 192, Act 123, Eff. Sep. 18;—Am. 1937, p. 121, Act 89, Eff. Oct. 29;—CL 1948, 325.206;—Am. 1949, p. 250, Act 219, Eff. Sep. 23.

325.207 Plans and specifications; definition.

Sec. 7. The words "plans and specifications" as used in this act shall be construed to mean a true description or representation of the entire systems, or parts thereof, proposed or operated by such governmental agency, corporation, association, partnership or individual, as the same exists or is to be constructed, and also a full and fair statement of how the same is to be operated.

HISTORY: CL 1915, 5030;—CL 1929, 6668;—Am. 1931, p. 193, Act 123, Eff. Sep. 18;—CL 1948, 325.207;—Am. 1949, p. 251, Act 219, Eff. Sep. 23.

325.208 Water and sewerage treatment works; reports; perjury, penalty.

Sec. 8. In case of governmental agencies, corporations, associations, partnerships, or individuals operating water treatment plants or sewage treatment works, it shall be the duty of such governmental agencies, corporations, associations, partnerships or individuals to file with the state health commissioner such reports under oath as may be required from time to time. Such reports shall be sworn to by responsible officer or person acquainted with the facts and employed by such governmental agency, corporation, association, partnership or individual at the time of making said report. Any person making a false statement in such report shall be deemed guilty of and subject to the penalty of perjury.

HISTORY: CL 1915, 5031;—CL 1929, 6669;—Am. 1931, p. 193, Act 123, Eff. Sep. 18;—CL 1948, 325.208;—Am. 1949, p. 251, Act 219, Eff. Sep. 23.

325.209 Repealed. 1949, p. 252, Act 219, Eff. Sep. 23.

Section imposed penalty for violation of waterworks and sewage disposal act.

325.210 Inspection; state health commissioner; recommendations and orders.

Sec. 10. It shall be the duty of the state health commissioner on receipt of the plans and specifications of such waterworks and sewerage systems to inspect the same with reference to their adequacy to protect the public health, and if the public water supply of any such city or village is impure and dangerous to individuals or to the public generally, it shall be his further duty to inspect the said waterworks or sewerage systems or any parts thereof and the manner of operation. If upon such inspection he finds said plans and specifications or the waterworks or sewerage systems to be inadequate or so operated as not to adequately protect the public health he may order the governmental agency, corporation, association, partnership or individual owning and/or operating the same to make such alterations in such plans and specifications or in such waterworks or sewerage systems or the method of operation thereof as may be required or advisable in his opinion, in order that the water supply may be healthful and free of pollution and the sewage not potentially prejudicial to the public health. Such recommendations or orders of the state health commissioner shall be served in writing upon such governmental agencies, corporations, associations, partnerships or individuals, and it shall thereupon be the duty of such governmental agencies, corporations, associations, partnerships or individuals to comply with such recommendations or orders.

HISTORY: CL 1915, 5033;—CL 1929, 6671;—CL 1948, 325.210;—Am. 1949, p. 251, Act 219, Eff. Sep. 23.

325.211 Sewerage system; planning; construction and operation; counsel with governmental agencies; stream control commission, agent; corporation.

Sec. 11. The state health commissioner shall exercise due care to see that sewerage systems are properly planned, constructed and operated so as to prevent unlawful pollution of the streams, lakes and other water resources of the state. He shall counsel with governmental agencies, corporations, associations, partnerships and individuals owning and/or operating sewerage systems or any parts thereof when disputes between public agencies over sewerage service or sewage treatment rates occur and may act as arbitrator in such cases when called upon so to do by a majority of the parties to the controversy. He shall act as agent for the stream control commission when requested so to do. He shall cooperate with appropriate federal or state agencies in the determination of grants of assistance for the preparation of plans and/or for the construction of waterworks systems, sewerage systems or waste treatment projects.

HISTORY: CL 1915, 5034;—Am. 1921, p. 730, Act 398, Eff. Aug. 18;—CL 1929, 6672;—CL 1948, 325.211;—Am. 1949, p. 251, Act 219, Eff. Sep. 23.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

325.212 Engineers and other assistants; appointment.

Sec. 12. The state health commissioner is hereby authorized and empowered to employ engineers, and such other assistants as may be necessary, to administer the provisions of this act.

HISTORY: CL 1915, 5035;—CL 1929, 6673;—Am. 1933, p. 57, Act 60, Imd. Eff. Apr. 14;—CL 1948, 325.212;—Am. 1949, p. 252, Act 219, Eff. Sep. 23.

325.213 Violation of act; penalty, prosecution.

Sec. 13. Any person found guilty of violating any of the provisions of this act, or any written order of the state health commissioner, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25.00 nor more than \$100.00, and costs of prosecution, or by imprisonment in the county jail not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purpose of this act. It shall be the duty of the attorney general to take care of and prosecute all cases arising under the provisions of this act, including the recovery of penalties.

HISTORY: CL 1915, 5036;—Am. 1921, p. 730, Act 398, Eff. Aug. 18;—CL 1929, 6674;—CL 1948, 325.213;—Am. 1949, p. 252, Act 219, Eff. Sep. 23.

Sec. 13 of this act as originally enacted read as follows: "Act number twenty-eight of the public acts of nineteen hundred nine is hereby repealed."

325.214 State health commissioner; actions.

Sec. 14. The state health commissioner shall be authorized to bring any appropriate action in the name of the people of the state of Michigan, either at law or in chancery, as may be necessary to carry out the provisions of this act and to enforce any and all laws, rules and regulations relating to the provisions of this act.

HISTORY: Add. 1949, p. 252, Act 219, Eff. Sep. 23.

Act 294, 1965, p. 566; Eff. Mar. 31, 1966.

AN ACT to protect the public health; to regulate the drilling of water wells and the installation of well pumps; to register and regulate water well drillers and well pump installers; to provide drilling records for the department of conservation; to prescribe the powers and duties of the state health commissioner; to create an advisory board; to prescribe penalties for violations of this act; and to provide an appropriation therefor.

The People of the State of Michigan enact:

325.221 Water wells and well pumps; definitions.

Sec. 1. As used in this act:

- (a) "Commissioner" means the state health commissioner.
- (b) "Health department" means a district, county or city health department authorized by the commissioner to enforce this act and the rules, regulations and construction code adopted under this act.
- (c) "Well" means an opening in the surface of the earth for the purpose of removing fresh water or a test well, recharge well or waste disposal well.
- (d) "Well drilling contractor" means an individual, firm, partnership or corporation qualified to engage in well construction and pump installation, who supervises the construction of water wells and the installation of pumps, and owns, rents or leases equipment used in the construction of water wells.
- (e) "Pump" means a mechanical equipment or device used to remove water from a well.
- (f) "Pump installer" means a person who is qualified to engage in the installation, removal, alteration or repair of water well pumping equipment in connection with any water well.

HISTORY: New 1965, p. 567, Act 294, Eff. Mar. 31, 1966.

CITED IN OTHER SECTIONS: Sections 325.221 to 325.240 are cited in § 319.236.

325.222 Water wells and well pumps; exemption from act.

Sec. 2. A well, pump or other equipment used for the relief of artesian pressure at hydroelectric projects, or used temporarily for dewatering purposes during construction, or for use associated with the drilling of oil, gas, or brine wells, is excepted from this act.

HISTORY: New 1965, p. 567, Act 294, Eff. Mar. 31, 1966.

325.223 Wells for single family house or farms; exemption from act; drilling record.

Sec. 3. Nothing in this act shall prevent a person from constructing a well or installing a pump on his own or leased property intended for use only in a single family house which is his permanent residence, or intended for use only for farming purposes on his farm, and where the waters to be produced are not intended for use by the public or in any residence other than his own. Such person shall submit the drilling record required by section 11 and comply with any rule, regulation or construction code adopted under this act.

HISTORY: New 1965, p. 567, Act 294, Eff. Mar. 31, 1966.

325.224 Master plumbers; exemption from act.

Sec. 4. This act shall not restrict a master plumber licensed under the provisions of Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Compiled Laws of 1948, from engaging in his legally recognized trade. A licensed master plumber may perform the work of a pump installer prescribed in this act, or rules, regulations and construction code adopted under this act without a certificate of registration as a pump installer under this act.

HISTORY: New 1965, p. 567, Act 294, Eff. Mar. 31, 1966.

325.225 Well drilling contractor or well pump installer; certificate of registration; fees, initial and annual.

Sec. 5. After May 1, 1966 a person, before engaging in the business of well drilling or pump installing, shall obtain a certificate of registration annually as a well drilling contractor or pump installer, using an application blank prepared by the commissioner. The applicant shall pay a registration fee with his application as follows: The

initial registration fee and the annual renewal registration fee for a well drilling contractor is \$40.00 and for a pump installer is \$25.00. A well drilling contractor shall pay an additional annual fee of \$10.00 for each additional drilling machine. A registered well drilling contractor may do any of the work of a pump installer without payment of the fee for a pump installer.

HISTORY: New 1965, p. 567, Act 294, Eff. Mar. 31, 1966.

325.226 Certificates of registration; issuance by commissioner; conditions.

Sec. 6. The commissioner shall issue certificates of registration for well drilling contractors and pump installers who meet the requirements of this act. A certificate of registration is not transferable and expires on April 30 of each year. After July 1 of each year a certificate of registration may be renewed only upon application for renewal and payment of a fee of \$5.00 in addition to the regular registration fee.

HISTORY: New 1965, p. 567, Act 294, Eff. Mar. 31, 1966.

325.227 Registration; without and with examination.

Sec. 7. Until May 1, 1967, a well drilling contractor or pump installer with 2 years of experience in the work shall be registered without examination. Thereafter a new applicant for a certificate of registration shall be examined in accordance with rules, regulations and construction code adopted under this act. The advisory board created by section 15 shall determine and advise the commissioner as to the eligibility of any well drilling contractor or pump installer for registration. A well drilling contractor or pump installer which is a firm, partnership or corporation shall designate at least 1 partner, officer or responsible full-time employee to take the examination on its behalf.

HISTORY: New 1965, p. 568, Act 294, Eff. Mar. 31, 1966.

325.228 Certificate of registration; reciprocity.

Sec. 8. The commissioner, upon application therefor and payment of the fees provided in section 5, may issue a certificate of registration as a well drilling contractor or a pump installer to any person who holds a similar certificate of registration in any state, territory or possession of the United States, or any foreign country, if the requirements for the registration of a well drilling contractor and pump installer under which the certificate of registration was issued do not conflict with the provisions of this act, are of a standard not lower than that specified by rules, regulations and construction code adopted under this act, and if equal reciprocal privileges are granted to a registrant of this state.

HISTORY: New 1965, p. 568, Act 294, Eff. Mar. 31, 1966.

325.229 Governmental units; registration, fees, exemption.

Sec. 9. A county, city, village, township or other governmental unit engaged in well drilling or pump installing shall be registered under this act, but shall be exempt from paying the registration fees if the drilling or installing is done by regular employees of, and with equipment owned by, the governmental unit and the work is on wells or pumps intended for use by the governmental unit.

HISTORY: New 1965, p. 568, Act 294, Eff. Mar. 31, 1966.

325.230 Registration number; posting on drilling machine, seal.

Sec. 10. A well drilling contractor shall place in a conspicuous location on both sides of his well drilling machine his registration number in letters not less than 2 inches high. A seal furnished by the commissioner designating the year the certificate of registration was issued or renewed and the words "Michigan registered water well drilling contractor" shall be affixed directly adjacent to the registration number.

HISTORY: New 1965, p. 568, Act 294, Eff. Mar. 31, 1966.

325.231 Completion of wells; records, contents.

Sec. 11. Within 60 days after the completion of a well, a well drilling contractor shall provide the owner with a copy and the commissioner, or health department, with 2 copies of a record indicating the well owner's name, location of the well, well depth, geologic materials and thicknesses of materials penetrated, amount of casing, static water levels and any other information which may be required by the rules, regulations and construction code adopted under this act. The commissioner or health department shall send 1 copy of the record to the director of conservation within 30 days after its receipt from the well drilling contractor. Standard forms for the record shall be provided by the commissioner or the contractor's forms may be used if approved by the commissioner. A record for a drive point well where no earth materials are removed from the well bore is sufficient if the owner's name, well location, depth, casing static water level and screen data are indicated.

HISTORY: New 1965, p. 568, Act 294, Eff. Mar. 31, 1966.

325.232 State health commissioner; right of entry and inspection.

Sec. 12. The commissioner or health department may enter and inspect, at reasonable hours, on public or private property, any installation for the development of ground water supplies.

HISTORY: New 1965, p. 568, Act 294, Eff. Mar. 31, 1966.

325.233 Investigation of violations; order for correction.

Sec. 13. When the commissioner or health department determines that there are reasonable grounds to believe there has been a violation of this act or any rule, regulation or construction code adopted under this act, he or the health department shall investigate the violation. If the commissioner or health department establishes that a violation has been committed, he or the health department shall order the responsible person to make the proper corrections.

HISTORY: New 1965, p. 569, Act 294, Eff. Mar. 31, 1966.

325.234 Violation of act; notice of suspension, hearing.

Sec. 14. When the commissioner finds that the holder of a certificate of registration has engaged in practices that are in violation of this act or any rule, regulation, construction code or order issued pursuant to this act, the commissioner may give notice in writing to the holder of the certificate of registration that his certificate of registration has been suspended. A person who has received notice from the commissioner that his certificate of registration has been suspended shall be granted upon his request a hearing before the commissioner or his authorized representative. If a petition for a hearing is not filed within 30 days after the day on which the certificate of registration was suspended, the certificate of registration is automatically revoked.

HISTORY: New 1965, p. 569, Act 294, Eff. Mar. 31, 1966.

325.235 Advisory board; membership, qualifications, appointment.

Sec. 15. An advisory board of 9 members is created composed of the following: 5 members who are residents of this state registered under the provisions of this act, at least 4 of whom are well drilling contractors, and who shall be appointed by the governor with the advice and consent of the senate; an employee of the division of engineering of the state department of health and a representative of a health department, each to be appointed by the commissioner; an employee of the geological survey section of the department of conservation appointed by the director of conservation; and an employee of the water resources commission appointed by the executive secretary of the water resources commission. Of 4 well drilling contractors 1 shall be from each of 4 geographic regions. Region 1: The Upper Peninsula; region 2: That part of the Lower Peninsula bordered on the south by Oceana, Newaygo, Mecosta, Isabella, Midland and Bay counties and the area north of such counties; region 3: The area bor-

dered on the north and west by Huron, Tuscola, Saginaw, Shiawassee, Livingston, Washtenaw and Lenawee counties and the area south and east of such counties; region 4: The area bordered on the east and north by Hillsdale, Jackson, Ingham, Clinton, Gratiot, Montcalm, Kent and Muskegon counties and the area south and west of such counties.

HISTORY: New 1965, p. 569, Act 294, Eff. Mar. 31, 1966.

325.236 Advisory board; terms, vacancies.

Sec. 16. Each member of the board shall be appointed for a 3-year term. The terms of the 5 members registered under this act shall alternate so that not more than 2 are appointed each year, except that at the first appointment 1 shall be appointed for 1 year and 2 each shall be appointed for 2 and 3 years. The member from the state department of health shall be appointed for 3 years. The terms of the members representing the department of conservation, the water resources commission, and the health department shall alternate so that only 1 is appointed each year, except that at the first appointment 1 member shall be appointed for 1 year, 1 for 2 years and 1 for 3 years. Vacancies shall be filled by appointment for the unexpired terms by the respective officials designated in section 15.

HISTORY: New 1965, p. 569, Act 294, Eff. Mar. 31, 1966.

325.237 Advisory board; meetings, compensation, expenses.

Sec. 17. The members of the advisory board, as soon as appointed, shall organize and elect from their number a chairman. Thereafter, annually when new members are appointed to the board, a chairman shall be elected at the next board meeting. The member from the state department of health shall be the secretary of the board. The board shall hold at least 1 meeting each year for the purpose of examining candidates for registration. Additional meetings may be called by the chairman or commissioner as may be reasonably necessary to carry out the provisions of this act. Five members shall constitute a quorum. The members of the board shall be reimbursed for their actual and necessary expenses incurred while performing their official duties. The members of the board registered under the provisions of this act shall be compensated in the amount of \$25.00 for each meeting attended. No more than \$600.00 per year shall be paid to each member as compensation for attendance at meetings.

HISTORY: New 1965, p. 569, Act 294, Eff. Mar. 31, 1966.

325.238 Rules and regulations; promulgation by commissioner.

Sec. 18. The commissioner, with the advice of the advisory board and with the concurrence of the state council of health and in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, shall make such rules, regulations and construction code as are reasonably necessary to carry out the intent of this act. The rules, regulations and construction code shall include, but are not limited to, provisions for qualifications and examination of well drilling contractors and pump installers, standards for the construction and installation of developments of ground water supplies, abandonment of wells, and for the administration of this act.

HISTORY: New 1965, p. 570, Act 294, Eff. Mar. 31, 1966.

325.239 Violation of act; penalty.

Sec. 19. Any person who is convicted of a violation of any provision of this act or any rule, regulation or construction code adopted under this act or any order of the commissioner or health department is guilty of a misdemeanor.

HISTORY: New 1965, p. 570, Act 294, Eff. Mar. 31, 1966.

325.240 Appropriation; expenditures.

Sec. 20. There is hereby appropriated from the general fund the sum of \$30,000.00 for the year ending June 30, 1966 to be used to enforce the provisions of this act. It is the intent of the legislature that the expenditures shall not exceed 75% of the revenue collected under the provision of this act.

HISTORY: New 1965, p. 570, Act 294, Eff. Mar. 31, 1966.

Act 136, 1881, p. 122; Eff. Sep. 10.

AN ACT to enlarge the powers of boards of health of townships and villages in certain cases.

The People of the State of Michigan enact:

325.251 Privies; local board, rules; abatement of nuisance.

Sec. 1. That boards of health in townships and villages are hereby empowered to make such rules and regulations in relation to the care and cleansing of privies and water-closets within such townships or villages as they may deem desirable for the preservation of the health of any of the inhabitants thereof, or such boards may declare any such privy or water-closet a nuisance and the abatement thereof be by them ordered and enforced.

HISTORY: How. 1686;—CL 1897, 4466;—CL 1915, 5097;—CL 1929, 6675;—CL 1948, 325.251.

OUTHOUSES: See Compilers' § 325.271-325.274.

325.252 Violation of act; penalty.

Sec. 2. Any violation of any rule or requirement of such board under this act shall be deemed to be a misdemeanor, and shall be punished by a fine not more than 10 dollars or imprisonment in the county jail not more than 10 days, or both such fine and imprisonment, in the discretion of the court.

HISTORY: How. 1686;—CL 1897, 4467;—CL 1915, 5096;—CL 1929, 6676;—CL 1948, 325.252.

This section was given no separate number in Howell's Compilation.

Act 273, 1939, p. 502; Eff. Sep. 29.

AN ACT to protect the public health; to regulate the storage and disposition of sewage; to empower the state commissioner of health to make rules in regard thereto; and to prescribe penalties for the violation of the provisions of this act and said rules.

The People of the State of Michigan enact:

325.271 Outhouses; definition; prohibited unless sanitary.

Sec. 1. It is hereby declared to be unlawful for any person, firm, association or corporation to maintain, or to permit to be maintained, on premises owned or controlled by such person any outhouse unless the same shall be kept at all times in a sanitary condition, and constructed and maintained in such manner as not to injure or endanger the public health. The term "outhouse" as used herein shall be construed to mean a building or other structure not connected with a sewerage system or with properly installed and operated sewage disposal system, and which is used for the reception, disposition or storage, either temporarily or permanently, of feces or other excreta from the human body.

HISTORY: CL 1948, 325.271.

OUTHOUSES: See Compilers' § 325.251.

325.272 Outhouses; rules and regulations, publication.

Sec. 2. It shall be the duty of the state commissioner of health of this state, with the approval of the advisory council of health, to make and declare proper rules and regulations with reference to the construction and maintenance of outhouses as defined in the preceding section, to the end that the public health shall be safeguarded by preventing the spread of disease and the existence of sources of contamination. Such rules and regulations shall be published in the manner provided by section 7 of Act No. 146 of the Public Acts of 1919, being section 6452 of the Compiled Laws of 1929, for the publication of rules and regulations adopted thereunder.

HISTORY: CL 1948, 325.272.

NOTE: Sec. 7, Act 146, 1919, above referred to, is Compilers' § 325.7.

325.273 Violation of act; misdemeanor; abatement of nuisance.

Sec. 3. Any person violating this act shall be guilty of a misdemeanor. Any outhouse not constructed or maintained as required by the provisions of this act, or by the rules and regulations of the state commissioner of health provided for in section 2, shall be deemed to be a public nuisance, and injunction proceedings to restrain the further maintenance or use thereof are hereby expressly authorized.

HISTORY: CL 1948, 325.273;—Am. 1957, p. 56, Act 50, Eff. Sep. 27.

325.274 Exemption of certain outhouses; location.

Sec. 4. Nothing herein contained shall apply to any outhouse located outside the corporate limits of any city or village, which is more than 200 yards from a residence other than the residence the outhouse serves, or more than 200 yards of any store, restaurant or other place where food, milk or drink is served, stored or prepared for human consumption, or more than 200 yards of any building used for public lodging or place where drinking water is offered to the traveling public, or more than 200 yards of a public gathering place.

HISTORY: CL 1948, 325.274.

Act 243, 1951, p. 359; Eff. Sep. 28.

AN ACT to prevent the spread of infectious and contagious diseases; to require persons engaged in servicing and cleaning of septic tanks, seepage pits or cesspools to be licensed and bonded by the commissioner of health; to require solicitors who act on behalf of such persons to be licensed; to provide for the inspection and licensing of vehicles; to provide for the control of dumping of wastes; and to provide penalties for the violation of this act. Am. 1967, p. 95, Act 77, Imd. Eff. Jun. 21.

The People of the State of Michigan enact:

325.281 Septic tank servicing; definitions.

Sec. 1. As used in this act:

- (a) "Commissioner" means the director of public health. The initials "M.D.H." mean the state department of public health.
- (b) "Tank" means any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool or seepage pit.
- (c) "Septic tank" means a septic toilet, chemical closet and any other water tight enclosure used for storage and decomposition of human excrement and domestic wastes.
- (d) "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank.
- (e) "Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil.

(f) "Servicing" and "maintaining" means cleaning and removing wastes from the septic tank, seepage pit or cesspool, and recovering the same as before being exposed for cleaning.

(g) "Person" means any individual, partnership, firm, association, corporation or person carrying on a business under an assumed name.

(h) "Resident" means any person who has actually resided in the state for the 6 consecutive months immediately preceding date of application for license. Ownership of property in state is not qualification for residency.

(i) "Solicitor" means all persons who procure or solicit directly or indirectly customers for the services of a person who engages in or carries on a business of servicing or maintaining, septic tanks, seepage pits or cesspools.

HISTORY: New 1951, p. 359, Act 243, Eff. Sep. 28;—Am. 1957, p. 49, Act 42, Eff. Sep. 27;—Am. 1967, p. 95, Act 77, Imd. Eff. Jun. 21.

325.282 Septic tank servicing; license, bond.

Sec. 2. No person shall engage in or carry on the business of servicing or maintaining septic tanks, seepage pits or cesspools within the state or act as a solicitor for such business unless duly licensed. Any person who engages in or carries on the business shall be bonded as provided in this act.

HISTORY: New 1951, p. 359, Act 243, Eff. Sep. 28;—Am. 1957, p. 95, Act 77, Imd. Eff. Jun. 21.

325.283 Septic tank servicing; license, application, filing, content, fee, term, bond; solicitor's license; fee.

Sec. 3. Each person engaged in the business shall file an application directly with the commissioner, or through his authorized representatives in city, county or district health departments, to be forwarded to the commissioner with such information as he may require. The application shall state the nature of the business, the post office address of the applicant, and the post office address at or from which the business is to be continued. If the applicant shall operate a branch or other places of business, the application shall so state. The application shall state any additional information as the commissioner may require. The application shall be accompanied by a license fee of \$25.00, payable to the state of Michigan, and if the commissioner, after such investigation as he deems necessary, is satisfied that the applicant has the qualifications, experience, reputation and equipment to perform the services in a manner not detrimental to public health, he shall issue a license for the business. The application shall be made to the commissioner prior to March 1 of each year, and shall be accompanied by a surety bond covering the period for which the license shall be issued by a surety company registered in the state, to indemnify persons for whom service and maintenance work is performed, if faulty; or with such sureties, form and sufficiency as shall be approved by the commissioner. Such bonds shall be \$1,000.00 for residents of the state and \$5,000.00 for nonresidents. The commissioner shall be the obligee, and the bond shall be for the benefit and purpose to protect all persons damaged by faulty workmanship in the servicing or maintaining of septic tanks, cesspools or seepage pits, and shall guarantee the appearance of the licensee to answer any warrant within 30 days of notice to the bonding company of the issuance of such warrant. Such bonds shall be conditioned upon the performance of the services in a workmanlike and hygienic manner. The application for a solicitor who acts on behalf of such business shall be made to the commissioner prior to March 1 of each year and shall be accompanied by a license fee of \$25.00, payable to the state of Michigan, but need not be accompanied by a surety bond.

HISTORY: New 1951, p. 359, Act 243, Eff. Sep. 28;—Am. 1957, p. 50, Act 42, Eff. Sep. 27;—Am. 1967, p. 95, Act 77, Imd. Eff. Jun. 21.

325.284 Vehicles carrying waste; license, application, content, fees, terms, lettering.

Sec. 4. All trucks or other vehicles used to transport or carry wastes from septic tanks, cesspools or seepage pits shall carry a license by the commissioner for inspection by his representative or any law enforcement agent. The application for such vehicle license shall be made prior to March 1 of each year, and shall state the make, model and year of such vehicle, as well as the capacity of the tank used in the removal of waste from septic tanks, cesspools and seepage pits, and also such other information as the commissioner shall require. Each application shall be accompanied by a license fee of \$10.00 for each vehicle sought to be licensed, payable to the state of Michigan and if the commissioner, after such investigation as he deems necessary, is satisfied that such truck or vehicle and equipment is proper and hygienic for the purpose, he shall issue a license for the use of the vehicle. Applications and fees for vehicle licenses under this act may be received by authorized representatives of the commissioner in city, county or district health departments, and the same forwarded to the commissioner with such information as he may require. This license is not transferable from 1 vehicle to another, and all licenses shall expire on the last day of February of each year. In addition to the vehicle license, which shall be carried on the vehicle at all times, there shall be painted on both sides of the vehicle in letters not less than 2 inches high the words "M.D.H. licensed vehicle", which words shall be followed with the vehicle license number. Directly adjacent to the words and vehicle license number shall be affixed a seal furnished by the commissioner which shall designate the year for which the license was issued. The year on such seal shall correspond to the year which appears on the license plate of the vehicle.

HISTORY: New 1951, p. 380, Act 243, Eff. Sep. 28;—Am. 1957, p. 50, Act 42, Eff. Sep. 27;—Am. 1967, p. 96, Act 77, Imd. Eff. Jun. 21.

325.285 Tanks kept tightly closed; waste, disposal procedure.

Sec. 5. (a) The tank shall be kept tightly closed in transit, to prevent the escape of contents or odors, and the outside of all vehicles and accessory equipment shall be kept clean.

(b) The licensee shall deposit all wastes removed from any septic tank, seepage pit or cesspool into a municipal sewage treatment plant or other designated location having adequate facilities as may be made available for receiving such wastes by the municipality when located within 15 road miles. The licensee shall make the proper arrangement with the municipality or agency having jurisdiction over the facilities for their use and may be required to pay a reasonable fee for treatment of the wastes. Nothing herein shall prevent a county or district board of health or the health committee of the board of supervisors from adopting a local regulation or ordinance requiring the wastes removed from any septic tank, seepage pit or cesspool, located within the county, by a licensee, to be disposed of into a municipal sewage treatment plant which has been made available for receiving such wastes.

(c) In the absence of such municipal disposal facilities, wastes shall be disposed of at locations over 200 yards from any residence, public or private place of business or public gathering place or state highways subject to written approval of the property owner and the local health department having jurisdiction. Said written approvals must be preserved and carried on the vehicle for inspection. All wastes must be so disposed of, as not to create a public nuisance or health hazard. Burial of wastes may be required by the local health department having jurisdiction and subject to their approval.

(d) Waste removed from septic tanks, seepage pits or cesspools may be buried on the property from which it originates at least 75 feet from any water supply and 25

feet from any body of water, provided it is covered with at least 12 inches of earth and protected until settled.

(e) Under no conditions shall dumping be permitted into or adjacent to any public or private lake, pond, stream, river or any other body of water.

(f) All services shall be conducted in a workmanlike manner and the property served left in a sanitary condition. After the services are rendered, the licensee or his service representative shall furnish the customer with a written receipt which carries the business name and address, name of the owner of the business and the M.D.H. vehicle license number as required under section 4 of this act.

HISTORY: New 1951, p. 360, Act 243, Eff. Sep. 28;—Am. 1967, p. 96, Act 77, Imd. Eff. Jun. 21.

325.286 Exemptions from licensing requirements.

Sec. 6. Nothing in this act shall be construed to require a business license for:

(a) A property owner to clean his own septic tank, seepage pit or cesspool.

(b) A municipality servicing and maintaining a public sewage treatment facility.

(c) A master plumber, duly qualified and licensed under the laws of the state, except that vehicles which are used as defined in this act shall be licensed as set forth in section 4, a master plumber operating under his own name or an assumed name having 3 or more vehicles shall obtain a business license.

HISTORY: New 1951, p. 361, Act 243, Eff. Sep. 28;—Am. 1967, p. 97, Act 77, Imd. Eff. Jun. 21.

325.287 Violation of act; penalty.

Sec. 7. Any person who shall violate or refuse to comply with any of the provisions of this act shall be sentenced to pay a fine of not less than \$25.00 nor more than \$100.00 and costs of prosecution, and in default of payment of fine and costs shall be sentenced to prison for not less than 10 days nor more than 30 days, and when such violation is of a continuing nature, each day upon which a violation occurs shall be deemed a separate offense.

HISTORY: New 1951, p. 361, Act 243, Eff. Sep. 28.

Act 87, 1965, p. 121; Imd. Eff. Jun. 28.

AN ACT to license and regulate garbage and refuse disposal; and to provide a penalty for violation of this act.

The People of the State of Michigan enact:

325.291 Garbage and refuse disposal; definitions.

Sec. 1. As used in this act:

(a) "Refuse" means putrescible and nonputrescible solid waste, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and solid market and industrial wastes.

(b) "Garbage" means rejected food wastes including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable.

(c) "Rubbish" means nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.

(d) "Ashes" means the residue from the burning of wood, coal, coke or other combustible materials.

(e) "Commissioner" means the state health commissioner.

(f) "Health officer" means a full time administrative officer of an approved city, county or district department of health.

(g) Applicant means individuals, firms, corporations or any political subdivisions of the state including any governmental authority created by statute.

HISTORY: New 1965, p. 121, Act 87, Imd. Eff. Jun. 28.

CITED IN OTHER SECTIONS: Sections 325.291 to 325.296 are cited in § 320.26.

325.292 Garbage and refuse disposal; licensed area; effect of local ordinances, codes, rules, regulations.

Sec. 2. No person shall dispose of any refuse at any place except a disposal area licensed as provided in this act. Nothing in this act nor any act of the commissioner's shall usurp the legal right of a local governing body from developing and enforcing local ordinances, codes, or rules and regulations on solid waste disposal equal to or more stringent than the provisions of this act, nor will this act relieve the applicant for license to operate a disposal area from obtaining a license from a local governing body when required or relieve the person owning or operating a disposal area from responsibility for securing proper zoning permits or complying with all applicable local ordinances, codes, or rules and regulations not in conflict with this act.

HISTORY: New 1965, p. 122, Act 87, Imd. Eff. Jun. 28.

325.293 Garbage and refuse disposal; license, application, contents; fee, exemptions; depositing funds.

Sec. 3. (1) A person, partnership, corporation, governmental unit or agency thereof desiring a license to operate a disposal area shall make application therefor each year to the commissioner through the health officer on a form provided by the commissioner. Where the disposal area is located in a county or city not having a full time organized local health department, the application shall be made directly to the commissioner.

(2) The application shall contain the name and residence of the applicant, the location of the proposed disposal area, and such other information as may be necessary. The application shall be accompanied by a fee of \$25.00, except that governments and agencies thereof are exempt from payment of the fee.

(3) Fees collected by the health officer shall be deposited with the city or county treasurer, who shall keep the deposits in a special fund designated for use in carrying out the purposes of this act. If there is an ordinance or regulation prohibiting a city board of health or health officer from maintaining any such special fund, the fees shall be deposited and used in accordance with the ordinance and regulations. Fees collected by the commissioner shall be deposited in the state treasury to the credit of the general fund.

HISTORY: New 1965, p. 122, Act 87, Imd. Eff. Jun. 28.

325.294 Inspection of proposed sites; license, issuance; bond; expiration; renewal fee.

Sec. 4. (1) Upon receipt of the application the commissioner or health officer or their representatives shall inspect the proposed site and determine if the proposed operation complies with this act and the rules and regulations adopted pursuant thereto.

(2) If the inspection discloses that the disposal area and the proposed operation thereof comply with this act and the rules and regulations adopted hereunder, and the commissioner or health officer finds that the applicant is a responsible and suitable person to conduct the business, the commissioner shall issue a license to the applicant upon filing by the applicant with the commissioner a performance bond in an amount equal to \$500.00 per acre of disposal area, but not less than \$2,500.00.

(3) Licenses shall expire on September 1 following the date of issuance but may be

renewed upon payment of an annual fee of \$25.00 if the licensee has complied with the act and the rules and regulations adopted hereunder.

HISTORY: New 1965, p. 122, Act 87, Imd. Eff. Jun. 28.

325.295 Revocation of license; notice, hearing, finding.

Sec. 5. The commissioner may revoke a license, after reasonable notice and hearing if he finds that the disposal area is not operated in accordance with this act and the rules and regulations adopted hereunder.

HISTORY: New 1965, p. 122, Act 87, Imd. Eff. Jun. 28.

325.296 Rules and regulations; licensed area, inspection.

Sec. 6. The commissioner shall promulgate rules and regulations which shall contain sanitary standards for disposal areas and otherwise implement this act. The rules shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The commissioner or health officer shall periodically inspect all licensed disposal areas and enforce this act.

HISTORY: New 1965, p. 122, Act 87, Imd. Eff. Jun. 28.

325.297 Garbage and refuse disposal; rights of landowners.

Sec. 7. This act does not prohibit a person from disposing of refuse from his own household upon his own land as long as such disposal does not create a nuisance or hazard to health. Rubbish accumulated as a part of the improvement of the planting of privately owned farm land may be disposed of on the property provided the method used is not injurious to human life or property or unreasonably interferes with the enjoyment of life and property.

HISTORY: New 1965, p. 123, Act 87, Imd. Eff. Jun. 28;—Am. 1970, p. 63, Act 19, Imd. Eff. May 8.

325.298 Violation of act; penalty.

Sec. 8. Any person who violates any provisions of this act is guilty of a misdemeanor. Each day of the violation shall be considered a separate violation.

HISTORY: New 1965, p. 123, Act 87, Imd. Eff. Jun. 28.

Act 210, 1909, p. 375; Eff. Sep. 1.

AN ACT to provide for sanitary conditions in railroad passenger coaches and in railroad depots and vessels.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: CL 1915, 5160;—CL 1929, 6679;—Rep. 1931, p. 747, Act 328, Eff. Sept. 18.

This section provided penalties for expectoration. For present law, see Compilers' § 750.476.

325.302 Railroad passenger coaches; temperature; ventilation.

Sec. 2. It shall be the duty of railway companies to see that every passenger coach is kept at a uniform temperature, not less than 60 nor more than 70 degrees, and that provision for ventilation shall be constantly in use to provide a sufficient amount of fresh air for the passengers.

HISTORY: CL 1915, 5170;—CL 1929, 6680;—CL 1948, 325.302.

325.303 Passenger coaches; exceptions; drinking water, ice, tanks.

Sec. 3. Every passenger coach, except those used in commuter service, shall be provided with a supply of good, wholesome drinking water. When ice is used to cool the water, it shall be kept in a separate receptacle. These tanks shall be thoroughly cleaned at the terminus of every trip, and shall be kept constantly covered.

HISTORY: CL 1915, 5171;—CL 1929, 6681;—CL 1948, 325.303;—Am. 1960, p. 167, Act 134, Eff. Aug. 17.

325.304 Passenger coaches and railway depots; toilets and closets, cleaning.

Sec. 4. All toilet rooms, water closets, urinals and toilet appliances in railway coaches and depots are to be scrubbed with soap and hot water and disinfected with an approved disinfectant each day. All closets (outhouses) at railway stations shall be kept clean and in good repair to be suitable at all times for the use of the traveling public. The vaults shall receive a daily treatment of fresh lime or other approved disinfectant, and the contents removed at least once each month.

HISTORY: CL 1915, 5172;—CL 1929, 6682;—CL 1948, 325.304.

325.305 Passenger coaches; cleaning and disinfection; report, contents.

Sec. 5. Every passenger coach while in regular use, shall be thoroughly cleansed and disinfected at least once each month. If a car becomes infected by being occupied by a person having a dangerous communicable disease, it shall not again be opened for the reception of other passengers than the ones already in it; and at the end of the trip it shall be disinfected before it is again used for passenger traffic. In cases of public exposure of this kind on railway trains, it shall be the duty of the railway authorities to report the facts to the state board of health, giving the names and destination of each exposed passenger that occupied the same car as the infected person.

HISTORY: CL 1915, 5173;—CL 1929, 6683;—CL 1948, 325.305.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

325.306 Passenger coaches; urinals and closets, sterilization, approval.

Sec. 6. Every passenger coach, except those used in commuter service, operating in the state, and every vessel navigating upon the rivers and inland lakes of the state, or entering her lake harbors, shall be provided with urinals and closets of such form as will secure the sterilization of all discharges entering them; and the same shall be known as the "aseptic closet and urinal". The form of the urinal and closet, including the method of sterilization, shall have the approval of the state department of health before adoption.

HISTORY: CL 1915, 5174;—CL 1929, 6684;—CL 1948, 325.306;—Am. 1960, p. 167, Act 134, Eff. Aug. 17.

325.307 Violation of act; penalty.

Sec. 7. In case any railroad or vessel company operating in this state, shall neglect or refuse to carry out the provisions of the preceding sections, it shall be liable to a penalty of 100 dollars and cost of prosecution for each and every passenger train so run, to be sued for in the name of the people of the state of Michigan.

HISTORY: CL 1915, 5175;—CL 1929, 6685;—CL 1948, 325.307.

Act 241, 1947, p. 369; Eff. Oct. 11.

AN ACT to protect the public health and welfare; and to regulate the humane use of animals for the diagnosis and treatment of human and animal diseases, the advancement of veterinary, dental, medical and biological sciences, and the testing and diagnosis, improvement and standardization of laboratory specimens, biologic products, pharmaceuticals and drugs.

The People of the State of Michigan enact:

325.401 Use of animals for experimental purposes; humane treatment.

Sec. 1. The public health and welfare depend on the humane use of animals for the diagnosis and treatment of human and animal diseases, the advancement of veterinary, dental, medical and biological sciences, and the testing and diagnosis, improvement and standardization of laboratory specimens, biologic products, pharmaceuticals and drugs.

HISTORY: CL 1948, 325.401.

325.402 Use of animals for experimental purposes; advisory committee, members, appointment; rules and regulations, promulgation by commissioner.

Sec. 2. The state commissioner of health, with the approval of an advisory committee appointed by the governor consisting of the dean of the medical school of the university of Michigan, the dean of the veterinary department of the Michigan state college of agriculture and applied sciences, the dean of the medical school of Wayne university, the dean of the dental school of the university of Detroit, the secretary of the Michigan board of registration of osteopathy, a representative from a research laboratory within the state of Michigan and subject to the control of the federal security agency, and 2 member representatives of the state federated humane society, is hereby authorized to regulate and to promulgate rules and regulations controlling the humane use of animals for the diagnosis and treatment of human and animal diseases, the advancement of veterinary, dental, medical and biological sciences, and the testing and diagnosis, improvement and standardization of laboratory specimens, biologic products, pharmaceuticals and drugs. Such rules and regulations shall be adopted in conformity with the laws of this state.

HISTORY: CL 1948, 325.402.

325.403 Use of animals for experimental purposes; administration of act by commissioner, expenses; advisory committee, expenses.

Sec. 3. The state commissioner of health is hereby vested with the administration of the provisions of this act and is authorized to incur such expenses as shall be authorized by the legislature. The members of the advisory committee shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in performance of official duties.

HISTORY: CL 1948, 325.403.

325.404 Use of animals for experimental purposes; commissioner, authority to inspect premises; regulations.

Sec. 4. The state commissioner of health, or his duly authorized representative, or any member of the advisory committee, is hereby authorized to inspect any premises or property on or in which animals are kept for experimental purposes, for the purpose of investigation of compliance with the rules and regulations adopted hereunder. Such regulations shall provide for such humane treatment of animals as is reasonably necessary for the purposes of this act.

HISTORY: CL 1948, 325.404.

325.405 Use of animals for experimental purposes; registration required; procedure, revocation; finality of commissioner's findings, review.

Sec. 5. No person, firm, copartnership, association or corporation shall keep or use animals for experimental purposes unless registered to do so by the state commissioner of health. The state commissioner of health is hereby required to grant registration for the humane use of animals for experimental purposes subject to compliance with the rules and regulations promulgated under the provisions of this act. The state commis-

sioner of health is authorized to suspend or revoke any registration under the provisions of this act for failure to comply with the rules and regulations promulgated hereunder. The findings of fact made by the state commissioner of health acting within his powers shall, in the absence of fraud or arbitrariness, be conclusive, but the circuit court of the county of Ingham shall have power to review questions of law involved in any final decision or determination of said commissioner: Provided, That application is made by the aggrieved party within 30 days after such determination, and the said court shall have jurisdiction to make such orders in respect thereto as justice may require.

HISTORY: CL 1948, 325.405.

325.406 Appropriation.

Sec. 6. There is hereby appropriated from the general fund of the state the sum of \$1,000.00 to the state commissioner of health to carry out the provisions of this act.

HISTORY: CL 1948, 325.406.

Act 278, 1949, p. 411; Imd. Eff. Jun. 8.

AN ACT to authorize the state commissioner of health to establish and administer periodical hearing screening tests for the benefit of children in the state of Michigan; and to prescribe his powers and duties with respect thereto.

The People of the State of Michigan enact:

325.501 Hearing screening test among children; establishment and administration by state health commissioner; purpose.

Sec. 1. The state health commissioner shall within the limits of their financial ability establish and administer a program or service to assist local health departments, schools or other community groups in developing and maintaining periodical hearing screening tests among children for the purpose of seeking out children who may have hearing impairment so they may secure proper and necessary care and attention.

HISTORY: New 1949, p. 411, Act 278, Imd. Eff. Jun. 8.

325.502 State health commissioner to maintain instruments for test; blanks, forms and supplies; rules and regulations.

Sec. 2. It shall be the duty of the state health commissioner to maintain approved screening audiometers or similar approved instruments or devices for hearing screening tests, together with such blanks, forms, supplies and equipment necessary for their use; and to furnish such instruments and supplies, together with proper instruction in their use, with or without charge to any local health department, school or other community group conducting or causing to be conducted hearing screening tests among school children. Hearing screening tests using such equipment and supplies shall be conducted under the rules and regulations that may be prescribed by the state health commissioner.

HISTORY: New 1949, p. 411, Act 278, Imd. Eff. Jun. 8.

325.503 Determination of hearing efficiency of child; personnel.

Sec. 3. Hereafter, as the result of any screening tests so made if it shall appear that the hearing of any child or children may be impaired, it shall be the duty of the state health commissioner to conduct or cause to be administered individual audiometer

test or tests of a similar nature with approved scientific instruments for determining the hearing efficiency of the child or children. For this purpose the state health commissioner shall employ trained audiometer technicians, audiologists and other personnel necessary to administer this act.

HISTORY: New 1949, p. 411, Act 278, Imd. Eff. Jun. 8.

325.504 Records of tests; availability; cooperation with state agencies.

Sec. 4. Records of all such tests administered and conducted shall be made and continually maintained. As permitted by the rules and regulations of the state health commissioner and concurred in by the state council of health, such records shall be made available to health agencies and others in order to assist in obtaining proper and necessary medical and educational care, attention and treatment. The state health commissioner shall cooperate with any agency of the state charged with the administration of laws providing for handicapped children and with any local health department or other community group, in encouraging such remedial measures and correctional devices as may be made available for children with hearing impairment.

HISTORY: New 1949, p. 411, Act 278, Imd. Eff. Jun. 8.

325.505 Test not obligatory.

Sec. 5. No child shall be obliged to submit to any test or requirement provided for by this act whose parent or guardian objects to the same.

HISTORY: New 1949, p. 412, Act 278, Imd. Eff. Jun. 8.

Act 341, 1965, p. 672; Imd. Eff. Jul. 23.

AN ACT to protect the public health of school children by providing health examinations and services on an equal basis to children attending public and non-public elementary and secondary schools.

The People of the State of Michigan enact:

325.511 Health services to school children; provision on equal basis to public and non-public students.

Sec. 1. Whenever the health department or health board of any township, village, city, county, district or the state provides any examination or health services to school children in attendance in the elementary and secondary grades in the public schools in the township, village, city, county, district or the state, it shall provide such examinations and health services on an equal basis to school children in attendance in the elementary and secondary grades in both public and non-public schools in the township, village, city, county, district or the state. A health officer or member of his staff shall not give any such examination or health service to any child whose parents or guardians have religious objection to such examination or health service. The state health commissioner shall enforce the provisions of this act.

HISTORY: New 1965, p. 672, Act 341, Imd. Eff. Jul. 23.

Act 119, 1965, p. 163; Eff. Aug. 1.

AN ACT requiring the administration of a phenylketonuria test on newborn infants; duties of the state health commissioner; penalties.

The People of the State of Michigan enact:

325.521 Phenylketonuria test; duty of physician to administer; report; time.

Sec. 1. The physician in charge of the care of any newborn infant, or if none the physician in charge at the birth of any infant, shall administer or cause to be administered a phenylketonuria test approved by the state director of health and report the results of the test to the parents or guardian of the infant. The test shall be administered before the infant is discharged from its place of birth or within such time and under such conditions and regulations as shall be prescribed by the state director of health.

HISTORY: New 1965, p. 163, Act 119, Eff. Aug. 1;—Am. 1967, p. 338, Act 228, Eff. Nov. 2.

325.522 State health commissioner; rules and regulations.

Sec. 2. The state health commissioner shall promulgate rules and regulations for the enforcement of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 164, Act 119, Eff. Aug. 1.

325.523 Violation of act; penalty.

Sec. 3. Any person who shall fail to comply with any provision of this act or any rules and regulations promulgated thereunder shall be guilty of a misdemeanor.

HISTORY: New 1965, p. 164, Act 119, Eff. Aug. 1.

325.524 Effective date of act.

Sec. 4. This act shall be effective August 1, 1965.

HISTORY: New 1965, p. 164, Act 119, Eff. Aug. 1.

Act 231, 1955, p. 342; Imd. Eff. Jun. 18.

AN ACT to protect the public health by making an appropriation to supplement former appropriations made to the Michigan department of health; to provide for the purchase of poliomyelitis vaccine and to authorize the state health commissioner to provide for the most effective use of the same in preventing paralysis from poliomyelitis.

The People of the State of Michigan enact:

325.551 Poliomyelitis vaccine; appropriation to department of health for purchase.

Sec. 1. There is hereby appropriated from the general fund of the state to supplement former appropriations made to the Michigan department of health not to exceed the sum of \$2,000,000.00 which sum is to be used for the purchase of licensed poliomyelitis vaccine. The amounts hereby appropriated shall be paid out of the state treasury and the expenditures thereof shall be accounted for at such time and in such manner as is or may be provided by law and the vouchers for expenditures under the provisions of this act shall not be presented to the auditor general for payment unless the purchase order for the same shall have the prior approval of the state administrative board.

HISTORY: New 1955, p. 342, Act 231, Imd. Eff. Jun. 18.

CITED IN OTHER SECTIONS: Sections 325.551 to 325.556 are cited in § 325.561.

325.552 Poliomyelitis vaccine; availability to high risk groups.

Sec. 2. The state health commissioner shall establish rules and administrative policies so that the supply of poliomyelitis vaccine made available by this appropriation

shall be used to protect those in the state who constitute the "high risk" groups, in which incidence of paralytic poliomyelitis is proportionately greater than in the population at large.

HISTORY: New 1955, p. 343, Act 231, Imd. Eff. Jun. 18.

325.553 Poliomyelitis vaccine; allocation; administration; prevention of spoilage.

Sec. 3. Vaccine so purchased shall be allocated by the state health commissioner without charge through approved district, county and city full time health departments in those areas where the same exist and through such means as the state health commissioner shall consider most expedient in those areas of the state without full time approved local health departments. The state health commissioner shall develop and carry out a system for the administration of the vaccine, such system to utilize the offices of private physicians as well as the facilities of approved local health departments. The state health commissioner shall schedule the purchase, delivery and distribution of such vaccine in such manner as to avoid spoilage of state-owned vaccine due to age.

HISTORY: New 1955, p. 343, Act 231, Imd. Eff. Jun. 18.

325.554 Poliomyelitis vaccine; administration to high risk groups.

Sec. 4. It shall be the responsibility of the state health commissioner and all local health officials concerned to see that in each area proper provision is made so that all in the "high risk" groups, defined by rule as hereinbefore provided, may receive the vaccine regardless of their inability to pay.

HISTORY: New 1955, p. 343, Act 231, Imd. Eff. Jun. 18.

325.555 Poliomyelitis vaccine; unexpected or unencumbered balance, reversion; emergency nature of appropriation.

Sec. 5. Notwithstanding the provisions of any other act, any unexpended or unencumbered balances in excess of \$416,000.00 shall revert to the general fund on June 30, 1957, and all unexpended or unencumbered balances shall revert to the general fund on June 30, 1958. The appropriation hereby made is considered by the legislature to be emergency in nature for the purpose of providing a means of controlling the distribution of available vaccine while the same is in short supply.

HISTORY: New 1955, p. 343, Act 231, Imd. Eff. Jun. 18;—Am. 1956, p. 18, Act 13, Imd. Eff. Mar. 15;—Am. 1957, p. 42, Act 36, Imd. Eff. May 13.

325.556 Poliomyelitis vaccine; appropriation, reduction.

Sec. 6. This appropriation shall be reduced by the amount of any federal money received by the state of Michigan for like purposes.

HISTORY: New 1955, p. 343, Act 231, Imd. Eff. Jun. 18.

Act 7, 1956 (Ex. Ses.), p. 12; Imd. Eff. Jul. 31.

AN ACT to make an appropriation to the Michigan department of health to supplement former appropriations for the fiscal year ending June 30, 1957, for the purchase of poliomyelitis vaccine; and to provide for the expenditure of such appropriation.

The People of the State of Michigan enact:

325.561 Poliomyelitis vaccine; appropriation to department of health for purchase.

Sec. 1. There is hereby appropriated from the general fund of the state for the fiscal year ending June 30, 1957, the sum of \$831,600.00, or so much thereof as may be necessary, to supplement the appropriation made to the Michigan department of health

by Act No. 231 of the Public Acts of 1955, being sections 325.551 to 325.556 of the Compiled Laws of 1948, which sum is to be used for the purchase of licensed poliomyelitis vaccine, to be distributed so as to provide the third dose to those within the age group of 1 to 14 years inclusive and pregnant women.

HISTORY: New 1956, Ex. Ses., p. 12, Act 7, Imd. Eff. Jul. 31.

325.562 Poliomyelitis vaccine; appropriation to department of health, payment.

Sec. 2. The amount hereby appropriated shall be paid out of the state treasury and the expenditure thereof shall be accounted for at such time and in such manner as is or may be provided by law, and the disbursement thereof shall be governed by the provisions of Act No. 231 of the Public Acts of 1955, as amended.

HISTORY: New 1956, Ex. Ses., p. 12, Act 7, Imd. Eff. Jul. 31.

Act 230, 1966, p. 301; Eff. Jan. 1, 1967.

AN ACT to protect the public health; to place responsibility on the department of public health for supervising the construction and the healthful and safe operation of public swimming pools; to provide for the issuance of construction and operation permits; to authorize rules and regulations to carry out the intent of the act; and to provide penalties and remedies.

The People of the State of Michigan enact:

325.601 Public swimming pools; definition; exemptions from act.

Sec. 1. A public swimming pool is an artificial body of water used collectively by a number of persons primarily for the purpose of swimming, recreational bathing or wading, and includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the swimming pool such as equipment, dressing, locker, shower and toilet rooms. Public swimming pools include but are not limited to those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, trailer coach parks, subdivisions and the like. Pools and portable pools located on the same premises with a 1, 2, 3 or 4 family dwelling and for the benefit of the occupants and their guests, natural bathing areas such as streams, lakes, rivers or man-made lakes, exhibitor's swimming pools built as models at the site of the seller and in which swimming by the public is not permitted, or pools serving not more than 4 motel units are exempt from this act.

HISTORY: New 1966, p. 301, Act 230, Eff. Jan. 1, 1967.

325.602 Public swimming pools; department of public health, review designs, supervision of construction and operation.

Sec. 2. The department of public health shall review the design and supervise the construction and operation of public swimming pools in order to protect the public health, prevent the spread of disease and prevent accidents or premature deaths.

HISTORY: New 1966, p. 301, Act 230, Eff. Jan. 1, 1967.

325.603 Department of public health; supervisory and visitorial power.

Sec. 3. The department of public health has supervisory and visitorial power and control as limited in this act over all municipal and private corporations, governmental agencies, associations, partnerships and individuals engaged in the construction and operation of public swimming pools.

HISTORY: New 1966, p. 301, Act 230, Eff. Jan. 1, 1967.

325.604 Department of public health; right of entry on premises, inspection.

Sec. 4. The department of public health, its agents or representatives or representatives of designated city or county or district health departments may enter upon at all reasonable times the swimming pool premises and other property of such governmental agencies, corporations, associations, partnerships or individuals for the purpose of inspecting the same and carrying out the authority vested in him by this act.

HISTORY: New 1966, p. 302, Act 230, Eff. Jan. 1, 1967.

325.605 Department of public health; rules and regulations.

Sec. 5. The department of public health may promulgate rules and regulations to carry out the provisions of this act. All rules and regulations shall be promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 302, Act 230, Eff. Jan. 1, 1967.

325.606 Construction or modification of swimming pool; plans and specifications, submission to department; fees; permit.

Sec. 6. (1) All municipal and private corporations, governmental agencies, associations, partnerships or individuals intending to construct a public swimming pool or intending to modify an existing public swimming pool shall submit plans and specifications for the proposed installation accompanied by a fee of \$50.00 to the department of public health for review and approval and shall secure a permit for the construction of the same and any contractor, builder, corporation, partnership, governmental agency, association or individual shall not start or engage in the construction of a public swimming pool or to modify an existing public swimming pool until the permit for construction of the same has been issued by the department of public health.

(2) Nothing in this act nor any action of the department of public health shall relieve the applicant or owner of a public swimming pool from responsibility for securing any building permits or complying with all applicable local codes, regulations or ordinances not in conflict with this act. Compliance with an approved plan shall not authorize the owner constructing or operating a public swimming pool to create or maintain a nuisance or a hazard to health or safety.

HISTORY: New 1966, p. 302, Act 230, Eff. Jan. 1, 1967.

325.607 Plans and specifications; contents.

Sec. 7. Plans and specifications submitted for the purpose of obtaining a construction permit shall include a true description of the entire swimming pool system and auxiliary structures or parts thereof as they are proposed to be constructed and operated.

HISTORY: New 1966, p. 302, Act 230, Eff. Jan. 1, 1967.

325.608 Plans and specifications; examination; permit for construction, issuance or denial, amendments, duration.

Sec. 8. (1) The department of public health shall examine the plans and specifications and determine whether the pool facilities, if constructed in accordance therewith, are or would be sufficient and adequate to protect the public health and safety. If the plans and specifications are approved, the department of public health shall issue a permit for construction. If the plans and specifications are not approved, the department of public health shall notify the applicant of the deficiencies. The applicant may have the plans and specifications amended to remedy the deficiencies and resubmit the documents, without additional fee, for further considerations.

(2) A construction permit shall be valid for a period not to exceed 2 years from the date of issuance unless an extension of time is granted in writing by the department of public health.

HISTORY: New 1966, p. 302, Act 230, Eff. Jan. 1, 1967.

325.609 Written approval of changes.

Sec. 9. Each public swimming pool shall be constructed or modified in accordance with the approved plans and specifications unless written approval of changes is granted by the department of public health.

HISTORY: New 1966, p. 303, Act 230, Eff. Jan. 1, 1967.

325.610 Operating permit; display, expiration, renewal; consent to transfer, fee.

Sec. 10. All municipal and private corporations, governmental agencies, associations, partnerships or individuals engaged in the operation of a public swimming pool shall obtain a permit to operate the swimming pool from the department of public health and shall pay an initial operation permit fee of \$50.00. Operation permits shall be displayed by the owner in a conspicuous place on the premises. Operation permits expire December 31 of each year. A swimming pool operation permit shall be renewed upon receipt of a proper application, an annual renewal fee of \$10.00 and evidence that the swimming pool is being operated and maintained in accordance with the provisions of this act and the rules and regulations. Operation permits shall not be transferred to another person without the express written consent of the department of public health and upon payment of a \$10.00 transfer fee.

HISTORY: New 1966, p. 303, Act 230, Eff. Jan. 1, 1967.

325.611 Existing installations; permit without payment of initial operation fee; renewal.

Sec. 11. All municipal and private corporations, governmental agencies, associations, partnerships or individuals engaged in the operation of a public swimming pool, prior to the effective date of this act, under a class 1 operation permit issued by the department of public health pursuant to the regulation entitled "operation and use of public swimming pools", being regulation R325.401 to R325.406 of the 1954 state administrative code, shall be granted a permit to operate the pool as required by section 10 without payment of the initial operation permit fee. Thereafter, renewal fees shall be paid.

HISTORY: New 1966, p. 303, Act 230, Eff. Jan. 1, 1967.

325.612 Operation without permit prohibited.

Sec. 12. After the effective date of this act, no public swimming pool may be operated without an operation permit.

HISTORY: New 1966, p. 303, Act 230, Eff. Jan. 1, 1967.

325.613 Operation permit; nonissuance; notice of reasons.

Sec. 13. If upon investigation, the department of public health finds that a public swimming pool has not been constructed in accordance with the approved plans and specifications, it shall notify the applicant in writing that the operation permit will not be issued, citing the deficiencies or noncomplying items that constitute the reasons for not issuing the operation permit. If the applicant fails to correct the deficiencies or noncomplying items, he shall be denied an operation permit.

HISTORY: New 1966, p. 303, Act 230, Eff. Jan. 1, 1967.

325.614 Periodic inspections.

Sec. 14. The department of public health, its agents or representatives, or representatives of designated city or county or district health departments shall make periodic inspections of all public swimming pools.

HISTORY: New 1966, p. 303, Act 230, Eff. Jan. 1, 1967.

325.615 Revocation of permits; hearing; reissuance.

Sec. 15. The department of public health may revoke the operation permit if it finds the pool is not being operated in accordance with the provisions of this act or the rules and regulations. Any person aggrieved by any decision of the department of public health shall be granted a hearing as otherwise provided by law. Any permit that has been revoked shall be reissued only when in the opinion of the department of public health the deficiencies have been corrected.

HISTORY: New 1966, p. 303, Act 230, Eff. Jan. 1, 1967.

325.616 Reports to department of public health; contents.

Sec. 16. The department of public health shall provide for a system of periodic reports covering the operation of the public swimming pool so that it may readily determine compliance with this act and the rules and regulations.

HISTORY: New 1966, p. 304, Act 230, Eff. Jan. 1, 1967.

325.617 Order to prohibit use of pool.

Sec. 17. If the department of public health, its agents or representatives, or representatives of designated city or county or district health departments considers that conditions warrant prompt closing of a swimming pool until the provisions of this act and the rules and regulations are complied with for the protection of the public health and safety, it may order the owner or operator of the swimming pool to prohibit any person from using it until corrections have been made which would adequately protect the public health and safety.

HISTORY: New 1966, p. 304, Act 230, Eff. Jan. 1, 1967.

325.618 Payments to city, county and district health department.

Sec. 18. The department of public health may approve payments of \$50.00 for each swimming pool granted an initial operation permit and \$10.00 for each renewal operation permit to designated city, county and district health departments when such fees are collected by the state from their respective areas. The state treasurer shall make such payments upon receipt of approval from the department of public health.

HISTORY: New 1966, p. 304, Act 230, Eff. Jan. 1, 1967.

325.619 Violation of act; penalties; prosecution.

Sec. 19. Any person violating any of the provisions of this act or any rule or regulation promulgated hereunder is guilty of a misdemeanor. Each day upon which a violation occurs is a separate violation for the purpose of this act. The several prosecuting attorneys and the attorney general of the state shall prosecute any person violating the provisions of this act.

HISTORY: New 1966, p. 304, Act 230, Eff. Jan. 1, 1967.

325.620 Effective date of act.

Sec. 20. This act shall take effect January 1, 1967.

HISTORY: New 1966, p. 304, Act 230, Eff. Jan. 1, 1967.

Act 218, 1967, p. 314; Eff. Nov. 2.

AN ACT to protect the public health by providing for the supervision and control of bathing beaches open to the public; to prescribe the functions of health agencies; to

authorize the establishment of rules for sanitation standards; and to provide penalties for violation of this act.

The People of the State of Michigan enact:

325.631 Public bathing beaches; water test; injunctions prohibiting use.

Sec. 1. The health officer or his authorized representatives of the city, county or district health department having jurisdiction may test and otherwise evaluate the quality of water at bathing beaches open to the public to determine whether the water is safe for bathing purposes. If in his opinion based upon the standards prescribed by the rules adopted under section 3, the water is unsafe for bathing, he may petition the circuit court of the county in which said beach is located for an injunction ordering the governmental agency or person owning or operating the bathing beach to close the beach for use by bathers or other measures that the court deems proper to keep persons from entering thereon. The circuit court judge may grant such an injunction if he feels circumstances warrant same.

HISTORY: New 1967, p. 315, Act 218, Eff. Nov. 2.

325.632 State and local health departments; cooperation and consultation.

Sec. 2. The director of the department of public health or his authorized representatives shall consult and cooperate with directors of city, county and district health departments and shall provide training for employees thereof and otherwise assist in the effective administration of this act.

HISTORY: New 1967, p. 315, Act 218, Eff. Nov. 2.

325.633 Rules for determining water quality.

Sec. 3. The director of the department of public health, in concert with the conference of local health officers, shall promulgate rules which shall contain minimum sanitation standards for determining water quality at bathing beaches open to the public which will be used by health officers of city, county and district health departments to establish the safety of the water for swimming. Any water quality standards adopted under the provisions of this section shall be in conformity with the official state water quality standards adopted by the water resources commission under the authority of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948. The rules shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 315, Act 218, Eff. Nov. 2.

325.634 Violation of act; misdemeanor.

Sec. 4. Any person convicted of violating any provision of this act is guilty of a misdemeanor.

HISTORY: New 1967, p. 315, Act 218, Eff. Nov. 2.

325.635 Local boards of health and supervisors; authority to enact local regulations.

Sec. 5. Nothing in this act shall change the authority of local boards of health or health committees or boards of supervisors to enact local regulations in accordance with Act No. 306 of the Public Acts of 1927, as amended.

HISTORY: New 1967, p. 315, Act 218, Eff. Nov. 2.

Act 171, 1970, p. 520; Imd. Eff. Jan. 1, 1971.

AN ACT to license and regulate campgrounds; to prescribe the functions of the department of public health; and to provide penalties for violations.

The People of the State of Michigan enact:

325.651 Campgrounds; definitions.

Sec. 1. As used in this act:

(a) "Campground" means any parcel or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units.

(b) "Director" means the director of the department of public health.

(c) "Department" means the department of public health.

(d) "Health officer" means a full-time administrative officer of the approved city, county or district department of health having jurisdiction.

(e) "Person" means any individual, partnership, private association or corporation, state, county, city, village, township or other public or municipal association or corporation.

(f) "Recreational unit" means a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit shall include, but shall not be limited to, the following:

(1) Travel trailer which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a stock passenger automobile, primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use.

(2) Camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

(3) Motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping or travel use.

(4) Truck camper which is a portable structure, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreation, camping or travel use. Truck campers are of two basic types:

(i) Slide-in camper, which is a portable structure designed to be loaded onto, and unloaded from, the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping or travel use; and

(ii) Chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, travel or camping use.

HISTORY: New 1970, p. 520, Act 171, Imd. Eff. Jan. 1, 1971.

325.652 Construction permit; application, contents; state campgrounds, exemption.

Sec. 2. (1) After December 31, 1970, a person shall not begin to construct, alter or engage in the development of a campground without first obtaining a construction

permit from the department. Applications for a construction permit shall be submitted to the health officer who shall forward the application to the department. The application shall contain:

- (a) A description of the proposed project.
 - (b) The name and address of the applicant.
 - (c) The location of the proposed project.
- (2) A construction permit is not required for campgrounds owned or operated by the state, provided, however, that the other requirements of the act and rules as specified for other campground owners shall apply.

HISTORY: New 1970, p. 521, Act 171, Imd. Eff. Jan. 1, 1971.

325.653 Campground license; application, contents; fee; expiration; state campgrounds, exemption.

Sec. 3. (1) A person shall not operate a campground without first obtaining an annual campground license from the department. Applications for a campground license shall be submitted to the health officer who shall forward the application to the department. The application shall contain:

- (a) The name and address of the applicant.
 - (b) The location of the campground.
 - (c) Information regarding physical facilities.
- (2) A fee of \$15.00 shall accompany each application for a campground license. The license fee shall be deposited in the city or county general fund. A unit of government is exempt from payment of the license fee.
- (3) The license shall expire on April 30 of each year.
- (4) A campground license is not required for campgrounds owned or operated by the state, provided, however, that the other requirements of the act and rules as specified for other campground owners shall apply.

HISTORY: New 1970, p. 521, Act 171, Imd. Eff. Jan. 1, 1971.

325.654 Campground license; duty of commission or health officer.

Sec. 4. Before an application for a campground license is approved the department or the health officer shall determine that the campground contains adequate facilities to protect the public health.

HISTORY: New 1970, p. 521, Act 171, Imd. Eff. Jan. 1, 1971.

325.655 Campground license; issuance, display; denial, notice, hearing, appeal.

Sec. 5. (1) Upon approval of the application the department shall issue a campground license which shall be displayed in a conspicuous place on the campground.

(2) If the application is not approved the department shall give written notice of its denial to the applicant stating reasons for the denial. The applicant may request reconsideration of his application after correction of the reasons for the denial or may request a hearing before the director or his appointee on the denial within 10 days after receipt of the denial. The director shall afford such a hearing not later than 20 days after receipt of the request. A person aggrieved by the decision of the director may appeal to the courts as provided by law.

HISTORY: New 1970, p. 521, Act 171, Imd. Eff. Jan. 1, 1971.

325.656 Campground license; transfer.

Sec. 6. A campground license shall not be transferred to another person except where the transferee complies with all the requirements to be licensed under this act and the department expressly consents in writing to the transfer.

HISTORY: New 1970, p. 522, Act 171, Imd. Eff. Jan. 1, 1971.

325.657 Rules regarding sanitation and safety standards; promulgation.

Sec. 7. The director, with the advice, assistance and approval of the advisory committee, shall promulgate rules regarding sanitation and safety standards for campgrounds and public health for the purpose of implementing this act in accordance with and subject to the provision of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948. The rules shall be of a nature so as to recognize and provide controls for different types of campgrounds.

HISTORY: New 1970, p. 522, Act 171, Imd. Eff. Jan. 1, 1971.

325.658 Violations, notice, compliance; revocation of license, notice, hearing, appeal.

Sec. 8. If a person licensed under this act fails to comply with this act or any rule promulgated thereunder, the department shall notify him in writing of his failure, specifying his particular violations, and shall specify a time certain within which he shall comply. The length of time given for compliance shall depend upon the nature of the violations. If the licensee does not comply within the time specified, the department may revoke the license. Before revocation the director or his appointee shall hold a hearing and give written notice thereof by certified mail at least 14 days before the date of the hearing, and shall set forth in writing the charges against the licensee. The licensee is entitled to appear with an attorney and may call such witnesses as he desires. After the hearing the director shall decide whether the licensee shall have his license revoked. A licensee aggrieved by a decision of the director to revoke his license may appeal to the courts as provided by law.

HISTORY: New 1970, p. 522, Act 171, Imd. Eff. Jan. 1, 1971.

325.659 Advisory committee; appointment, members, terms.

Sec. 9. The director shall appoint an advisory committee with broad geographical distribution of members to advise on the administration of this act and the preparation and administration of rules promulgated thereunder. The committee shall consist of 11 members as follows: 1 representing the Michigan mobile home and recreational vehicle institute; 2 representing consumers including 1 who represents a recognized campground users association; 2 campground owners, 1 representing a primitive type of campground; 2 representing counties; 2 representing local health departments; the director of the department of natural resources or his designated representative; and the director of the department of public health or his designated representative. Except for the directors of the departments of public health and natural resources, or their designated representative, the members shall serve for a term of 3 years. However, of those first appointed 3 members shall serve for a 1-year term, 3 members shall serve for a 2-year term and 3 members shall serve for a 3-year term.

HISTORY: New 1970, p. 522, Act 171, Imd. Eff. Jan. 1, 1971.

325.660 Director; access to campgrounds.

Sec. 10. The director or his authorized representative shall have access during all reasonable hours to any campground for the purpose of inspection or otherwise carrying out the provisions of this act.

HISTORY: New 1970, p. 522, Act 171, Imd. Eff. Jan. 1, 1971.

325.661 Exemptions; construction of act.

Sec. 11. This act shall not apply to campgrounds used solely as a children's camp licensed by the department of social services or to properties owned by individuals or corporations licensed pursuant to Act No. 289 of the Public Acts of 1965, being sections 286.621 to 286.634, of the Compiled Laws of 1948, and used for housing seasonal agricultural workers employed by such individuals or corporations. This section shall not be so construed as to interfere in any way with the enforcement of sanitary con-

trols by a health officer having jurisdiction in the area. No campground licensed under the provisions of this act shall be used for the housing of seasonal agricultural workers unless also licensed under the provisions of Act No. 289 of the Public Acts of 1965, being sections 286.621 to 286.634 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 522, Act 171, Imd. Eff. Jan. 1, 1971.

325.662 Effect of act as to local ordinances.

Sec. 12. This act shall not relieve any person from the provisions of local ordinances requiring that he obtain a building permit or from the provisions of any code, regulation or ordinance not in conflict with this act.

HISTORY: New 1970, p. 523, Act 171, Imd. Eff. Jan. 1, 1971.

325.663 Violation of act; misdemeanor.

Sec. 13. Any person found guilty of violating any of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1970, p. 523, Act 171, Imd. Eff. Jan. 1, 1971.

325.664 Violation of act; injunctive relief.

Sec. 14. Notwithstanding the existence of any other remedy, the director or the health officer may maintain an action in the name of the state for an injunction against any person to restrain or prevent the construction, enlargement or alteration of a campground without a permit, or the operation or conduct of a campground without a license.

HISTORY: New 1970, p. 523, Act 171, Imd. Eff. Jan. 1, 1971.

325.665 Effective date of act.

Sec. 15. This act shall take effect on January 1, 1971.

HISTORY: New 1970, p. 523, Act 171, Imd. Eff. Jan. 1, 1971.

Act 22, 1968, p. 50; Imd. Eff. Jun. 24.

AN ACT to protect the public health; to define alcoholism; to authorize educational and preventive programs concerned with alcoholism and programs for the treatment and rehabilitation of alcoholics; to define the duties of the department of public health; to establish a state advisory board of alcoholism and define its powers and duties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

325.701 Alcoholism program; definitions.

Sec. 1. As used in this act:

(a) "Alcoholism" means a chronic and progressive illness, characterized by an excessive and uncontrolled drinking of alcoholic beverages, and as a public health problem affecting the general welfare and economy of the state.

(b) "Alcoholics" means persons who habitually use alcoholic beverages to the extent that they have lost the power of self-control with respect to the use of such beverages, or while habitually under the influence of alcoholic beverages endanger public health, morals, safety or the welfare of the public.

(c) "Director" means director of the department of public health.

HISTORY: New 1968, p. 50, Act 22, Imd. Eff. Jun. 24.

325.702 Alcoholism programs; development, concerns; rules; contracts.

Sec. 2. (1) There is created an alcoholism program within the state department of public health. The director, with the advice and counsel of the state advisory board of alcoholism, is authorized to develop and carry out programs concerned with education

about and prevention of alcoholism and the diagnosis, treatment and rehabilitation of alcoholics, and to make such rules in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as shall be instrumental in carrying out the purposes of this act. These programs shall include, but shall not be limited to: the promotion, support or conduct of studies or research on the consumption of alcoholic beverages and on alcoholism and the relation thereof to the health and welfare of the people of the state; the promotion, support or conduct of programs concerned with education about the use of alcoholic beverages, and the prevention of alcoholism, and the promotion, support or conduct of programs for the diagnosis, treatment and rehabilitation of patients with alcoholism; the development of standards and the provision of consultation for local alcoholism programs, and the recognition or approval of such local programs as meet the standards; the promotion, support or conduct of training of personnel to increase the effectiveness of state or local alcoholism programs; the development or purchase and the distribution of educational and informational material; the promotion and establishment of cooperative relationships or programs with boards, hospitals, clinics, social agencies, health agencies, law enforcement agencies, educational and research organizations, and other related groups; the cooperation with the department of state in designing and carrying out programs for determining the relationship between the consumption of alcohol and motor vehicle accidents and for developing and implementing the corrective procedures indicated; the development of cooperative programs with the state departments of education, mental health and social services, so that resources available to those departments may be coordinated with those of the department of public health for an overall approach to the problem; and the cooperation with and assistance to the state department of education in promoting and encouraging the teaching in the schools of this state factual information relating to alcoholism and the use of alcoholic beverages.

(2) The director may contract with approved local health units, other agencies of government, nonprofit corporations and individuals for the carrying out of any or all of these responsibilities.

HISTORY: New 1968, p. 50, Act 22, Imd. Eff. Jun. 24.

325.703 State advisory board of alcoholism; members, appointment, terms, qualifications, compensation, meetings.

Sec. 3. There is created within the state department of public health a state advisory board of alcoholism, which shall consist of 7 members to be appointed by the governor with the advice and consent of the senate, for terms of 3 years each. Three members of the board shall be licensed physicians in the state, and 1 of such physicians shall be a qualified psychiatrist. Four members of the board shall be appointed to represent the general public and shall be from any of the following fields: sociology, social work, health administration, education, labor, industry, finance, government, law and related fields; but no more than 1 from any one of these fields. In the first instance, the board shall consist of the members of the state board of alcoholism created by section 47a of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being section 436.47a of the Compiled Laws of 1948, each of whom is authorized to continue uninterruptedly the term to which he was previously appointed and 2 members appointed by the governor. Members of the board shall be entitled to \$35.00 per diem for not more than 12 days per annum, for time spent in performance of official duties, and shall be entitled to actual and necessary traveling and other expenses. The board shall organize and annually elect a chairman. The director, or his designee, shall act as secretary. The board shall meet on the call of the director or on the petition of a ma-

jority of the members, and shall meet at least quarterly. The board shall advise the director on broad policies and goals for the alcoholism program, including the definition of the problems of alcoholism, and other health-related problems associated with the consumption of alcohol with which the state should concern itself, and on methods of evaluating the effectiveness of state and local programs; and assist in interpreting the alcoholism program, including its strengths, weaknesses, and needs to the governor, the legislature and the public.

HISTORY: New 1968, p. 51, Act 22, Imd. Eff. Jun. 24.

325.704 Cooperation with federal government; federal funds.

Sec. 4. The department of public health, as the alcoholism agency of the state, shall cooperate with agencies of the federal government and receive and use federal funds for any purposes set out in this act.

HISTORY: New 1968, p. 51, Act 22, Imd. Eff. Jun. 24.

325.705 Gifts and grants; acceptance; deposition; use.

Sec. 5. The department of public health may accept, receive and administer and expend any money, material or other gifts or grants of any description. Any money or grants made under this section shall be deposited with the state treasurer and shall be credited to the department of public health alcoholism program fund, and shall be expended by the department for the purpose or purposes specified or contemplated by the gifts or grants.

HISTORY: New 1968, p. 51, Act 22, Imd. Eff. Jun. 24.

325.706 Repeal.

Sec. 6. Section 47a of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being section 436.47a of the Compiled Laws of 1948, is repealed.

HISTORY: New 1968, p. 51, Act 22, Imd. Eff. Jun. 24.

325.707 Effective date of act.

Sec. 7. This act shall not become effective unless and until Senate Bill No. 336 of this session becomes law.

HISTORY: New 1968, p. 51, Act 22, Imd. Eff. Jun. 24.

Act 269, 1968, p. 466; Eff. Nov. 15.

AN ACT to protect the public health; to provide for the licensing of food service establishments and vending machine locations; to provide for the payment of license fees; to provide for standards of sanitation and public health; to provide for enforcement procedures; to prescribe the powers and duties of the director, department of public health and local health departments; and to provide penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

325.801 Food service establishments; definitions.

Sec. 1. As used in this act:

(a) "Food service establishment" means any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, catering kitchen, delicatessen, commissary or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. The provisions of this act shall not apply to state and county fairs, meat and poultry slaughterhouses or proc-

essing plants, soft drink plants, food warehouses, grocery stores, bakeries, dairy plants, locker plants, canning and preserving plants, brining stations, roadside stands, flour mills, fish processors and markets, egg breaking plants, motels serving continental breakfasts, or other establishments where food manufacturing, processing or packing is carried out.

(b) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a temporary period of time, not to exceed 2 weeks, in connection with a carnival, circus, public exhibition or similar transitory gathering.

(c) "Vending machine" means any self-service device offered for public use which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of food or beverages without the necessity of replenishing the device between each vending operation. The term does not mean such devices which dispense only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk ball gum, nuts and panned candies.

(d) "Vending machine location" means the room, enclosure, space or area where 1 or more vending machines are installed and operated.

(e) "Director" means the director of the department of public health.

(f) "Certified health department" means any county, district or city health department authorized by the director to enforce the provisions of this act and the provisions of any rules as provided for in section 7.

HISTORY: New 1968, p. 466, Act 269, Eff. Nov. 15.

325.802 License; application; term; multiple sites; display; transferability.

Sec. 2. After April 30, 1969 a person shall not operate any food service establishment, temporary food service establishment or vending machine location in this state without first having secured a license from the director as provided in this act. Application for the license shall be upon such forms and shall contain such reasonable information as may be required by the director. The application for license shall be accompanied by such fees as provided for in section 4. Application for a license shall be submitted to the health department having jurisdiction prior to May 1 each year. Certified health departments shall forward all applications to the director with appropriate recommendations. All licenses, except licenses for temporary food service establishments, shall expire at midnight on April 30 each year. A temporary food service establishment shall be issued a license for the period of time the establishment will be operated at a specified location. When separated areas for food service or preparation are located in 1 building and are operated under 1 management such arrangement shall be considered as 1 establishment and only 1 license shall be required. Where multiple vending machine locations are operated by the same person within the jurisdiction of a health department a single license application for all such vending machine locations may be permitted. The current food service establishment or temporary food service establishment license shall be posted in a conspicuous place in the establishment to which it applies. In the case of vending machines the current vending machine location license number shall be conspicuously displayed on each vending machine. Licenses are not transferable as to person or place.

HISTORY: New 1968, p. 466, Act 269, Eff. Nov. 15.

325.803 License; establishments outside jurisdiction of certified health departments; application, fee.

Sec. 3. License applications for all food service establishments, temporary food service establishments and vending machine locations located outside the jurisdiction of certified health departments shall be submitted directly to the director and all fees ac-

companying such applications shall be deposited in the state treasury to the credit of the general fund.

HISTORY: New 1968, p. 467, Act 269, Eff. Nov. 15.

325.804 Licenses; sanitation service fees; exemptions.

Sec. 4. Each applicant for a license at the time an application is submitted shall pay to the certified health department having jurisdiction any fixed and required sanitation service fees as authorized by Act No. 306 of the Public Acts of 1927, as amended, being sections 327.201 to 327.208b of the Compiled Laws of 1948. When license applications are submitted directly to the director, as provided in section 3, each application for a food service establishment license shall be accompanied by a \$25.00 fee, each application for a temporary food service establishment license by a \$5.00 fee and each application for a vending machine location license shall be accompanied by a \$2.00 fee. Religious and charitable organizations, schools and other educational institutions are exempt from paying the fees but are not exempt from the other provisions of this act.

HISTORY: New 1968, p. 467, Act 269, Eff. Nov. 15.

325.805 License; deficiencies, notice; denial, suspension, revocation; discontinuance of operation.

Sec. 5. If upon examination of an application and inspection reports the director finds the application defective or the food service establishment, temporary food service establishment, vending machine location or vending machine not in compliance with the provisions of this act and any rules adopted hereunder, he shall promptly notify the applicant in writing that the license will not be issued, citing the deficiencies or noncomplying items that constitute his reasons for not issuing the license. If the applicant fails to comply with the terms and conditions of the notice within the time specified, the applicant shall be denied a license. The director may suspend or revoke a license when it is found that there has been a failure to comply with the provisions of this act and any rules adopted hereunder. The director or a certified health department may require immediate discontinuance of operation of any food service establishment, temporary food service establishment, vending machine or vending machine location when in their opinion continued operation would create a substantial hazard to the public health.

HISTORY: New 1968, p. 467, Act 269, Eff. Nov. 15.

325.806 Certified health departments; enforcement of act.

Sec. 6. The director shall delegate the authority and responsibility for the enforcement of the requirements contained in this act and any rules adopted hereunder to county, district and city health departments meeting the criteria for certification as provided for in this act. The certified health departments shall enforce this act and any rules adopted in accordance with section 7.

HISTORY: New 1968, p. 467, Act 269, Eff. Nov. 15.

325.807 Administration and enforcement of act; rules; criteria; definitions.

Sec. 7. The director shall be responsible for the administration and enforcement of this act and to carry out the purposes of this act may make necessary rules in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948 and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. Such rules may include but not be limited to minimum standards of public health and sanitation, criteria for determining health departments qualifying for certification, and any administrative and enforcement procedures which may be necessary for the effective and judicious administration and enforcement of this act. The director in promulgating rules shall seek the advice and counsel of local health de-

partments and the food service industry. Except as otherwise specifically defined or described in this act the provisions of the unabridged nongrading form of the 1962 edition of the "United States public health service food service sanitation ordinance and code" and the provisions of the unabridged form of "the vending of food and beverages—a sanitation ordinance and code—1965 recommendations of the public health service" are adopted, except any reference in these ordinances and codes to adulteration, misbranding and advertising. Upon written request from a local health department the director may recognize certain enforcement procedures other than those contained in the aforementioned ordinances when such procedures will result in enforcement which is equivalent in effectiveness and have been legally adopted by the local board of health. The words "municipality of" as used in the aforementioned ordinances shall mean the state and the term "health authority" shall mean the director or his designated representative, or the administrative officer in charge of a certified health department or his designated representative.

HISTORY: New 1968, p. 467, Act 269, Eff. Nov. 15.

325.808 Food-borne diseases and poisonings; investigation, report; notice to agriculture department.

Sec. 8. A county, district or city health department shall investigate all food-borne diseases and poisonings or suspected food-borne diseases and poisonings connected in any way with a food service establishment, temporary food service establishment or vending machine as defined in this act and located within its jurisdiction and shall promptly make a report of its findings to the director. When an investigation indicates the source of a food-borne disease or poisoning was from a food processing, food storage or similar type of food establishment over which the department of agriculture has legal jurisdiction or responsibility, the director of the department of agriculture shall be immediately notified.

HISTORY: New 1968, p. 468, Act 269, Eff. Nov. 15.

325.809 Certified health departments; criteria.

Sec. 9. The director shall establish criteria for determining the county, district or city health departments qualified to be designated as certified health departments. The criteria shall be included in the rules authorized in section 7 and shall be developed with the advice and counsel of representatives of county, district and city health departments conducting food service establishment sanitation programs.

HISTORY: New 1968, p. 468, Act 269, Eff. Nov. 15.

325.810 Certified health department; what deemed; forfeiture of state grants.

Sec. 10. Each county or district health department established under the provisions of Act No. 306 of the Public Acts of 1927, as amended, being sections 327.201 to 327.208b of the Compiled Laws of 1948, shall be deemed a certified health department under the provisions of this act. Any county or district health department so established and certified which fails to maintain the criteria established by the director under section 9 of this act shall be ineligible to receive the basic grants under the provisions of section 8a of Act No. 306 of the Public Acts of 1927, as amended, being section 327.208a of the Compiled Laws of 1948.

HISTORY: New 1968, p. 468, Act 269, Eff. Nov. 15.

325.811 Violation of act; penalty.

Sec. 11. Any person convicted of violating this act is guilty of a misdemeanor.

HISTORY: New 1968, p. 468, Act 269, Eff. Nov. 15.

325.812 Local authority; powers.

Sec. 12. Nothing in this act limits the authority of any county, city, village or township to regulate food service establishments or vending machines. Nothing in this act shall relieve the applicant for a license or a licensee from responsibility for securing any local permits or complying with all applicable local codes, regulations or ordinances not in conflict with this act.

HISTORY: New 1968, p. 468, Act 269, Eff. Nov. 15.

325.813 Injunctive relief.

Sec. 13. Notwithstanding the existence and pursuit of any other remedy, the director may maintain an action in the name of the state for injunction or other appropriate process against any person to restrain or prevent the operation or conduct of a food service establishment or vending machine location without a valid license or in any manner contrary to the provisions of this act.

HISTORY: New 1968, p. 468, Act 269, Eff. Nov. 15.

CHAPTER 326. HEALTH—VITAL STATISTICS

VITAL STATISTICS		Members of armed forces.	
Act 343 of 1925		Copies for official use.	
326.1	Births and deaths; registration.	Illegitimate births.	
326.2	State commission of health; supervisory powers; bureau of vital statistics, establishment.	Local registrars; records evidence.	
326.3	Births and deaths; primary registration districts.	Local registrars; fees.	
326.4	Local registrars; duties; deputy.	326.17	Correction of records; legitimation, court jurisdiction, records, changing name of child; death, armed services.
326.4a	Local agreement provision; city not to keep vital statistics records.	326.18	Local registrars; fees, salaries, payment.
326.5	Repealed.	326.19	Local registrars; transcripts of births, stillbirths and death; send to county clerk.
326.6	Burial and removal permits; emergency issuance by funeral director.	326.19a	Local registrars; transcript of death records of non-residents.
326.7	Birth and death certificates; burial permits, forms and instructions; furnished by state commissioner of health; type-written or printed; signatures.	326.20	Violation of act, penalties; local registrar, removal.
326.8	Death without medical attendance; inquest; certificate.	326.21	Violation of act; report, attorney general's duty.
326.8a	Determination of cause and date of death in disaster; probate court; petition, contents, hearing, trial, order, copy to coroner.	UNREPORTED AND UNRECORDED BIRTHS	
326.9	Certificate of death; contents; disposition permit.	Act 35 of 1931	
326.10	Permit for disposition of body; contents.	326.31	Unreported and foreign births; registration; application; fee; evidence.
326.11	Permit for disposition to accompany body; endorsement and return; records.	326.32	Birth certificate; delayed; contents.
326.12	Registration of births; illegitimate births, records, inspection, secrecy; adoption records; evidence.	326.33	Delayed registration; refusal, appeal; costs; dismissal.
	Adoption; original certificate, inspection.	326.34	Petition to probate court; contents; fee; notice.
	Annulment of adoption.	326.35	In state births; court order; contents, registration, use.
	Adoption, filing fee.	326.36	Out of state unrecorded births; registration, application.
	Adoption, annulment or amendment.	326.37	Foreign births; affidavit of parents' residence, record, fee.
326.13	Institutional records.		Certified copies, evidence.
326.14	Information; certificates, preservation; reports of death from infectious disease.	DIVORCES	
326.15	State health commissioner to define stillbirth; certificates.	Act 9 of 1897	
326.16	Vital statistics; records; copies, fees.	326.51	Divorce petitions; returns to health commissioner, form, contents.
	Fees.	326.52	Divorce statistics; preparation, report.
		TRANSFER OF FUNCTIONS	
		Act 170 of 1921	
		326.61	Secretary of state; transfer of powers and duties to commissioner of health.
		326.62	Secretary of state; transfer of records and data to commissioner of health.

Act 343, 1925, p. 515; Eff. Aug. 27.

An ACT to provide for registration of births, deaths and adoptions in this state; the appointment of registrars thereof; requiring physicians and others to make certain reports; to provide for certified copies of certain vital statistics records; providing penalties for violating the provisions hereof and to repeal certain inconsistent acts. Am. 1931, p. 194, Act 124, Eff. Sep. 18;—Am. 1933, p. 139, Act 105, Imd. Eff. Jun. 7.

The People of the State of Michigan enact:

326.1 Births and deaths; registration.

Sec. 1. The state department of health shall have supervision of the registration of births and deaths in this state. It shall require the registration of all births and deaths in each primary registration district, as constituted by this act. The state commissioner of health with the advice and consent of the public health council may formulate such rules and regulations supplementary to the provisions of this act and not inconsistent therewith, as may be necessary to carry out the provisions hereof.

HISTORY: CL 1929, 6573;—CL 1948, 326.1.

FORMER ACTS: Act 217 of 1897, being CL 1915, 5604 to 5610; Act 330 of 1905, being CL 1915, 5613 to 5625. Act 217 of 1897 was amended by Act 200 of 1923.

FORMER ACTS: Act 217 of 1897, being CL 1915, 5604 to 5610; Act 330 of 1905, being CL 1915, 5613 to 5625. Act 217 of 1897 was amended by Act 200 of 1923.

EYES OF INFANTS: For law requiring that eyes of infants be treated at birth, see Compilers' § 750.472.

OSTEOPATHS: For law requiring osteopath physicians to report and certify to births and deaths, see Compilers' § 338.104.

326.2 State commission of health; supervisory powers; bureau of vital statistics, establishment.

Sec. 2. The state commissioner of health shall have general supervision of the bureau of vital statistics, and over all registrars, deputy registrars and sub-registrars provided for in this act. He shall appoint a director to have charge of such bureau. He shall detail to such bureau such clerical and other assistants as may be necessary to properly carry on the work thereof.

HISTORY: CL 1929, 6574;—CL 1948, 326.2.

326.3 Births and deaths; primary registration districts.

Sec. 3. Each city of more than 50,000 population, each county, state hospital and charitable or penal institution shall constitute a primary registration district.

HISTORY: CL 1929, 6575;—CL 1948, 326.3;—Am. 1951, p. 355, Act 241, Eff. Sep. 28;—Am. 1952, p. 69, Act 65, Imd. Eff. Apr. 8;—Am. 1966, p. 223, Act 198, Imd. Eff. Jul. 9.

326.4 Local registrars; duties; deputy.

Sec. 4. In counties over 200,000 in population, each county, city or village clerk, and in counties under 200,000 in population, each county clerk and city clerk of a city of more than 50,000 in population, and the superintendent or person in charge of each state hospital and charitable or penal institution, shall be the local registrar of vital statistics in such official's registration district, except that the state health commissioner may designate the health officer of any city over 50,000 population having a full-time health officer as local registrar instead of the city clerk of the city. Each local registrar shall, upon taking office, appoint a deputy who shall act for and in behalf of such registrar during his absence or disability. Such deputy shall be subject to all laws, rules and regulations covering registrars. Each local registrar is charged with the thorough enforcement of the provisions of this act in his district and shall report to the state health commissioner any violation of the provisions of this act coming to his knowledge. He shall promptly and correctly record in books provided for that purpose every certificate of birth, stillbirth or death filed with him, dating same the exact date of its receipt by him over his signature, numbering each birth, each stillbirth and each death in consecutive order in separate series beginning with number 1, for the first certificate of each calendar year and shall send all original certificates to the state department of health or to the county health department for transmittal to the state department of health on the fourth day of the following month.

HISTORY: CL 1929, 6576;—CL 1948, 326.4;—Am. 1951, p. 355, Act 241, Eff. Sep. 28;—Am. 1952, p. 69, Act 65, Imd. Eff. Apr. 8;—Am. 1966, p. 223, Act 198, Imd. Eff. Jul. 9;—Am. 1967, p. 101, Act 82, Eff. Nov. 2.

326.4a Local agreement provision; city not to keep vital statistics records.

Sec. 4a. Notwithstanding any other provisions of this act, the county board of supervisors and the governing body of the city may provide, by agreement, that the city need not keep vital statistics records as provided in this act.

HISTORY: Add. 1967, p. 101, Act 82, Eff. Nov. 2.

326.5 Repealed. 1951, p. 356, Act 241, Eff. Sep. 28.

Section permitted appointment of licensed embalmers as sub-registrars of vital statistics in rural areas.

326.6 Burial and removal permits; emergency issuance by funeral director.

Sec. 6. No body where the death occurred in this state, nor any dead body found therein, shall be interred, deposited in a vault or tomb, cremated or other disposition made thereof, removed from or into any registration district or be held pending further disposition for more than 72 hours after death, unless a permit for the disposition thereof has been issued by the registrar of the district in which the death occurred, or the body was found. No burial or removal permit shall be issued until a certificate of death has been filed with the registrar except as hereinafter provided. A transit or removal permit from another state from which a dead body is transferred, issued in accordance with the law of such place, shall be accepted as the burial permit herein provided. If the local registrar does not maintain 24-hour daily service for registration, a duly licensed funeral director may issue a burial or removal permit to himself, if the envelope in which the completed death or stillbirth certificate is mailed to the county clerk or registrar in whose jurisdiction the death occurred is postmarked within 72 hours after the death occurred.

HISTORY: CL 1929, 6578;—CL 1948, 326.6;—Am. 1962, p. 447, Act 202, Eff. Mar. 28, 1963;—Am. 1966, p. 223, Act 196, Imd. Eff. Jul. 9.

326.7 Birth and death certificates; burial permits, forms and instructions; furnished by state commissioner of health; typewritten or printed; signatures.

Sec. 7. The state commissioner of health shall prepare and furnish to the registrars all forms and blanks required by this act and all instructions, rules and regulations adopted hereunder and necessary for carrying out the provisions hereof. Such instructions, rules and regulations shall require the information contained in all birth and death certificates and burial permits, with the exception of signatures, to be typewritten or legibly printed: Provided further, That the signer of such document shall have legibly typed or printed under such signature, the name signed above. No forms or blanks other than those furnished by the commissioner shall be used. The form of such certificates and blanks and the information to be furnished thereon shall be determined by him but shall conform to the standardized form as nearly as possible. Such certificates shall be signed by the person giving the information and by the undertaker, the physician or such other person or persons as the department deems advisable.

HISTORY: CL 1929, 6579;—Am. 1945, p. 254, Act 185, Imd. Eff. May 16;—CL 1948, 326.7.

326.8 Death without medical attendance; inquest; certificate.

Sec. 8. In case of any death occurring without medical attendance it shall be the duty of the undertaker or person acting as such to notify 1 of the county coroners, or a justice of the peace acting as coroner, who shall investigate or hold an inquest as the circumstances require and shall certify as to the cause of such death on the death certificate and shall sign the same officially as coroner or acting coroner. If such death was the result of violence, the said coroner, or justice of the peace acting as such, shall

state the cause of the violence and whether or not it was apparently accidental, suicidal or homicidal and shall furnish such further information as may be required by the state commissioner of health.

HISTORY: Am. 1927, p. 173, Act 125, Imd. Eff. May 9;—CL 1929, 6580;—CL 1948, 326.8.

CITED IN OTHER SECTIONS: The above section is cited in § 600.8511.

326.8a Determination of cause and date of death in disaster; probate court; petition, contents, hearing, trial, order, copy to coroner.

Sec. 8a. Whenever a disaster has occurred wherein it appears that a person or persons has or have died but his, her or their remains have disappeared or are unidentifiable, the coroner, sheriff or prosecutor of the county in which such disaster or any part thereof, or if such disaster shall have occurred upon or within the great lakes or their connecting waters, then of the county or counties next adjacent to the scene of such disaster, then the wife or husband, next of kin, heir at law, legatee, devisee or executor named in a will or a creditor or debtor of such person may file in any probate court of such county or counties a petition asking that the court determine the cause and date of death of such person or persons.

Such petition shall set forth the facts and circumstances concerning the disaster, the reasons for the belief that the person or persons perished therein, that such person or persons are unidentifiable or have disappeared and the names and address of all persons known or believed to be heirs at law of such person or persons.

Upon the filing of the petition, the probate court shall fix the time and place for hearing and the petitioner shall give or cause to give notice, as provided in section 32 of chapter 1 of Act No. 288 of the Public Acts of 1939, as amended, being section 701.32 of the Compiled Laws of 1948.

At the hearing upon the petition, the court upon its own motion may, and upon motion of any interested party shall, impanel a jury as provided by law for probate courts.

If a jury is impaneled, it, and if there be no jury, the court, shall try the issues and hear proofs taken in open court and/or by commission ordered by the court.

If the jury, or the court if there be no jury, shall find from sufficient evidence that a disaster occurred in which such person named in the petition was killed or may be presumed to have met death, then the court shall enter an order which shall find the site of the disaster, the date and, if possible, the time thereof and that such person met death in such disaster.

A certified copy of such order shall be sufficient when presented to the coroner or other person acting in his stead for the issuance of a certificate of death under this section: Provided, That no petition for the finding of death as provided herein shall be filed within 60 days nor later than 3 years following the occurrence of the disaster.

HISTORY: Add. 1951, p. 180, Act 148, Imd. Eff. Jun. 6.

326.9 Certificate of death; contents; disposition permit.

Sec. 9. The funeral director or person having charge of a corpse shall file the certificate of death or stillbirth with the registrar of the district in which the death or stillbirth occurred and obtain a burial or removal permit prior to disposing of the body, subject to the provisions of section 6. He shall obtain the required personal and statistical particulars over the name and address of his informant. The attending physician or in the absence of an attending physician, the coroner shall fill out and sign the medical certificate of death or stillbirth within 24 hours after death. The funeral director shall then state over his signature and address the date and place of intended burial, cremation or to which the body is to be removed, and present the completed certificate to the registrar for a permit for burial, removal or other disposition of the body.

The name of each person who signs the certificate of death or stillbirth shall be legibly printed, typewritten or stamped upon the certificate immediately beneath the sig-

nature of the person. The permit shall be delivered to the person in charge of the place of burial before the body is interred or otherwise disposed of. If the body is to be shipped, the permit shall be attached to the box containing the same and shall be delivered to the person in charge of the place of burial if within the state.

HISTORY: CL 1929, 6581;—Am. 1937, p. 541, Act 291, Eff. Oct. 29;—CL 1948, 326.9;—Am. 1952, p. 70, Act 65, Imd. Eff. Apr. 8;—Am. 1962, p. 448, Act 202, Eff. Mar. 28, 1963.

326.10 Permit for disposition of body; contents.

Sec. 10. If the interment or other disposition of the body is to be made within the state, the wording of the permit for burial, cremation or removal, may be limited to a statement by the registrar over his signature, that a satisfactory certificate of death has been filed with him, as required by law and that permission is therefore granted to inter, cremate, remove or otherwise dispose of the body and such further information as shall be prescribed by the commissioner of health.

HISTORY: CL 1929, 6582;—CL 1948, 326.10.

326.11 Permit for disposition to accompany body; endorsement and return; records.

Sec. 11. No person in charge of any premises on which interments or cremations are made, shall permit the disposition of any body therein, unless it is accompanied by a permit as herein provided. Such person shall endorse thereon the date of interment or cremation, over his signature and shall then return the permit to the registrar of his district within 7 days thereafter. He shall keep a record of all bodies disposed of on the premises under his charge, which record shall state the name, place of death, date of burial, cremation or disposal and name and address of the undertaker in charge. The record shall be open at all times to official inspection. If the body is buried in a cemetery having no person in charge, the undertaker shall sign such permit and file the same within 3 days with the registrar of the district in which the cemetery is located.

HISTORY: CL 1929, 6583;—CL 1948, 326.11.

CREMATIONS: Records and reports, see Compilers' § 327.311 et seq.

326.12 Registration of births; illegitimate births, records, inspection, secrecy; adoption records; evidence.

Sec. 12. The birth of each child born in this state shall be registered within 5 days after the date thereof. A typewritten or legibly printed certificate of such birth shall be filed with the registrar of the district in which it occurred but an illegitimate birth shall be filed with the state department of public health and not with the registrar of the district in which it occurred. Such illegitimate birth record shall be kept in a separate file and shall not be subject to public inspection nor copies thereof issued, other than to the person to whom the record pertains, or the mother of the child, except upon order of a circuit court or other court of competent jurisdiction, and only for the purpose designated on the order of such court. The physician, midwife or person acting as a midwife in attendance at a birth, shall file the certificate. If no physician, midwife or person acting as midwife was in attendance, the father or mother of the child, the householder or owner of the premises or the manager or superintendent of the public or private institution where the birth occurred, in the order named, shall report such birth within 5 days thereafter. If the person required to file such certificate is unable to obtain any item of information required to be furnished, the registrar shall secure the same if possible from any person having such knowledge and complete the certificate of birth. Any person interrogated by the registrar shall answer to the best of his knowledge, all material questions asked him by the registrar relative to any information needed to complete the birth record. The informant shall sign any statement made in accordance therewith upon the request of the registrar. Except for purposes of evidence in legal proceedings, all knowledge of any facts concerning an illegitimate birth which shall come to any court, its officers and employees, the state director of

public health or to any local registrar, physician, midwife or person acting as midwife in attendance at a birth, householder or owner of the premises or the manager or superintendent of the public or private institution where the birth occurred or to any deputy or assistant of any of them shall be deemed to be privileged communications and any violation by such persons of the confidence established in such knowledge shall be a misdemeanor. No child born to a married woman shall be reported as illegitimate. Whenever a decree of adoption is entered in any court of competent jurisdiction in the state, a record of the adoption shall be filed with the state department of public health and on a form prescribed by the state director of public health. This record shall include such facts as are necessary to locate and identify the certificate of live birth of the person adopted; provide information necessary to establish a new certificate of birth of the person adopted; and shall identify the order of adoption and be certified to by the clerk of the court. Upon receipt of this record of adoption, the state director of public health shall establish a new certificate of birth for a person born in this state. The new certificate of birth shall be filed with the birth records of the state and certified copies shall be issued upon request. Such certified copies shall be accepted in all courts and places as prima facie evidence of the date and place of birth of said child. Any birth certificate so issued shall make no reference to adoption and shall conform as near as possible in appearance to a birth certificate issued in other cases. Judges of probate shall file a new record of adoption for those adopted children for whom a certificate of adoption is already on file with the department of public health upon formal request to the judge of probate of the county in which the child was adopted by either or both of the adopting parents or the person to whom the record pertains or the state director of public health. When judges of probate file a new record of adoption with the department of public health, the department will create a new certificate of birth to stand in lieu of the certificate of adoption already on file.

Adoption; original certificate, inspection.

Whenever a certificate of birth is created on the basis of a record of adoption, thereafter, the original certificate of birth and the record of adoption shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by regulation of the state director of public health.

Annulment of adoption.

Upon receipt of notice of annulment of adoption, the original certificate of birth shall be activated and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.

Adoption, filing fee.

The probate judge shall collect a filing fee of \$4.00 with the application for adoption and shall remit to the state director of public health with the record of adoption \$2.00 of the fee and shall retain \$2.00 for his services.

Adoption, annulment or amendment.

Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a certificate thereof, which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record. Not later than the fourth day of each calendar month, the clerk of such court shall forward to the state director of public health records of decrees of adoption, annulment or amendments thereof entered in the preceding month, together with such related reports as the state director of public health shall require. When the state director of public health shall receive a record of adoption, or annulment of adoption or amendment thereof from a court for a person born outside this state, such record shall be forwarded to the appropriate registration authority in the state of birth. When a new certificate of birth is established by the

state director of public health, all copies of the original certificate of birth in the custody of any custodian of permanent local records in this state shall be sealed from inspection or forwarded to the state director of public health as he shall direct.

HISTORY: CL 1929, 6584;—Am. 1933, p. 139, Act 105, Imd. Eff. Jun. 7;—Am. 1947, p. 643, Act 343, Eff. Oct. 11;—CL 1948, 326.12;—Am. 1952, p. 70, Act 65, Imd. Eff. Apr. 8;—Am. 1953, p. 95, Act 100, Imd. Eff. May 21;—Am. 1960, p. 29, Act 35, Eff. Aug. 17;—Am. 1968, p. 309, Act 212, Eff. Nov. 15.

326.13 Institutional records.

Sec. 13. Any superintendent, manager or person in charge of any hospital, almshouse, lying-in hospital or any institution public or private, to which persons resort for treatment or confinement or to which persons are committed by process of law, shall make the record required in the certificate of birth or death of all inmates in their institutions, when this act becomes effective. Such record shall be made of all future births or deaths in the institution. Where persons are admitted or committed for treatment, the physician in charge shall furnish such other information as may be required by the state commissioner of health. All such information shall be obtained from the patient himself, if possible, but if not, it shall be obtained from any other person acquainted with the facts.

HISTORY: CL 1929, 6585;—CL 1948, 326.13.

326.14 Information; certificates, preservation; reports of death from infectious disease.

Sec. 14. Any person shall furnish such information as he may possess regarding any birth or death, to the state commissioner of health, upon demand. The state commissioner of health shall preserve permanently, all the certificates filed in his office. The local registrar shall immediately notify the health officer of his district of all deaths reported to have occurred from such infectious, contagious or communicable diseases as may be designated by the rules and regulations of the commissioner.

HISTORY: CL 1929, 6586;—CL 1948, 326.14.

326.15 State health commissioner to define stillbirth; certificates.

Sec. 15. It shall be the responsibility of the state health commissioner to define a still birth. Both a still birth certificate and a burial or removal permit shall be required for each stillborn child which has advanced through the twentieth week of uterogestation. The medical certificate shall be signed by the attending physician, if any. It shall state the cause of death as "stillborn," with the reason therefor and the period of uterogestation in weeks, if known. Stillbirths occurring without the attendance of a physician shall be treated as deaths without medical attendance, as hereinbefore provided.

HISTORY: CL 1929, 6587;—CL 1948, 326.15;—Am. 1952, p. 71, Act 65, Imd. Eff. Apr. 8.

326.16 Vital statistics; records; copies, fees.

Sec. 16. (1) The state director of public health, upon a request accompanied by the fee hereinafter provided, shall search the records and issue certificates of registration of births and adoptions, and certified copies of deaths, marriages or divorces. Each such certificate of registration furnished by the state director of public health shall set forth only the name of the person, sex, color, date and place of birth, and the date on which the same was recorded in the official records of the Michigan department of public health at Lansing. The state director of public health on the written request of the person to whom the record pertains, either or both parents, or any heir, attorney, guardian or legal representative of such person shall issue a certified copy or a certificate of registration, or verify information contained thereon, of the record of his birth, based upon the record of such birth in the files of his office. If the record is not found, the person making the request shall receive an official statement to the effect in lieu of a copy of the record.

Fees.

(2) The fee for a search and 1 copy of any record, 1 certificate of registration, or an official statement to the effect that the record is not on file shall be \$2.00, if the search does not extend through records of more than 3 years. For each additional year searched, the charge shall be 50 cents, and for each additional copy ordered at the same time, the charge shall be 50 cents. The state director of public health may charge a reasonable fee for special searches to meet adequately the cost thereof.

Members of armed forces.

(3) Upon application of any soldier, sailor, marine, member of the coast guard, nurse or member of a woman's auxiliary, and to any person who is entitled to a bonus or to any pension or compensation under the laws of this state or of the United States of America or any state or territory thereof arising out of or for service in the armed services of the United States or any service auxiliary thereto or, if deceased or mentally incompetent, to any heir, guardian or legal representative 1 copy of any record requested of the department of public health shall be furnished without charge for the purpose of securing any such bonus, pensions or compensation.

Copies for official use.

(4) Copies of records shall be furnished without charge, for official use only, to any court, federal department, state department, or the official registrars of vital records for other countries, upon formal application.

Illegitimate births.

(5) Certified copies or certificates of registration of records of illegitimate births shall not be furnished to anyone but the mother of the child, the child, or the appointed guardian of the child, except upon order of a circuit court, a probate court or other court of competent jurisdiction.

Local registrars; records evidence.

(6) All records of local registrars of counties, cities and villages authorized under this act, or certified copies thereof, shall be prima facie evidence in all courts and for all purposes of the facts recorded therein pertaining to identity, occurrence, time and place.

Local registrars; fees.

(7) The fee to be charged by local registrars for such certified copy shall be the same as charged by the state director of public health.

HISTORY: CL 1929, 6588;—Am. 1931, p. 194, Act 124, Eff. Sep. 18;—Am. 1947, p. 644, Act 343, Eff. Oct. 11;—CL 1948, 326.16;—Am. 1952, p. 71, Act 65, Imd. Eff. Apr. 8;—Am. 1959, p. 324, Act 223, Eff. Mar. 19, 1960;—Am. 1961, p. 88, Act 87, Imd. Eff. May 23;—Am. 1965, p. 562, Act 292, Imd. Eff. Jul. 22;—Am. 1968, p. 271, Act 181, Eff. Nov. 15.

SOLDIERS OR DEPENDENTS: No fee to be charged for administration of oath or certified copies of records from certain officers, in connection with pension or compensation matters, see Compilers' §§ 35.51, 35.52 and 35.41.

CITED IN OTHER SECTIONS: The above section is cited in §§ 326.35 and 326.37.

326.17 Correction of records; legitimation, court jurisdiction, records, changing name of child; death, armed services.

Sec. 17. Whenever it is alleged that the facts are not correctly stated in any certificate of birth or death heretofore registered, the state health commissioner shall require such evidence to be presented in the form of affidavits or otherwise as may be necessary to establish the alleged facts and when so established the original record may be changed to accord with the same. Whenever it is alleged that the father and mother of an illegitimate child have become legally married, at any time subsequent to the birth of such child, the state health commissioner shall require such evidence to be presented in the form of affidavits, certified copies of records or otherwise, as may be necessary to establish such marriage, and when so established a new certificate shall be substituted so as to record the legitimate birth of the child, and the married name of the mother. Whenever the state health commissioner is not satisfied that sufficient evi-

dence has been submitted to him to correct facts which are claimed to be not correctly stated in any certificate of birth or death heretofore registered, the circuit courts of this state shall, upon presentation of a written petition and a notice of hearing thereon having been served upon the state health commissioner by registered mail not less than 10 days prior to the date of such hearing, have jurisdiction to hear the facts at a private hearing thereon and to determine the correct facts to be stated in such certificate of birth or death and, upon such determination, the said circuit courts are hereby authorized to order the state health commissioner to correct said birth or death certificate in accordance with said court's determination and also order the state health commissioner to issue a copy of the corrected birth record containing the corrected facts. All proceedings including the order and the petition on which it is based shall be suppressed and shall be and remain confidential to the parties to the action, the court, its officers and employees, and the state health commissioner and to his deputies and employees. No original record of any birth or death shall be destroyed but shall be kept on file and suitable cross reference made between such original record and the corrected record and none of the incorrect facts shall appear on the corrected record or reference made thereto except any reference mark made thereon by the state health commissioner as will identify the records: Provided, That no such reference mark shall, in itself, disclose any of the facts appearing on the original certificate of birth or death. The father or mother, however, of any child, or the mother alone of an illegitimate child, whose birth has been registered, may, during the lifetime of said child, change the given name of the child on the record, by filing a supplemental certificate of its name. The state health commissioner shall receive such supplemental certificate and shall correct the records of such child in accordance therewith. The death of any person who died while a member of the armed services of the United States, and who at the time of entering such service was a resident of the state of Michigan, shall be recorded upon the filing with the local registrar of any official record thereof, including the official letter from an appropriate agency of the armed services to the next of kin of such deceased person.

HISTORY: CL 1929, 6599;—Am. 1933, p. 262, Act 172, Eff. Oct. 17;—Am. 1947, p. 645, Act 343, Eff. Oct. 11;—CL 1948, 326.17;—Am. 1951, p. 356, Act 241, Eff. Sep. 28;—Am. 1952, p. 71, Act 65, Imd. Eff. Apr. 8.

326.18 Local registrars; fees, salaries, payment.

Sec. 18. Local registrars shall be entitled to a fee of 25 cents for each birth and each death registered and certificate forwarded by him to the state department of health, on the fourth of the following month: Provided, however, That when the fees received by a full time health officer of a city acting as local registrar shall exceed the sum of \$5,000.00, then all fees in addition thereto shall be turned over to the city treasurer of such city and credited to the general funds of such city: Provided, That the salary of any such registrar may be reduced to less than \$5,000.00 by the legislative body of the city. If no births or deaths have occurred in his registration district for any particular month, he shall make a report to that effect and shall receive the same fee therefor as for making 1 certificate. The state commissioner of health shall issue warrants to local registrars at the end of their official year, ending March thirty-first, showing the number of certificates registered and returned and the number of "no report" cards, with the amount due at the rate fixed herein. Such warrants shall be sent to the county clerk who shall, if he finds the same are correct, according to the records in his office, forward the warrant to the local registrars for payment by the county treasurer from the general fund of the county.

HISTORY: CL 1929, 6590;—Am. 1945, p. 536, Act 312, Eff. Sept. 6;—CL 1948, 326.18.

326.19 Local registrars; transcripts of births, stillbirths and death; send to county clerk.

Sec. 19. At the end of each month the local registrar shall send a transcript of the record of all births, stillbirths and deaths registered by him for the month to the county clerk.

HISTORY: CL 1929, 6591;—CL 1948, 326.19;—Am. 1952, p. 72, Act 65, Imd. Eff. Apr. 8.

326.19a Local registrars; transcript of death records of non-residents.

Sec. 19a. When a death certificate returned by a local registrar to the state commissioner of health indicates that a person died in a county in which he was not a resident it shall be the duty of said commissioner to make a transcript of such record upon a certificate of a different color than the ordinary death certificate and forward such transcripts monthly to the clerk of the county in which such person was a resident, and it shall be the duty of said clerk to file and preserve such transcripts and to record the facts on such transcripts in the book of death records and mark the entries "Transcript from County".

HISTORY: Add. 1931, p. 293, Act 182, Imd. Eff. May 28;—CL 1948, 326.19a.

326.20 Violation of act, penalties; local registrar, removal.

Sec. 20. Any person who for himself or as an agent or employe of any other person, corporation or copartnership, neglects or refuses to do or perform any act or thing to be done or performed by him as required in this act or who refuses or neglects to furnish any information in his possession or who furnishes any false information or who violates any of the other provisions of this act or any rule or regulation lawfully established by the state commissioner of health or who shall wilfully alter, otherwise than as provided in this act, or falsify any certificate of birth or death or any record established in compliance therewith, where no other penalty is provided herein, shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be punished by a fine of not less than 5 dollars nor more than 50 dollars and for each subsequent offense by a fine of not less than 25 dollars nor more than 100 dollars or by imprisonment in the county jail for not more than 60 days or by both such fine and imprisonment in the discretion of the court. Any physician who shall fail to file a certificate of birth as required by this act within 5 days after the birth of the child shall be deemed guilty of a misdemeanor and for the conviction thereof shall, for the first offense be punished by a fine of not less than 5 dollars, nor more than 50 dollars and for the second and each subsequent offense, be fined not less than 50 dollars nor more than 200 dollars. Any local registrar who shall neglect or refuse to make reports to the state department of health or who shall neglect or refuse to enforce the provisions of this act in his district promptly in accordance with this act, shall, in addition to the other penalties provided herein, be subject to removal from office by the governor, in the same manner as county and state officers are removed from office and the township board, village president or mayor shall appoint a clerk in his place. Any clerk so removed shall not be eligible for reappointment or re-election for a period of 2 years thereafter.

HISTORY: CL 1929, 6592;—CL 1948, 326.20.

326.21 Violation of act; report, attorney general's duty.

Sec. 21. Whenever the state commissioner of health deems it necessary, he may report cases of violations of any of the provisions of this act or of the rules and regulations adopted hereunder, to the attorney general, with a statement of the facts and cir-

cumstances and when any such case is reported, the attorney general shall either directly or through the prosecuting attorney of the county where such violation occurred, initiate the necessary criminal proceedings against the person, firm or corporation responsible for the alleged violations.

HISTORY: CL 1929, 6583;—CL 1948, 326.31.

Sec. 22. (This was a repeal section.)

HISTORY: CL 1929, 6594;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 330, 1906; CL 1915, 5613-5625; Act 217, 1897, CL 1915, 5604-5625. (CL 1915, 5611-5612, is Act 115 of 1903. See note under Sec. 5 of this act.)

Act 35, 1931, p. 51; Eff. Sep. 18.

AN ACT to provide for the registration of unreported, unrecorded and foreign births. Am. 1941, p. 634, Act 361, Imd. Eff. Jun. 19;—Am. 1959, p. 63, Act 63, Imd. Eff. Jun. 5.

The People of the State of Michigan enact:

326.31 Unreported and foreign births; registration; application; fee; evidence.

Sec. 1. Whenever a birth that occurred in the state has not been registered, application for the registration of the birth may be made by the interested person to the department of public health accompanied by a registration fee of \$4.00. Registration shall be made subject to evidentiary requirements prescribed by the department of public health to substantiate the alleged facts of birth.

HISTORY: Am. 1941, p. 634, Act 361, Imd. Eff. Jun. 19;—CL 1948, 326.31;—Am. 1969, p. 601, Act 311, Eff. Mar. 20, 1970.

326.32 Birth certificate; delayed; contents.

Sec. 2. A certificate of birth registered 1 year or more after the date of occurrence shall be marked "delayed" and show on its face the date of the delayed registration. A summary statement of the evidence submitted in support of the delayed registration shall be indorsed on the certificate.

HISTORY: Am. 1941, p. 635, Act 361, Imd. Eff. Jun. 19;—CL 1948, 326.32;—Am. 1963, p. 290, Act 201, Eff. Sep. 6;—Am. 1969, p. 601, Act 311, Eff. Mar. 20, 1970.

326.33 Delayed registration; refusal, appeal; costs; dismissal.

Sec. 3. When an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the department of public health finds reason to question the validity or adequacy of the certificate or the documentary evidence, the department of public health shall not register the delayed certificate and shall advise the applicant of his right of appeal to the probate court of the county of residence or birth. When the court has ordered a delayed registration or review of a denied application, the department of public health shall not assess any additional costs for such registration or review when filed within 3 months. The department of public health may dismiss an application where there has been no progress within 3 months after filing.

HISTORY: Am. 1941, p. 635, Act 361, Imd. Eff. Jun. 19;—CL 1948, 326.33;—Am. 1969, p. 601, Act 311, Eff. Mar. 20, 1970.

326.34 Petition to probate court; contents; fee; notice.

Sec. 4. If a delayed certificate of birth is not issued under the provisions of section 3 within 3 months after filing of the application a petition may be filed with the probate court of the county of residence or birth for an order establishing a record of birth. Such petition shall set forth information as required by the court and shall be accompanied by a statement issued by the department of health that there is no record of birth on file, and that the department has refused or neglected to register a delayed

certificate of birth. A fee of \$4.00 shall be paid when the petition for appeal is filed with the probate court. The court shall fix a time and place for hearing the petition. The petitioner shall cause to be served a notice of such hearing upon the department of public health at least 10 days prior to the date of hearing.

HISTORY: Am. 1941, p. 635, Act 361, Imd. Eff. Jun. 19;—CL 1948, 326.34;—Am. 1969, p. 601, Act 311, Eff. Mar. 20, 1970.

326.35 In state births; court order; contents, registration, use.

Sec. 5. If the court finds that the person for whom a delayed certificate of birth is sought was born in this state it shall make findings as the case may require and shall issue an order on a form prescribed and furnished by the department of public health to establish a record of birth. The order shall include the birth data to be registered and a description of the basis on which the facts were determined. The court shall forward the order to the department of public health. The order shall be registered by the department of public health, who shall forward to the county clerk of the county of birth a complete copy of said record for filing in that office, and shall constitute a record of birth, from which copies may be issued in accordance with section 16 of Act No. 343 of the Public Acts of 1925, as amended, being section 326.16 of the Compiled Laws of 1948.

HISTORY: CL 1948, 326.35;—Am. 1969, p. 601, Act 311, Eff. Mar. 20, 1970.

326.36 Out of state unrecorded births; registration, application.

Sec. 6. Whenever it shall appear that a birth which occurred outside of the state, but within the confines of the United States or any of its possessions, is not on record in the proper recording office of the district in which the birth occurred, the application for delayed birth registration shall be made to the registrar of the state of birth.

HISTORY: Add. 1941, p. 635, Act 361, Imd. Eff. Jun. 19;—Am. 1942, 2nd Ex. Sess., p. 53, Act 14, Imd. Eff. Feb. 25;—CL 1948, 326.36;—Am. 1969, p. 602, Act 311, Eff. Mar. 20, 1970.

326.37 Foreign births; affidavit of parents' residence, record, fee.

Sec. 7. Any birth occurring outside the continental United States of a child born to parents, 1 or both of whom were residents of the state at the time of the birth, and while 1 or both of the parents were in military or government service of the United States, may be registered in this state with the department of public health upon the submission to the department of satisfactory evidence as to the child's birth date and birthplace as shown by the original birth certificate, or by a certified copy thereof, and if in a foreign language accompanied by a certified translation, or by other documents essentially equivalent thereto, and affidavits from 1 or both parents setting forth that 1 or both were residents of the state at the time of such birth, their county of residence, and that 1 or both of the parents were in the military or government service of the United States. If either or both parents have died since such birth, affidavits from other credible persons with knowledge of the facts may be submitted in lieu of the affidavits of such deceased person or persons. Upon the receipt of a \$2.00 fee, together with the above documents, the department of public health shall create and file a record of a foreign birth on a form substantially the same as set forth in section 4 of this act and shall remit \$1.00 of this fee, together with a certified copy of such record to the county clerk of the county of residence of the parents, and shall retain \$1.00 for filing fee.

Certified copies, evidence.

Certified copies of these records may be obtained in the same manner as provided for in section 16 of Act No. 343 of the Public Acts of 1925, as amended, being section 326.16 of the Compiled Laws of 1948. A certified copy of the record, when issued, shall be admissible in evidence in all courts and proceedings.

HISTORY: Add. 1959, p. 63, Act 63, Imd. Eff. Jun. 5;—Am. 1969, p. 602, Act 311, Eff. Mar. 20, 1970.

Act 9, 1897, p. 12, Eff. Aug. 30.

AN ACT to provide for the collection and publication of statistics of divorces in Michigan.

The People of the State of Michigan enact:

326.51 Divorce petitions; returns to health commissioner, form, contents.

Sec. 1. The clerks of circuit courts for the several counties, the clerks of superior courts and of all other courts having jurisdiction in divorce cases shall on the first day of each term of court or, if no regular terms are held, then on or before the first day of February of each year make returns to the state commissioner of health in relation to petitions or bills for divorce in their respective courts for the preceding term thereof or for the preceding calendar year, if there are no regular terms of such court. The returns shall be made on blanks supplied by the commissioner of health for that purpose and shall specify the following details: Number of petitions or bills pending at the beginning of the term; whole number of petitions or bills filed within the term; number of divorces granted; number of divorces refused; number of petitions or bills contested; number of petitions or bills pending at the end of the term; alleged cause for divorce in each case; sex of plaintiff; date and place, state and county, where the marriage was performed; the name of each party; age of each party; names and ages of all children in family.

HISTORY: CL 1897, 4628;—CL 1915, 5631;—Am. 1923, p. 48, Act 27, Eff. Aug. 30;—CL 1929, 6596;—CL 1948, 326.51.

Title and Sec. 1 of amendatory Act 27 of 1923, read in part as follows: "To amend sections one and two of act nine of the public acts of eighteen hundred ninety-seven as amended by act number one hundred seventy, public acts of nineteen hundred twenty-one." Act 170 of 1921, being Compilers' § 326.61, did not specifically refer to Act 9 of 1897.

326.52 Divorce statistics; preparation, report.

Sec. 2. The commissioner of health shall prepare from said returns, abstracts and tabular statements of the facts relating to divorces in this state and embody the same in the annual report relating to the registry of births, marriages and deaths.

HISTORY: CL 1897, 4629;—CL 1915, 5632;—Am. 1923, p. 49, Act 27, Eff. Aug. 30;—CL 1929, 6596;—CL 1948, 326.52.

REPORT: See Compilers' §§ 24.9 and 24.10.

Act 170, 1921, p. 349; Imd. Eff. May 17.

AN ACT to provide for and define the duties of the state commissioner of health with reference to the registration of births and the issuance of birth certificates, the registration of deaths and the issuance of death certificates, the making and preservation of records of marriages, and with reference to the recording of other vital statistics; to provide for the transfer of certain powers and duties pertaining thereto from the secretary of state to the state health commissioner, and for the transfer of vital statistical records from the department of state to the department of health.

The People of the State of Michigan enact:

326.61 Secretary of state; transfer of powers and duties to commissioner of health.

Sec. 1. All powers and duties now vested by law in the secretary of state with reference to the registration of births and the issuance of birth certificates, the registration of deaths and the issuance of death certificates, the recording of marriages and the collection, recording and preservation of other vital statistics are hereby transferred to and vested in the state commissioner of health. The state commissioner of health shall hereafter be vested with full authority, and shall be required to exercise such powers

and perform such duties with reference to said matters as have heretofore been vested in, and required to be performed by the said secretary of state.

HISTORY: CL 1929, 6597;—CL 1948, 326.61. Act 170 of 1921 did not specifically refer to Act 9 of 1897, as was indicated in the title and amending section of amendatory Act 27 of 1923, being Compilers' § 326.51. See note thereto.

TRANSFER OF FUNCTIONS: Subsequent to the passage of this act the legislature has directly placed under the commissioner of health, the matter of birth and death registration by Act 343 of 1925, being Compilers' § 326.1 et seq., and of divorce registration by the 1923 amendment to Act 9 of 1897, being Compilers' § 326.51 et seq. Therefore the present operation of Act 170 of 1921 would seem to relate chiefly to records and statistics of marriages. See Compilers' §§ 24.9, 551.103, 551.109 and 551.203.

VITAL STATISTICS: Printing of monthly bulletin, see Compilers' § 24.9.

326.62 Secretary of state; transfer of records and data to commissioner of health.

Sec. 2. As soon as may be after this act shall take effect, it shall be the duty of the secretary of state to cause to be transferred to the state commissioner of health all records, statistics and data and all blanks of any nature whatsoever pertaining to the matters in the previous section referred to. Upon receipt thereof, it shall be the duty of the state commissioner of health to keep and preserve said records in accordance with the laws pertaining thereto. All publications and reports of vital statistics heretofore required to be made from time to time by the secretary of state shall hereafter be made by the state commissioner of health.

HISTORY: CL 1929, 6598;—CL 1948, 326.62.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1929, 6599;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

CHAPTER 327. HEALTH—LOCAL HEALTH BOARDS

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PRESERVATION OF THE PUBLIC HEALTH; QUARANTINE, NUISANCES, AND OFFENSIVE TRADES

327.1 Township board of health; record of proceedings.

Sec. 1. In every township, the township board shall be the board of health. The supervisor shall be the president, and the township clerk shall be the clerk of said board. The clerk shall keep a record of the proceedings of the board in a book to be provided for that purpose at the expense of the township.

HISTORY: CL 1857, 1337;—CL 1871, 1692;—Am. 1877, p. 45, Act 56, Imd. Eff. Apr. 20;—How. 1633;—CL 1897, 4410;—CL 1915, 5041;—CL 1929, 6475;—CL 1948, 327.1.

LOCAL HEALTH OFFICIALS: Duty to cooperate with state health commissioner and council, see Compilers' § 325.11.

TOWNSHIP BOARD: For membership, etc., see Compilers' § 41.70.

327.2 Health officer; appointment, qualifications, salary; township board, meetings, duties.

Sec. 2. Every board of health shall appoint and constantly have a health officer, who shall be a well educated physician, and act as the sanitary adviser and executive officer of the board: Provided, That in townships where it is not practicable to secure the services of a well educated and suitable physician, the board may appoint the supervi-

sor or some other person as such health officer. The board of health shall establish his salary or other compensation, and shall regulate and audit all fees and charges of persons employed by them in the execution of the health laws and of their own regulations, except as hereinafter provided in section 15 hereof with regard to dangerous communicable diseases. Within 30 days after the annual township meeting in each year, the board of health shall meet for the transaction of business, and shall appoint or reappoint a health officer, and shall immediately cause to be transmitted to the secretary of the state board of health, at Lansing, the full name and postoffice address of such health officer, and a statement whether he is a physician, the supervisor, or some other person not a physician. A special meeting of the board may be called by the order of the president or of any 2 members of said board.

HISTORY: CL 1857, 1338;—CL 1871, 1693;—Am. 1877, p. 45, Act 56, Imd. Eff. Apr. 20;—Am. 1881, p. 241, Act 202, Imd. Eff. June 2;—How. 1634;—CL 1897, 4411;—Am. 1903, p. 124, Act 101, Eff. Sept. 17;—CL 1915, 5042;—CL 1929, 6476;—CL 1948, 327.2.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

TOWNSHIP NURSE: See Act 277 of 1921, being Compilers' §§ 338.391 to 338.393.

327.3 Rules as to nuisances and sources of infection; violation, penalty.

Sec. 3. The board of health shall make such regulations and by-laws respecting nuisances, sources of filth and causes of sickness, within their respective townships, and on board of any vessels in their ports or harbors, as they shall judge necessary for the public health and safety, and if any person shall violate any such regulations or by-laws he shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine not exceeding the sum of 100 dollars, or by imprisonment in the county jail not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1857, 1338;—CL 1871, 1694;—How. 1635;—Am. 1893, p. 72, Act 70, Eff. Aug. 28;—CL 1897, 4412;—CL 1915, 5043;—CL 1929, 6477;—CL 1948, 327.3.

327.4 Rules as to articles conveying infection; violation, penalty.

Sec. 4. The said board shall also make such regulations as they may deem necessary for the public health and safety, respecting any articles which are capable of containing or conveying any infection or contagion, or of creating any sickness, when such articles shall be brought into, or conveyed from their township, or into or from any vessel; and if any person shall violate any such regulation, he shall forfeit a sum not exceeding 100 dollars.

HISTORY: CL 1857, 1340;—CL 1871, 1695;—How. 1636;—CL 1897, 4413;—CL 1915, 5044;—CL 1929, 6478;—CL 1948, 327.4.

INFECTED ARTICLES: Consent of local health officials to entry, see Compilers' § 750.473.

327.5 Rules as to cemeteries; necessary grounds, purchase.

Sec. 5. The said board shall also make all regulations which they may deem necessary for the interment of the dead, and respecting burying grounds for their township; and it shall also be the duty of said board to purchase in each surveyed township so much land for burying grounds as shall be necessary for burying the dead of such township, provided suitable grounds therefor can be found and procured within the township, and if not, they shall then provide such grounds in the nearest adjoining township where such suitable grounds can be procured.

HISTORY: CL 1857, 1341;—Am. 1859, p. 396, Act 142, Eff. May 18;—CL 1871, 1696;—How. 1637;—CL 1897, 4414;—CL 1915, 5045;—CL 1929, 6479;—CL 1948, 327.5.

CONDEMNATION: See Act 272 of 1909, being Compilers' §§ 128.151 to 128.164.

CEMETERIES: See Compilers' § 128.21 et seq.

327.6 Township cemeteries; fees held in trust; fences; separate fund, cemeteries in same township; sale of lots; expenses; maps, filing.

Sec. 6. The board of health of the township for which such burying ground shall be procured, and their successors in office, shall hold the fee of such land in trust for such township; and they shall keep the same, or so much thereof, as said board shall deem necessary, surrounded with a good and substantial fence; the expense of the purchase

of such lands, and of fencing and regulating the same, to be certified to the town board by the board of health, and by the town board provided for as a part of the contingent expenses of the township: Provided, however, That the board of health may, whenever they think it desirable, sell and convey single or family burial lots in said township burying grounds to such person or persons as may desire to procure the same, and apply the proceeds thereof toward the purchase or improvement of said grounds, certifying the amount of all such sales and expenditures to the township board, as above provided: Provided further, That where there is more than 1 township burying ground in any 1 township, the moneys derived from the sale of lots in each of said burying grounds shall be kept separate and no moneys derived from the sale of lots in 1 of such burying grounds shall be used for the upkeep, maintenance, enlargement or beautification of any of the other township burying grounds, and a separate trust fund may be established by said board for 1 or more of each of said township burying grounds, and the moneys derived from the sale of lots in any 1 burying ground shall be used exclusively for the maintenance and upkeep of that burying ground: Provided further, That before said board of health shall sell or offer to sell any lot or lots as above provided, they shall cause said burying ground to be laid out in such form as they may choose, and cause 2 maps thereof to be made, which maps shall accurately describe the lands belonging to such burying grounds, its boundaries and location, with the lots or subdivisions named or numbered thereon, and also their size, situation and extent, with the width, extent and location of all the streets, alleys or walks in such burying ground, which maps shall be prepared under the supervision and direction of the health officer and clerk of said board of health, and certified by them to be a correct map of the said burying ground. One of said maps shall be filed with the clerk of said board of health and the other with the register of deeds of the county in which such burying ground is situated.

HISTORY: Am. 1850, p. 246, Act 242, Imd. Eff. April 1;—CL 1857, 1342;—Am. 1859, p. 396, Act 142, Eff. May 18;—CL 1871, 1697;—How. 1638;—Am. 1885, p. 76, Act 78, Eff. Sept. 19;—CL 1897, 4415;—CL 1915, 5046;—CL 1929, 6480;—Am. 1931, p. 299, Act 179, Eff. Sept. 18;—CL 1948, 327.6.

CONDEMNATION: See Act 273 of 1909, being Compilers' §§ 128.151 to 128.164.

SALE OF CEMETERY: See Compilers' § 327.301.

327.7 Notice of regulations.

Sec. 7. Notice shall be given by the board of health, of all regulations made by them, by publishing the same in some newspaper of the township, if there be one published therein, and if not, then by posting them up in 5 public places in such township; and such notice of said regulations shall be deemed legal notice to all persons.

HISTORY: CL 1857, 1343;—CL 1871, 1698;—How. 1639;—CL 1897, 4416;—CL 1915, 5047;—CL 1929, 6481;—CL 1948, 327.7.

327.8 Nuisances and sources of infection; examination by board, eradication.

Sec. 8. The board of health shall examine into all nuisances, sources of filth and causes of sickness that may in their opinion be injurious to the health of the inhabitants within their township, or in any vessel within any harbor or port of such township; and the same shall destroy, remove, or prevent, as the case may require.

HISTORY: CL 1857, 1344;—CL 1871, 1699;—How. 1640;—CL 1897, 4417;—CL 1915, 5048;—CL 1929, 6482;—CL 1948, 327.8.

327.9 Nuisance and sources of infection; private property; order to remove; penalty.

Sec. 9. Whenever any such nuisance, source of filth, or cause of sickness shall be found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within 24 hours; and if the owner or occupant shall neglect so to do, he shall forfeit a sum not exceeding 100 dollars.

HISTORY: CL 1857, 1345;—CL 1871, 1700;—How. 1641;—CL 1897, 4418;—CL 1915, 5049;—CL 1929, 6483;—CL 1948, 327.9.

327.10 Nuisance and sources of infection; failure to remove; removal by board; expenses, assessment; civil liability.

Sec. 10. If the owner or occupant shall not comply with such order of the board of health, such board may cause the said nuisance, source of filth or cause of sickness to be removed and all expenses incurred thereby shall be paid by the said owner of such premises. If the owner of said premises shall refuse on demand of said board of health to pay such expenses so incurred, any sums so paid shall be assessed against such property and shall be collected and treated in the same manner as are taxes assessed under the general laws of the state. If the occupant or any other person shall have caused or permitted said nuisance to exist he shall be liable to the owner of said premises, for any amount so paid by such owner or assessed against said property which amount shall be recoverable in an action at law.

HISTORY: CL 1857, 1346;—CL 1871, 1701;—How. 1642;—CL 1897, 4419;—Am. 1913, p. 272, Act 154, Eff. Aug. 14;—CL 1915, 5050;—CL 1929, 6484;—CL 1948, 327.10.

TAXATION: See Compilers' § 211.1 et seq.

327.11 Nuisance and sources of infection; court order to remove.

Sec. 11. Whenever any person shall be convicted on an indictment for a common nuisance that may be injurious to the public health, the court may in its discretion, order it to be removed or destroyed at the expense of the defendant, under the direction of the board of health of the township where the nuisance is found; and the form of the warrant to the sheriff or other officer may be varied accordingly.

HISTORY: CL 1857, 1347;—CL 1871, 1702;—How. 1643;—CL 1897, 4420;—CL 1915, 5051;—CL 1929, 6485;—CL 1948, 327.11.

327.12 Examination of building; refusal of entry; complaint.

Sec. 12. Whenever the board of health shall think it necessary for the preservation of the lives or health of the inhabitants, to enter any building or vessel in their township, for the purpose of examining into, and destroying, removing or preventing any nuisance, source of filth or cause of sickness, and shall be refused such entry, any member of the board may make complaint, under oath to any justice of the peace of his county, whether such justice be a member of such board or not, stating the facts of the case, so far as he has knowledge thereof.

HISTORY: CL 1857, 1348;—CL 1871, 1703;—How. 1644;—CL 1897, 4421;—CL 1915, 5052;—CL 1929, 6486;—CL 1948, 327.12.

327.13 Examination of building; refusal of entry; warrant to sheriff.

Sec. 13. Such justice may thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by any 2 or more members of said board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove or prevent, under the direction of such members of the board of health.

HISTORY: CL 1857, 1349;—CL 1871, 1704;—How. 1645;—CL 1897, 4422;—CL 1915, 5053;—CL 1929, 6487;—CL 1948, 327.13.

327.14 Removal permits.

Sec. 14. The board of health may grant permits for the removal of any nuisance, infected article or sick person, within the limits of their township, when they shall think it safe and proper so to do.

HISTORY: CL 1857, 1350;—CL 1871, 1705;—How. 1646;—CL 1897, 4423;—CL 1915, 5054;—CL 1929, 6488;—CL 1948, 327.14.

327.15 Quarantine; removal of persons, provision for care; indigents, payment by county; fee; district boards of health; cases reported.

Sec. 15. When any person coming from outside the county or residing in any township, city or village within this state shall be infected, or shall lately before have been infected with a dangerous communicable disease, the board of health of the township, city or village where such person may be shall make effectual provision in the manner in which it shall judge best for the safety of the inhabitants and it may remove such

sick or infected person to a separate house or hospital if it can be done without danger to his health, and shall thereupon report such case to the supervisor of the ward, or township, in which such infected person shall be, which supervisor shall provide nurses and other assistance and necessities which shall be at the charge of the person himself, his parents, or other persons who may be liable for his support, if able: Provided, If such person, his parents or other person who may be liable for his support, be not able to pay for such assistance and necessities, the supervisor shall keep an itemized and separate statement of expenses incurred for each and every person cared for under this section and shall render such statement to the board of supervisors of the county or to the board of county auditors in counties having such a board by filing the same with the county clerk: And provided further, That in determining the ability of any person or persons to pay for such assistance or necessities for himself or themselves or a person he or they may be liable to support, the supervisor may in his discretion require that said person or persons make and subscribe an affidavit setting forth that he or they are not the owner or owners of property in excess of the cash value of 500 dollars and that they have no other means of support than that of their daily labor and such affidavit shall be attached to the statement hereinabove provided for. The said board of supervisors or board of auditors, as the case may be, shall, as soon as may be, proceed to audit the said bill, and if found that the expenses were necessarily incurred, the services actually and necessarily performed and the amounts claimed for such expenses and services are severally just and reasonable under the circumstances, the said board of supervisors or board of auditors, shall allow the same or such parts thereof as the majority of the members-elect of said board shall deem just, and provide for their immediate payment by the said county; and in auditing such accounts said several boards of supervisors, or boards of auditors, shall have full power to examine into the merits of all claims presented to them in accordance with the provisions herein contained, and may subpoena witnesses and take any other measures necessary to arrive at the truth of the same; and the board of supervisors is hereby empowered, if necessary, to borrow money on the faith and credit of the county to pay all such necessary bills and expenses and to include the same in the next appropriation of money to be raised by taxation in said county: Provided, The board of supervisors of each county, or the board of county auditors in counties having a board of county auditors, shall fix the minimum fee and mileage for medical attendance upon contagious diseases chargeable to the county and shall authorize the superintendents of the poor, upon the application of any board of health of a township, city or village, to contract with a physician or physicians to attend contagious diseases. In counties or districts having a county or district health department, the powers and duties herein granted to or imposed upon local boards of health, except in the case of non-indigent cases in cities having an organized health department with full time health officer, and on supervisors and superintendents of the poor shall be exercised or carried out by said county or district health department. All cases of dangerous communicable diseases except in case of non-indigent cases in the class of cities excepted herein shall be reported by local health officers to the county health department. Said department shall make use of, and cooperate with, such local officials in performing its functions as it deems advisable and shall have jurisdiction over such officials in their control and treatment of cases of dangerous communicable disease.

HISTORY: CL 1857, 1351;—CL 1871, 1706;—How. 1847;—Am. 1895, p. 207, Act 97, Eff. Aug. 30;—CL 1897, 4424;—Am. 1903, p. 7, Act 7, Imd. Eff. March 13;—Am. 1909, p. 181, Act 98, Eff. Sept. 1;—CL 1915, 5055;—Am. 1917, p. 143, Act 77, Eff. Aug. 10;—Am. 1919, p. 38, Act 22, Eff. Aug. 14;—CL 1929, 6489;—Am. 1931, p. 19, Act 13, Imd. Eff. April 10;—CL 1948, 327.15.

INFECTED PERSONS: Consent of local health officials to entry, see Compilers' § 750.473.

COMMUNICABLE DISEASES: See Compilers' § 329.1 et seq.

327.16 Quarantine; infected persons not able to be removed.

Sec. 16. If any such infected person cannot be removed without danger to his health, the board of health shall make provision for him as directed in the preceding section, in the house in which he may be, and in such case they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.

HISTORY: CL 1857, 1352;—CL 1871, 1707;—How. 1648;—CL 1897, 4425;—CL 1915, 5056;—CL 1929, 6490;—CL 1948, 327.16.

327.17 Travelers from infected districts; restraint by board; noncompliance, penalty.

Sec. 17. The board of health of any township near to, or bordering upon either of the neighboring states, may appoint by writing under their hands, suitable persons to attend any places by which travelers may pass from infected places in other states; and the persons so appointed may examine such passengers as they may suspect of bringing with them any infection which may be dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto by the board of health of the township to which such persons may come; and any person coming from such infected place, who shall without license as aforesaid, travel within this state, unless it be to travel by the most direct way to the state from whence he came, after he shall be cautioned to depart by the persons appointed as aforesaid, shall forfeit a sum not exceeding 100 dollars.

HISTORY: CL 1857, 1353;—CL 1871, 1706;—How. 1649;—CL 1897, 4426;—CL 1915, 5057;—CL 1929, 6491;—CL 1948, 327.17.

INFECTED PERSONS: Consent of local health officials to entry, see Compilers' § 750.473.

327.18 Infected persons; warrant for removal and care.

Sec. 18. Any 2 justices of the peace may, if need be, make out a warrant under their hands, directed to the sheriff or any constable of the county, requiring him, under the direction of the board of health, to remove any person infected with contagious sickness, or to take possession of convenient houses or lodgings, and to provide for nurses, attendants, and other necessities for the accommodation, safety, and relief of the sick.

HISTORY: CL 1857, 1354;—CL 1871, 1709;—How. 1650;—CL 1897, 4427;—CL 1915, 5058;—CL 1929, 6492;—CL 1948, 327.18.

327.19 Control of infected goods; issuance of warrant.

Sec. 19. Whenever, on the application of the board of health, it shall be made to appear to any justice of the peace, that there is just cause to suspect that any baggage, clothing, or goods of any kind found within the township, are infected with any disease which may be dangerous to the public health, such justice of the peace shall, by warrant under his hand, directed to the sheriff or any constable of the county, require him to take with him as many men as the said justice shall deem necessary to secure such baggage, clothing, or other goods, and to post said men as a guard over the house or place where such baggage, clothing, or other goods shall be lodged, which guard shall take effectual care to prevent any person removing or coming near to such baggage, clothing, or other goods, until due inquiry be made into the circumstances thereof.

HISTORY: CL 1857, 1355;—CL 1871, 1710;—How. 1651;—CL 1897, 4428;—CL 1915, 5059;—CL 1929, 6493;—CL 1948, 327.19.

327.20 Control of infected goods; storage in impressed house.

Sec. 20. The said justice may also, by the same warrant, if it shall appear to him necessary, require the said officer, under the direction of the board of health, to impress and take up convenient houses or stores, for the safe keeping of such baggage, clothing, or other goods; and the board of health may cause them to be removed to such houses or stores, or to be otherwise detained until they shall in the opinion of said board of health, be freed from infection.

HISTORY: CL 1857, 1356;—CL 1871, 1711;—How. 1652;—CL 1897, 4429;—CL 1915, 5060;—CL 1929, 6494;—CL 1948, 327.20.

327.21 Control of infected goods; execution of warrant.

Sec. 21. Such officer, in the execution of such warrant, shall, if need be, break open any house, shop, or any other place mentioned in said warrant, where such baggage, clothing or other goods shall be; and he may require such aid as shall be necessary to effect the execution of the warrant; and all persons shall, at the command of any such officer, under a penalty not exceeding 10 dollars, assist in the execution of the warrant, if able to do so.

HISTORY: CL 1857, 1357;—CL 1871, 1712;—How. 1653;—CL 1897, 4430;—CL 1915, 5061;—CL 1929, 6495;—CL 1948, 327.21.

327.22 Control of infected goods; owner to pay charges.

Sec. 22. The charges of securing such baggage, clothing, or other goods, and of transporting and purifying the same, shall be paid by the owner or owners thereof, at such rates and prices as shall be determined by the board of health.

HISTORY: CL 1857, 1358;—CL 1871, 1713;—How. 1654;—CL 1897, 4431;—CL 1915, 5062;—CL 1929, 6496;—CL 1948, 327.22.

327.23 Employment of nurses; necessity; payment by county.

Sec. 23. Whenever the sheriff or other officer shall take possession of any houses, stores, lodgings, or other necessities, or shall employ any nurse or attendants, as provided in this chapter, the several parties interested shall be entitled to a just compensation therefor, to be paid by the county in which such persons or property shall have been so employed or taken possession of.

HISTORY: CL 1857, 1359;—CL 1871, 1714;—How. 1655;—CL 1897, 4432;—CL 1915, 5063;—CL 1929, 6497;—CL 1948, 327.23.

327.24 Infected persons in jails; removal, care; return on recovery.

Sec. 24. Whenever any person confined in any common jail shall be attacked with any disease, which, in the opinion of the physician of the board of health, or of such other physicians as they may consult, shall be considered dangerous to the safety and health of the other prisoners, or of the inhabitants of the township, the board of health shall, by their order in writing, direct the removal of such person to some hospital or other place of safety, there to be provided for and securely kept, so as to prevent his escape, until their further orders; and if such prisoner shall recover from the disease, he shall be returned to such jail.

HISTORY: CL 1857, 1360;—CL 1871, 1715;—How. 1656;—CL 1897, 4433;—CL 1915, 5064;—CL 1929, 6498;—CL 1948, 327.24.

327.25 Infected persons in jails; order for removal, filing; act not deemed an escape.

Sec. 25. If the person so removed shall have been committed by order of any court, or under any judicial process, the order for his removal, or a copy thereof, attested by the presiding member of said board of health, shall be returned by him, with the doings thereon, into the office of the clerk of the circuit court for the county; and no prisoner removed as aforesaid shall be considered as thereby having committed an escape.

HISTORY: CL 1857, 1361;—CL 1871, 1716;—How. 1657;—CL 1897, 4434;—CL 1915, 5065;—CL 1929, 6499;—CL 1948, 327.25.

327.26 Infected persons in poor-houses; removal, care.

Sec. 26. Whenever any pestilence or contagious disease shall break out in any county poor-house in this state, or in the vicinity thereof, and the physician to such county poor-house, or such other physician as the superintendents may consult, shall certify that such pestilence or disease is likely to endanger the health of the persons supported at such poor-house, the superintendents of such county poor-house shall cause the persons there supported, or any of them, to be removed to some other suitable place in the same county, and there to be maintained and provided for at the expense of the county, with all necessary medical attendance and care, until they can safely be returned to such poor-house, or otherwise discharged.

HISTORY: CL 1857, 1362;—CL 1871, 1717;—How. 1658;—CL 1897, 4435;—CL 1915, 5066;—CL 1929, 6500;—CL 1948, 327.26.

QUARANTINE.

327.27 Quarantine ground; establishment in single township.

Sec. 27. Any township may establish a quarantine ground in any suitable place, either within or without its own limits; Provided, That if such place shall be without its limits, the assent of the township within whose limits it may be established, shall be first obtained therefor.

HISTORY: CL 1857, 1363;—CL 1871, 1718;—How. 1659;—CL 1897, 4436;—CL 1915, 5067;—CL 1929, 6501;—CL 1948, 327.27.
COMMUNICABLE DISEASE: See Compilers' § 329.1 et seq.

327.28 Quarantine ground; establishment in two or more townships.

Sec. 28. Any 2 or more townships may, at their joint expense, establish a quarantine ground for their joint use, either within or without their own limits; Provided That if such place shall be without their limits, they shall first obtain the assent of the township within whose limits the same may be.

HISTORY: CL 1857, 1364;—CL 1871, 1719;—How. 1660;—CL 1897, 4437;—CL 1915, 5068;—CL 1929, 6502;—CL 1948, 327.28.

327.29 Quarantine of vessels; regulations.

Sec. 29. The board of health in each township in this state bordering upon Lake Michigan, Lake Superior, Lake Huron, Lake St. Clair, or Lake Erie, or upon any of the principal rivers or straits connecting together any of the said lakes, or bordering upon any navigable waters uniting with any of the said lakes, rivers or straits, may from time to time establish the quarantine to be performed by all vessels arriving within the limits of such townships, and may make such quarantine regulations as they shall judge necessary for the health and safety of the inhabitants.

HISTORY: CL 1857, 1365;—CL 1871, 1720;—How. 1661;—CL 1897, 4438;—CL 1915, 5069;—CL 1929, 6503;—CL 1948, 327.29.

327.30 Quarantine of vessels; extent.

Sec. 30. The quarantine regulations so established, shall extend to all persons, and all goods and effects, arriving in such vessels, and to all persons who may visit or go on board of the same.

HISTORY: CL 1857, 1366;—CL 1871, 1721;—How. 1662;—CL 1897, 4439;—CL 1915, 5070;—CL 1929, 6504;—CL 1948, 327.30.

327.31 Quarantine of vessels; violation, penalty.

Sec. 31. The said quarantine regulations, after notice shall have been given in the manner before provided in this chapter, shall be observed and complied with by all persons; and any person who shall violate any such regulations, shall forfeit a sum not less than 5 dollars, and not more than 500 dollars.

HISTORY: CL 1857, 1367;—CL 1871, 1722;—How. 1663;—CL 1897, 4440;—CL 1915, 5071;—CL 1929, 6505;—CL 1948, 327.31.

327.32 Quarantine of vessels; removal to quarantine ground; fumigation; persons on board, removal to hospital; expenses.

Sec. 32. The board of health in each township bordering upon any of the lakes, rivers, straits, or other navigable waters hereinbefore mentioned, may at all times cause any vessel arriving within the limits of the township, when such vessel or the cargo thereof shall, in their opinion, be foul or infected, so as to endanger the public health, to be removed to the quarantine ground, and to be thoroughly purified, at the expense of the owners, consignees, or persons in possession of the same, and they may also cause all persons arriving in, or going on board of such infected vessel, or handling such infected cargo, to be removed to any hospital under the care of the said board of health, there to remain under their orders.

HISTORY: CL 1857, 1368;—CL 1871, 1723;—How. 1664;—CL 1897, 4441;—CL 1915, 5072;—CL 1929, 6506;—CL 1948, 327.32.

327.33 Quarantine of vessels; persons on board, failure to answer questions; penalty.

Sec. 33. If any master, seaman or passenger, belonging to any vessel on board of which any infection may then be, or may have lately been, or which may have been at,

or which may have come from, any port or place where any infectious disease prevails, that may endanger the public health, shall refuse to answer on oath, to be administered by any member of such board, such questions as may be asked him, relating to such infection or disease, by any member of the board of health of the township to which such vessel may come, such master, seaman or passenger so refusing, shall forfeit a sum not exceeding 200 dollars; and in case he shall not pay such sum, he shall suffer 6 months' imprisonment.

HISTORY: CL 1857, 1369;—CL 1871, 1724;—How. 1665;—CL 1897, 4442;—CL 1915, 5073;—CL 1929, 6507;—CL 1948, 327.33.

327.34 Quarantine of vessels; owner to pay expenses.

Sec. 34. All expenses incurred on account of any person, vessel or goods, under any quarantine regulations, shall be paid by such person, or by the owner of such vessel or goods respectively.

HISTORY: CL 1857, 1370;—CL 1871, 1725;—How. 1666;—CL 1897, 4443;—CL 1915, 5074;—CL 1929, 6508;—CL 1948, 327.34.

SMALL POX, AND OTHER DANGEROUS DISEASES.

327.35 Township communicable disease hospitals.

Sec. 35. The inhabitants of any township may establish within their township, and be constantly provided with, 1 or more hospitals for the reception of persons having the small pox, or other disease which may be dangerous to the public health.

HISTORY: CL 1857, 1371;—CL 1871, 1726;—How. 1667;—CL 1897, 4444;—CL 1915, 5075;—CL 1929, 6509;—CL 1948, 327.35.

HOSPITALS: As to other hospitals; see Part Three of this title, being Compilers' § 330.11 et seq.

COMMUNICABLE DISEASE: See Compilers' § 339.1 et seq.

327.36 Township communicable disease hospital; rules; consent of adjoining township.

Sec. 36. All such hospitals shall be subject to the orders and regulations of the board of health or a committee appointed by such board for that purpose; but no such hospital shall be established within 100 rods of any inhabited dwelling house situated in an adjoining township, without the consent of such adjoining township.

HISTORY: CL 1857, 1372;—CL 1871, 1727;—How. 1668;—CL 1897, 4445;—CL 1915, 5076;—CL 1929, 6510;—CL 1948, 327.36.

327.37 Unlawful inoculation; penalty.

Sec. 37. If any person shall inoculate any other person, or inoculate himself, or suffer himself to be inoculated with the small pox, unless at some hospital licensed and authorized by law, he shall for each offense forfeit a sum not exceeding 200 dollars.

HISTORY: CL 1857, 1373;—CL 1871, 1728;—How. 1669;—CL 1897, 4446;—CL 1915, 5077;—CL 1929, 6511;—CL 1948, 327.37.

327.38 Communicable disease hospital; persons and property, rules.

Sec. 38. When any hospital shall be so established, the physician attending the same, the persons inoculated or sick therein, the nurses, attendants and all persons who shall approach or come within the limits of the same, and all such furniture and other articles as shall be used or brought there, shall be subject to such regulations as shall be made by the board of health, or of the committee appointed for that purpose.

HISTORY: CL 1857, 1374;—CL 1871, 1729;—How. 1670;—CL 1897, 4447;—CL 1915, 5078;—CL 1929, 6512;—CL 1948, 327.38.

327.39 Communicable disease outbreak; hospital provided by board of health; rules.

Sec. 39. When the small pox, or any other disease dangerous to the public health, shall break out in any township, the board of health shall immediately provide such hospital or place of reception for the sick and infected, as they shall judge best for their accommodation, and the safety of the inhabitants; and such hospitals and places of reception shall be subject to the regulations of the board of health, in the same manner as hereinbefore provided for established hospitals.

HISTORY: CL 1857, 1375;—CL 1871, 1730;—How. 1671;—CL 1897, 4448;—CL 1915, 5079;—CL 1929, 6513;—CL 1948, 327.39.

HEALTH OFFICER: Duties, see also Compilers' § 327.151.

327.40 Communicable disease outbreak; sick persons, removal and care; rules.

Sec. 40. The board of health shall cause such sick or infected persons to be removed to such hospitals or places of reception, unless the condition of the sick person be such as not to admit of removal without danger of life; in which case the house or place where the sick shall remain, shall be considered as a hospital to every purpose before mentioned and all persons residing in, or in any way concerned with the same, shall be subject to the regulations of the board of health as before provided.

HISTORY: CL 1857, 1378;—CL 1871, 1731;—How. 1872;—CL 1897, 4449;—CL 1915, 5080;—CL 1929, 6514;—CL 1948, 327.40.

327.41 Spread of disease; prevention, public notice.

Sec. 41. When the small pox, or any other disease dangerous to the public health, is found to exist in any township, the board of health shall use all possible care to prevent the spreading of the infection, and to give public notice of infected places to travelers, by such means as in their judgment shall be most effectual for the common safety.

HISTORY: CL 1857, 1377;—CL 1871, 1732;—How. 1873;—CL 1897, 4450;—CL 1915, 5081;—CL 1929, 6515;—CL 1948, 327.41.

327.42 Violation of regulations; penalty.

Sec. 42. If any physician or other person, in any of the hospitals or places of reception before mentioned, or who shall attend, approach, or be concerned with the same, shall violate any of the regulations lawfully made in relation thereto, either with respect to himself, or his or any other person's property, the person so offending shall, for each offense, forfeit a sum not less than 10 nor more than 100 dollars.

HISTORY: CL 1857, 1378;—CL 1871, 1733;—How. 1874;—CL 1897, 4451;—CL 1915, 5082;—CL 1929, 6516;—CL 1948, 327.42.

327.43 Householders; notice of disease, contents; neglect, misdemeanor, penalty.

Sec. 43. Whenever any householder, hotel keeper, keeper of a boarding house, or tenant, shall know, or shall be informed by a physician, or shall have reason to believe that any person in his family, hotel, boarding house or premises, is taken sick with small-pox, cholera, diphtheria, scarlet fever, or any other disease dangerous to the public health, he shall immediately give notice, in writing, thereof to the health officer of the township, city or village in which he resides. Said notice shall state the name of the person sick, the name of the disease, if known, the name of the householder, hotel keeper, keeper of boarding house or tenant giving the notice, and shall, by street and number, or otherwise, sufficiently designate the house in which he resides or the room in which the sick person may be; and if he shall refuse or willfully neglect immediately to give such notice, he shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished by a fine of not exceeding 100 dollars and costs of prosecution; or in default of payment thereof, by imprisonment not exceeding 90 days in the county jail, in the discretion of the court: Provided, That such fine or imprisonment shall not be enforced if the physician in attendance has given to the health officer or other officer hereinbefore mentioned an immediate notice of said sick person and true name of the disease, in accordance with the requirements of this section.

HISTORY: CL 1857, 1379;—CL 1871, 1734;—How. 1875;—Am. 1883, p. 6, Act 11, Eff. Sept. 8;—Am. 1889, p. 37, Act 37, Eff. Oct. 2;—Am. 1895, p. 305, Act 158, Eff. Aug. 30;—CL 1897, 4452;—CL 1915, 5083;—CL 1929, 6517;—CL 1948, 327.43.

NOTICE TO PROSECUTOR: See Compilers' § 327.171.

327.44 Physician; notice of disease, contents; neglect, misdemeanor, penalty.

Sec. 44. Whenever any physician shall know that any person whom he is called to visit, or who is brought to him for examination, is infected with smallpox, cholera, diphtheria, scarlet fever, or any other disease dangerous to the public health, he shall immediately give notice thereof to the health officer of the township, city or village in

which the sick person may be; and to the householder, hotel keeper, keeper of a boarding house, or tenant within whose house or rooms the sick person may be. The notice to the officer of the board of health shall state the name of the disease, the name, age and sex of the person sick, also the name of the physician giving the notice; and shall, by street and number, or otherwise, sufficiently designate the house or room in which such person sick may be. And every physician and person acting as a physician, who shall refuse or neglect immediately to give such notice, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than 10 dollars nor more than 50 dollars, or by imprisonment in the county jail not exceeding 30 days in default of the payment of such fine: Provided, That this penalty shall not be enforced against a physician, if another physician in attendance has given to the health officer or other officer hereinbefore mentioned, an immediate notice of said sick person, and the true name of the disease in accordance with the requirement of this section.

HISTORY: CL 1857, 1380;—CL 1871, 1735;—How. 1876;—Am. 1883, p. 7, Act 11, Eff. Sept. 8;—Am. 1885, p. 305, Act 158, Eff. Aug. 30;—CL 1897, 4453;—Am. 1915, p. 325, Act 182, Eff. Aug. 24;—CL 1915, 5064;—CL 1929, 6518;—CL 1948, 327.44.

NOTICE TO PROSECUTOR: See Compilers' § 327.171.

OSTEOPATHS: Duties, see Compilers' § 338.104.

327.44a Repealed. 1960, p. 57, Act 66, Eff. Aug. 17.

Section provided that physician giving notice of a disease would be entitled to fee from municipality involved.

327.45 Inoculation; expense.

Sec. 45. Every township may, at any meeting, make suitable provision for the inoculation of the inhabitants thereof with the cow pox, under the direction of the board of health, or the health officer of the township, and they shall raise all necessary sums of money to defray the expenses of such inoculation, in the same manner that other township charges are defrayed.

HISTORY: CL 1857, 1381;—CL 1871, 1736;—How. 1877;—CL 1897, 4455;—CL 1915, 5066;—CL 1929, 6520;—CL 1948, 327.45.

INOCULATION: See also Compilers' § 329.81.

OFFENSIVE TRADES.

327.46 Designated places; records; supervision.

Sec. 46. The township board of every township, the president and trustees, or council of every village and the mayor and aldermen of every city, respectively, when they shall judge it necessary, shall from time to time assign certain places for the exercising of any trade or employment, offensive to the inhabitants, or dangerous to the public health; and they shall forbid the exercise thereof in places not so assigned; and all such assignments shall be entered in the records of the township, village, or city, and they may be revoked when the said township, village, or city officers may think proper.

HISTORY: CL 1857, 1382;—CL 1871, 1737;—How. 1878;—CL 1897, 4456;—CL 1915, 5067;—CL 1929, 6521;—CL 1948, 327.46.

327.47 Designated places; revocation, removal, conditions authorizing.

Sec. 47. When any place or building so assigned shall become a nuisance by reason of offensive smells or exhalations proceeding therefrom, or shall become otherwise hurtful or dangerous to the neighborhood or to travelers, and the same shall be made to appear on a trial, or the admission of the person exercising such trade or employment, before the circuit court for the county, upon a complaint made by the board of health, or by any other person, the said court may revoke such assignment, and prohibit the further use of such place or building for the exercise of either of the aforesaid trades or employments, and may cause such nuisance to be removed or prevented.

HISTORY: CL 1857, 1383;—CL 1871, 1738;—How. 1879;—CL 1897, 4457;—CL 1915, 5068;—CL 1929, 6522;—CL 1948, 327.47.

327.48 Civil damage suit.

Sec. 48. Any person injured, either in his comfort, or the enjoyment of his estate, by any such nuisance, may have an action on the case for the damages sustained thereby,

in which action the defendants may plead the general issue, and give any special matter in evidence.

HISTORY: CL 1857, 1384;—CL 1871, 1730;—How. 1680;—CL 1897, 4458;—CL 1915, 5089;—CL 1929, 6523;—CL 1948, 327.48.

BOARDS OF HEALTH IN CITIES AND VILLAGES.

327.49 Local boards of health; members, duties.

Sec. 49. The mayor and aldermen of each incorporated city, and the president and council, or trustees of each incorporated village in this state, in which no board of health is organized under its charter, shall have and exercise all the powers and perform all the duties of a board of health as provided in this chapter, within the limits of the cities or villages, respectively, of which they are such officers. The provisions of this chapter, and the amendments thereto, shall, as far as applicable, apply to all cities and villages in this state, and all duties which are, by the provisions of this chapter, to be performed by the board of health of townships or by the officers and inhabitants thereof, shall in like manner be performed by the board of health and the officers and inhabitants of such cities and villages, with a like penalty for the non-performance of such duties, excepting in cases where the charters of such cities and villages contain provisions inconsistent herewith.

HISTORY: CL 1857, 1385;—CL 1871, 1740;—Am. 1879, p. 144, Act 145, Eff. Aug. 30;—How. 1681;—CL 1897, 4459;—CL 1915, 5090;—CL 1929, 6524;—CL 1948, 327.49.

PUBLIC HEALTH: In villages, see Compilers' § 67.47 et seq., and particularly Compilers' § 67.53; in fourth class cities, see Compilers' § 94.1 et seq., and particularly Compilers' § 94.7; in home rule cities, see Compilers' § 117.3, subd. (j).

LOCAL HEALTH OFFICIALS: Duty to co-operate with state health commissioner and council, see Compilers' § 325.11.

DETROIT: See Act 10 of 1895 which established a board of health for this city. Sec. 1 was amended by Local Act 325 of 1915 and Sec. 3 by Local Act 413 of 1907.

Sec. 50.

HISTORY: Add. 1879, p. 210, Act 232, Eff. Aug. 30;—How. 1682-1683;—CL 1897, 11433-11434;—CL 1915, 15151-15152;—CL 1929, 6525-6526;—Rep. 1931, p. 741, Act 328, Eff. Sept. 18.

This section prohibited slaughterhouse within 20 rods of highway. For present law, see Compilers' § 750.533.

Act 120, 1903, p. 140; Eff. Sep. 17.

AN ACT to provide for the inspection of animals intended for meat supplies, and of meat intended for consumption in cities, villages and townships; to regulate slaughter-houses and meat markets; to license the sale of meats in cities, villages and townships, to provide for public abattoirs therein and to regulate the use thereof.

The People of the State of Michigan enact:

327.101 Inspector of meats; appointment; regulate meat supply and slaughter-houses; public abattoir.

Sec. 1. Any city or village in this state may appoint an inspector or inspectors of animals and meat supplies intended for human consumption therein, license the sale thereof, provide for the regulation of slaughter-houses wherein such animals intended for use as human food in such city or village are slaughtered, and the markets and places where meat intended for consumption as human food is kept or offered for sale within such city or village, the vehicle in which such meat is transported, or from which same is sold, offered for sale or disposed of for said purpose; and cause to be erected and maintained a public abattoir therein and regulate the use thereof.

HISTORY: CL 1915, 6496;—CL 1929, 6527;—CL 1948, 327.101.

MEATS: Sale of calves and veal, see Compilers' §§ 289.251 to 289.253.

Warehouses, cold storage plants, etc., see Compilers' §§ 289.201 to 289.202.

327.102 License of meat vendor; issuance, prerequisites; revocation.

Sec. 2. No person or persons shall vend or offer for sale in any city or village having an inspector of meats as provided by this act, any meat intended for human consumption, whether slaughtered within such city or village or elsewhere, unless licensed so to

do by the board of health of such city or village. Any person or persons desiring so to do may apply to the board of health of such city or village for a license; but the clerk shall not issue same until the applicant therefor presents a statement in writing signed by him which shall state fully and explicitly:

- (a) The name and residence of said applicant.
- (b) The exact location or place from which said applicant obtains his meats, whether slaughtered by himself in whole or in part.
- (c) The manner in which said applicant intends to dispose of his meats when licensed.
- (d) A written consent granting permission to the meat inspector, the health officer or his representative, or any member of the board of health, the mayor or any alderman of said city, or the president and trustees of said village free and open access to the slaughter-house in which he proposes to slaughter and the market or vehicle owned, leased or occupied by him from which his meat is sold, for the purpose of making inspection of the said premises, market or vehicle. Blanks for such application shall be furnished by the clerk. Each applicant for a license shall also stipulate in writing that he will faithfully conform and cause the slaughter-house, market or vehicle owned, leased or occupied by him to comply in all respects with the requirements of the ordinance of said city or village enacted under the provisions of this act, and pay such license fee as shall be prescribed therein. The city or village clerk shall not issue any such license until the meat inspector shall have examined into the sanitary condition and cleanliness of the slaughter-house to be used by the applicant, or the market where his meat is to be sold, or the vehicle in which it is to be transported or from which it is to be sold or offered for sale, and shall certify that same comply with the requirements of the ordinance in force therein. The mayor of said city or president of said village may at any time revoke and suspend any license issued pursuant thereto if, upon investigation and report of the meat inspector, and after hearing the holder of such license summarily, he shall find the condition of the slaughter-house where meat is slaughtered, or the market or vehicle or the meat offered for sale to be in violation of the provisions of said ordinance filthy or detrimental to the public health; which revocation shall continue until such person shall have fully complied with the requirements of this act and the provisions of the said ordinance. This section shall apply to slaughter-houses whether situated within or without the city or village limits.

HISTORY: CL 1915, 6499;—CL 1929, 6528;—CL 1948, 327.102.

327.103 Ordinances; enforcement of penalties.

Sec. 3. Each city or village having a meat inspector under the provisions of this act shall establish by ordinance such tests and requirements in conformity herewith as are necessary for the purpose of excluding from within its limits for sale or use as human food any diseased or unwholesome meat, meat which has been prepared, dressed or stored in an unsanitary or filthy place, or handled or transported in an unsanitary or filthy manner; and each city or village shall authorize and empower its inspector or inspectors to enforce such tests and requirements, and shall provide and enforce suitable penalties for the violation of any provisions of such ordinance.

HISTORY: CL 1915, 6500;—CL 1929, 6529;—CL 1948, 327.103.

327.104 Inspectors; appointment, oath, term, duties, reports.

Sec. 4. Any city or village having enacted an ordinance under the provisions of this act shall immediately appoint a person qualified by education and experience to properly perform the duties of the office of inspector, who shall hold his office for 1 year and until his successor is appointed and qualified, and such deputies with like qualifications as may be necessary, who shall hold office for a like term; and such inspector and all deputy inspectors shall take an oath of office to faithfully and impartially dis-

charge all the duties thereof. The inspector shall promptly report to the city or village attorney, or to the proper prosecuting officer for prosecution every violation of the ordinance in force in such city or village under the provisions of this act, and shall also report to the board of health of said city or village, at least monthly, in detail, all inspections made by him and all violations of said ordinance.

HISTORY: CL 1915, 6501;—CL 1929, 6530;—CL 1948, 327.104.

327.105 Ordinance; requirements for slaughterhouses.

Sec. 5. Any city or village having enacted an ordinance under the provisions of this act shall specify the following requirements for all slaughterhouses within its limits:

(a) No slaughtering shall be done in barns, sheds or other building not designed and not suitable for slaughtering animals and for the handling, dressing and cooling of meats; nor shall any slaughtering be done outside of a building.

(b) All slaughterhouses shall have an abundant supply of water from a well or other source which is not contaminated from the slaughterhouse or surrounding pens or enclosures, or any part of the premises; and which may be applied with adequate pressure through a hose to any part of the room or rooms used for the purpose of slaughtering or preparing meats for consumption as human food.

(c) All slaughterhouses shall have suitable floors and subdrainage with proper sewer connections, which floors shall be thoroughly washed off each day after the slaughtering is completed.

(d) The walls and all exposed surfaces on the inside of slaughterhouses shall be cleansed by washing or scraping as often as once in each month, and if the surfaces are not painted, they shall be calcimined or whitewashed at least once a month.

(e) Cooling and storerooms for meat shall be properly ventilated.

(f) All offal and refuse shall be removed from the slaughterhouse on the day of slaughtering, and disposed of in a decent and sanitary manner.

(g) All animals kept in yards attached to slaughterhouses shall be treated in a humane manner, and, if kept there over 12 hours, shall be fed and watered.

(h) All pens or enclosures connected with any slaughterhouse shall be kept in a proper sanitary condition.

(i) No processing of meat or meat products or by-products involving cooking or rendering shall be done within any slaughterhouse or within any structure used for processing of meat subject to inspection under this act under any conditions which permit the escape of offensive or objectionable odors in the air outside such slaughterhouse or structure, nor in any manner which shall interfere with the free use and comfortable enjoyment of property of any of the inhabitants of the city or village.

(j) No building or structure shall be erected or used for a slaughterhouse or rendering plant in any city in any county of this state having a population of 500,000 or over according to the latest or each succeeding federal decennial census, unless the legislative body of the municipality by a majority vote of the members-elect authorizes the erection of such building or structure. The provisions of this subsection shall not apply in the case of reconstruction, enlargement or replacement of existing structures on the same location and in operation as slaughterhouses on the effective date of this amendatory act. The provisions of this subsection shall not apply to any slaughterhouse or structure used for processing meat in operation on the effective date of this amendatory act, or to any such structure which is being remodeled on or before December 31, 1959.

HISTORY: CL 1915, 6502;—CL 1929, 6531;—CL 1948, 327.105;—Am. 1959, p. 384, Act 251, Imd. Eff. Aug. 21.

327.106 Meat brought from slaughterhouse outside corporate limits.

Sec. 6. Any city or village having a meat inspector under the provisions of this act shall refuse to permit to be brought within its limits to be sold or offered for sale therein any meat from any slaughter-house situated outside its limits whose owner, lessee or occupant has not conformed to the requirements specified in section 5 of this act, and the provisions of the ordinance enacted by said city or village pursuant to this act and in force therein.

HISTORY: CL 1915, 6503;—CL 1929, 6532;—CL 1948, 327.106.

327.107 Inspector and deputies; salaries; fees, use.

Sec. 7. Any city or village having an inspector under the provisions of this act shall appropriate out of its general funds such sums of money as shall be deemed proper for the salary of the inspector and his deputies; and in addition thereto, may apply the license fee and any fees accruing from the inspections of animals and meats, to be paid thereunder for that purpose, or require said fees to be covered into the city or village treasury.

HISTORY: CL 1915, 6504;—CL 1929, 6533;—CL 1948, 327.107.

327.108 Deputy inspectors; powers, duties.

Sec. 8. All deputy inspectors shall have the same powers and perform all the duties devolving upon the inspector under his direction and superintendence, except that they shall make all reports required by this act to the inspector, by whom same shall be reported as hereinbefore provided.

HISTORY: CL 1915, 6505;—CL 1929, 6534;—CL 1948, 327.108.

327.109 Inspection of meat; exception.

Sec. 9. All meat which has been inspected by federal authority shall not be subject to local inspection, except as to the market, vehicle or place at or from which it is sold or offered for sale and as to changes, decomposition, etc.

HISTORY: CL 1915, 6506;—CL 1929, 6535;—CL 1948, 327.109.

327.110 Violation of act; prosecutions; presumptive evidence.

Sec. 10. In all prosecutions for violation of any ordinance enacted pursuant to this act, the fact that any meat is found in any slaughter-house, market or vehicle within such city or village shall be presumptive evidence that the same was intended for use as human food.

HISTORY: CL 1915, 6507;—CL 1929, 6536;—CL 1948, 327.110.

327.111 Location of slaughterhouses; public abattoir; rights of farmers.

Sec. 11. No slaughter-house shall be established or maintained nearer to the limits of any city or village than is prescribed by the law in this state: Provided, however, Any city or village having enacted and in force, an ordinance pursuant to this act may cause to be erected and maintain a public abattoir in which all animals intended for human food within said city or village may be slaughtered, regulate the use thereof, and the terms upon which same may be used: Provided further, That nothing in this act shall be construed to prevent any farmer from killing, dressing and selling, in the open market, unless diseased, any animal or fowl intended for food that he has raised, fed or slaughtered, nor any dealer or merchant from buying or selling the same.

HISTORY: CL 1915, 6508;—CL 1929, 6537;—CL 1948, 327.111.

Act 137, 1883, p. 143; Eff. Sep. 8.

AN ACT to specify certain duties of health officers and provide for compensation therefor in townships, cities and villages where the health officer is not otherwise instructed by the local board of health.

The People of the State of Michigan enact:

327.151 Isolation of infected persons; health officer, duties.

Sec. 1. That whenever the health officer of any township, city or village in this state shall receive reliable notice or shall otherwise have good reason to believe that there is within the township, city or village of which he is the health officer, a case of small-pox, diphtheria, scarlet fever or other communicable disease dangerous to the public health, it shall be the duty of said health officer, unless he is or shall have been instructed by the board of health of which he is an executive officer, to do otherwise, immediately to investigate the subject, and in behalf of the board of health of which he is an executive officer, to order the prompt and thorough isolation of those sick or infected with such disease, so long as there is danger of their communicating the disease to other persons; to order the prompt vaccination or isolation of persons who have been exposed to small-pox; to see that no person suffers for lack of nurses or other necessities because of isolation for the public good; to give public notice of infected places by placard on the premises and otherwise if necessary; to promptly notify teachers or superintendents of schools concerning families in which are contagious diseases; to supervise funerals of persons dead from scarlet fever, diphtheria, small-pox or other communicable disease which endangers the public health; to disinfect rooms, clothing and premises, and all articles likely to be infected, before allowing their use by persons other than those in isolation; to keep the president of his own board of health, and the secretary of the state board of health constantly informed respecting every outbreak of a disease dangerous to the public health, and of the facts so far as the same shall come to his knowledge, respecting sources of danger of any such diseased person or infected article being brought into or taken out of the township, city or village of which he is the health officer. It shall be the duty of the health officer to comply with and enforce the rules and regulations and the health laws of the state of Michigan, to make a thorough and complete investigation of all nuisances, sources of sickness, public water supplies and the water supplies of cities, boarding houses, schools, restaurants and other public places; to inspect sewage and garbage disposal systems and to investigate schools, churches, jails, railroad stations, restaurants, theatres and other places of amusement or entertainment as to their sanitary conditions, and in every possible way to guard and protect the health of the public and to do such work as may be necessary for the improvement of general sanitary and hygienic conditions of the community and to prevent the development of disease.

HISTORY: How. 1861b;—CL 1897, 4460;—Am. 1915, p. 326, Act 183, Eff. Aug. 24;—CL 1915, 5091;—CL 1929, 6541;—CL 1948, 327.151.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to state health commissioner, see Compilers' § 325.4.

327.152 Health officers; orders, effect; violation of provision, penalty.

Sec. 2. In the absence of regulations conflicting therewith, made and published by the local board of health, and still remaining in force, the provisions of section 1 of this act shall have the force of regulations made and published by the local board of health; and whoever shall knowingly violate the provisions of section 1 of this act, or the orders of the health officer made in accordance therewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished by a fine not exceeding 100 dollars, and the costs of prosecution, or in default of payment thereof, by imprisonment not exceeding 90 days in the county jail, in the discretion of the court.

HISTORY: How. 1861c;—Am. 1899, p. 35, Act 34, Eff. Oct. 2;—CL 1897, 4461;—CL 1915, 5092;—CL 1929, 6542;—CL 1948, 327.152.

327.153 Health officers; compensation.

Sec. 3. In the fulfillment of the requirements of this act the health officer unless other provisions shall have been made in accordance with law, shall be entitled to receive from the township, city or village of which he is health officer, compensation at

the rate of not less than 3 dollars per day while actually engaged in the performance of his duties: Provided, That this section shall not be construed to conflict with any action by the local board of health under section 1693 of the Compiled Laws of 1871 as amended by Act 202 of the laws of 1881.

HISTORY: How. 1681d;—CL 1897, 4462;—Am. 1915, p. 327, Act 193, Eff. Aug. 24;—CL 1915, 5093;—CL 1929, 6543;—CL 1948, 327.153.

NOTE: Sec. 1693, above referred to, is Compilers' § 327.2.

Act 157, 1879, p. 151; Eff. Aug. 30.

AN ACT relative to the duties of health officers in [of] cities and villages.

The People of the State of Michigan enact:

327.171 Health officers; violation of law, notice to prosecutor; contents.

Sec. 1. That it shall be the duty of the health officer of each village and city in this state, whenever he shall know, or have good reason to believe that any penalty or forfeiture has been incurred within his city or village by reason of neglect to comply with section 1734 or section 1735 of the Compiled Laws of 1871, forthwith to give notice thereof, in writing, to the prosecuting attorney of his county, which notice shall state, as near as may be, the time of such neglect, the name of the person incurring the penalty or forfeiture, and, as near as can be ascertained, the name or names of persons sick with a disease dangerous to the public health, and not reported as the law requires.

HISTORY: How. 1684;—CL 1897, 4464;—CL 1915, 5095;—CL 1929, 6544;—CL 1948, 327.171.

NOTE: Secs. 1734 and 1735, above referred to, are Compilers' §§ 327.43 and 327.44.

Act 306, 1927, p. 565; Eff. Sep. 5.

AN ACT to provide for county and district health departments, to provide for boards of health and health officers and to prescribe their powers and duties; and to provide for the apportioning of funds appropriated by the state, for aid to city, county and district health departments. Am. 1941, p. 296, Act 198, Eff. Jan. 10, 1942;—Am. 1954, p. 452, Act 187, Eff. Aug. 13;—Am. 1965, p. 459, Act 269, Imd. Eff. Jul. 21.

The People of the State of Michigan enact:

327.201 County health department; establishment by board of supervisors; terms.

Sec. 1. The board of supervisors of each county in the state shall provide for a county health department, except where a district health department has been formed pursuant to section 7, to be paid for out of the general funds of the county. If the county has a county health department the board of supervisors shall select a county board of health of 5 members, who may or may not be members of the board of supervisors, 1 to serve for 1 year, 1 to serve for 2 years, 1 to serve for 3 years, 1 to serve for 4 years, and 1 to serve for 5 years. The successor of each appointee shall be appointed to serve for 5 years and may be appointed to succeed himself.

HISTORY: CL 1929, 6545;—Am. 1941, p. 296, Act 198, Eff. Jan. 10, 1942;—Am. 1947, p. 215, Act 154, Oct. 11;—CL 1948, 327.201;—Am. 1965, p. 459, Act 269, Imd. Eff. Jul. 21.

CITED IN OTHER SECTIONS: Sections 327.201 to 327.206b are cited in §§ 52.141, 52.213c, 125.744, 325.804, and 325.810.

327.202 Plan of organization; approval; local boards, establishment of basic health services.

Sec. 2. The plan of organization for the county or district health department shall be approved by the state director of public health. The director of public health shall require local boards of health to establish and maintain a program of basic public health

services and to meet minimum standards of performance as prescribed by the director with the concurrence of the health officers at the director's annual conference of directors of approved local health departments. The state director of public health shall provide consultation and training services to local health departments to implement this act.

HISTORY: CL 1929, 6546;—Am. 1941, p. 296, Act 196, Eff. Jan. 10, 1942;—CL 1948, 327.202;—Am. 1966, p. 192, Act 172, Imd. Eff. Jul. 1.

327.203 Health officer; selection; qualifications; administrator.

Sec. 3. The county or district board of health shall select the health officer who shall possess the professional qualifications established and approved by the state director of public health and shall act as the administrative officer of the board of health.

HISTORY: CL 1929, 6547;—Am. 1941, p. 296, Act 196, Eff. Jan. 10, 1942;—CL 1948, 327.203;—Am. 1966, p. 192, Act 172, Imd. Eff. Jul. 1.

327.203a Health officer and representatives of city, county or district health departments; liability.

Sec. 3a. No health officer, inspector, investigator, sanitary engineer, sanitarian, public health nurse or other representative of the city, county or district health department shall be personally liable for damages sustained by any person because of any action performed or done by the health officer, inspector, investigator, sanitary engineer, sanitarian, public health nurse or other representative of the city, county or district health department. This provision does not apply where the damages were sustained as a result of negligence by the health officer, inspector, investigator, sanitary engineer, sanitarian, public health nurse or other representative of the city, county or district health department.

HISTORY: Add. 1966, p. 230, Act 195, Eff. Mar. 10, 1967;—Am. 1967, p. 163, Act 134, Imd. Eff. Jun. 27.

327.204 County or district health officers; removal for incompetence or misfeasance; hearing.

Sec. 4. A county or district health officer may be removed for incompetence, or misfeasance of office by the county or district board of health, or by the state director of public health, after due hearing.

HISTORY: CL 1929, 6548;—Am. 1941, p. 296, Act 196, Eff. Jan. 10, 1942;—CL 1948, 327.204;—Am. 1966, p. 192, Act 172, Imd. Eff. Jul. 1.

327.205 County health department; jurisdiction; employment of physicians, nurses and qualified personnel.

Sec. 5. The county health department shall have jurisdiction throughout the county in both indigent and non-indigent cases, except that it shall not have jurisdiction in non-indigent cases in cities having an organized health department with full time health officer, except that such cities may elect to join with the county in the organization. Subject to the approval of the board of supervisors, the county health department shall have the power to employ such physicians and nurses and other qualified personnel full or part time as shall be necessary to carry on its work.

HISTORY: CL 1929, 6549;—Am. 1931, p. 27, Act 15, Imd. Eff. Apr. 13;—CL 1948, 327.205;—Am. 1957, p. 72, Act 66, Eff. Sep. 27.

327.205a Contracts for county assumption of city health jurisdiction; employee transfer, retirement rights, benefits and funds.

Sec. 5a. Notwithstanding any provision of its charter, a city may contract with a county for the county to assume the health jurisdiction of the city, for the appropriation and payment to the county of moneys to implement such transfer and for the transfer of city employees into county employment including the transfer of retire-

ment rights, benefits and funds from the city retirement system to the county retirement system. Any such contract shall provide that city employees so transferred shall not suffer any loss of benefits or rights as a result of the transfer.

HISTORY: Add. 1967, p. 167, Act 141, Eff. Nov. 2.

327.206 Local health boards; powers and duties; rules and regulations, approval.

Sec. 6. The county or district board of health, or the health committee of the board of supervisors, shall have and exercise the same powers and perform the same duties of a board of health as conferred by law upon the boards of health of townships, villages and cities. All rules and regulations promulgated by any county or district board of health or the health committee of boards of supervisors may be subject to review and approval or disapproval by a majority vote of the full board of supervisors or, in the case of district boards of health, the boards of supervisors affected, before the same shall become effective.

Sanitation services, fees; board members, expenses, compensation.

The board or committee may fix and require the payment of fees for sanitation services authorized or required to be performed by the health department. The board or boards of supervisors may revoke, enlarge or amend any such fees schedule. The fees charged shall in no case exceed the actual cost of performing the service by the department. Board or committee members may receive necessary traveling expenses for attending all meetings and may receive the same compensation as the board of supervisors of their respective county for each meeting attended not to exceed 30 days per year.

HISTORY: CL 1929, 6550;—Am. 1931, p. 27, Act 15, Imd. Eff. Apr. 13;—Am. 1941, p. 297, Act 196, Eff. Jan. 10, 1942;—CL 1948, 327.206;—Am. 1954, p. 102, Act 84, Eff. Aug. 13;—Am. 1963, p. 166, Act 121, Imd. Eff. May 10;—Am. 1964, p. 22, Act 19, Eff. Aug. 28.

327.207 District health department; board, health officer; state supervision.

Sec. 7. Two or more counties may, by a majority vote of the board of supervisors of each county and the approval of the state director of public health, unite to form a district maintaining a district health department. The district board of health shall be composed of representatives of the boards of supervisors. Each board shall elect 3 of their members as their representatives, except that, with the consent of the other boards in their district any board may have a greater or lesser number of representatives. The members of the district board shall meet as soon as possible after their selection and organize, electing such officers as they deem fit. The district board shall select the district health officer and with the state director of public health shall exercise the same powers of control over him and in respect to the district health department as the board of supervisors has over the county health officer and in reference to the county health department.

HISTORY: CL 1929, 6551;—CL 1948, 327.207;—Am. 1966, p. 192, Act 172, Imd. Eff. Jul. 1.

327.208 District health department; claims, audit, decision; appeal; apportionment.

Sec. 8. All claims against the district health department shall be audited by the district board of health, which shall have the same power to allow these claims that a board of supervisors has in respect to claims against a county. If the board meets less often than once a month, claims may be allowed by the health officer and 1 member of the board who shall report the action to the board at its next regular meeting. There shall be the same right of appeal from the board's decision in respect to a claim as exists from a similar decision of a county board of supervisors. The total amount of the allowed claims shall then be apportioned among the counties of the district on the basis of tax valuation, population or a combination of valuation and population, the for-

mula determined by the district health board subject to the approval of the department of treasury, and vouchers issued therefor by the officers of the respective counties, for such amounts as shall be the share of that county.

HISTORY: CL 1929, 6552;—CL 1948, 327.208;—Am. 1905, p. 459, Act 269, Imd. Eff. Jul. 21;—Am. 1906, p. 192, Act 172, Imd. Eff. Jul. 1;—Am. 1909, p. 372, Act 192, Eff. Mar. 20, 1970.

327.208a County health department; basic grant, maximum; local health worker, training; total, basic grant and refund; estimate; disbursement.

Sec. 8a. (1) Basic grants to counties to provide public health services shall be distributed on a per capita basis of not less than 20 cents per capita for counties in accordance with the last federal decennial census. In no instance shall any county receive less than \$8,500.00. Multiple county district aid shall be the sum total of the amount for each county, calculated separately, and in no case shall any county of a multiple county district receive less than \$8,500.00.

(2) County or multicounty district health departments, to qualify for state financial assistance, shall have a population of not less than 35,000 persons. The state department of public health may waive the population requirement of this subsection if in its judgment its enforcement would create undue hardship on the county or district.

(3) Any additional grant in excess of the amount required to implement the provision contained in this section shall be allocated proportionately to approved county and district health departments. The total of the basic grant shall not exceed 50% of the cost of maintenance of such approved local health department.

(4) If expenditures by a local health department are reduced in the fiscal accounting period in which appropriations under this section are received from the expenditures of the last previously completed fiscal accounting period, the next appropriation to the local health department so reducing expenditures shall be reduced in an amount equal to that local health department's reduction in expenditure.

(5) All moneys granted to counties under provisions of this section shall be used solely for the maintenance of approved county or district health departments. The state director of public health shall estimate quarterly the amount to be paid for the ensuing quarter from the allotment to each county having an approved health department, and shall certify such amounts to the department of administration. The department of administration shall refund quarterly to counties from funds appropriated for implementing this act the amounts certified by the state director of public health. The state treasurer shall act as disbursing agent for the state department of public health in disbursing all other funds received by the state department of public health for such county or district health service.

HISTORY: Add. 1929, p. 272, Act 118, Imd. Eff. May 7;—CL 1929, 6553;—Am. 1945, p. 511, Act 298, Imd. Eff. May 25;—CL 1948, 327.208a;—Am. 1954, p. 452, Act 187, Eff. Aug. 13;—Am. 1966, p. 193, Act 172, Imd. Eff. Jul. 1.

327.208b Repealed. 1966, p. 193, Act 172, Imd. Eff. Jul. 1.

Section related to grants for health services and basis for distribution thereof.

Sec. 9. (This was a repeal section.)

HISTORY: CL 1929, 6554;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 130, 1917.

Act 248, 1911, p. 427; Eff. Aug. 1.

AN ACT providing for the incorporation of medical milk commissions, and certification of milk produced under their supervision.

The People of the State of Michigan enact:

327.251 Medical milk commission; members, appointment, powers, term, removal, certificate.

Sec. 1. Authority is hereby given the board of health of any city, village or township in this state, so constituted as to have in its membership 2 or more physicians duly authorized to practice medicine under the laws of this state, to appoint 5 physicians duly authorized to practice medicine under the laws of this state a medical milk commission for the purpose of supervising the production, transportation and delivery of milk, which it is intended to use for infant feeding, sick-room clinical purposes in said city, village or township. In cities, villages or townships not having a board of health so constituted as above stated, the state board of health may make such appointment. All members of such milk commission shall have and possess all the powers and immunities provided by this act or any other act relating to the appointees of such board of health, while performing their duties as such appointees. One member of such commission shall be appointed and hold office from the time of such appointment until the end of the thirty-first of December, 1911, 1 shall be appointed and hold office until the end of the thirty-first of December 1912, 1 shall be appointed and hold office until the end of the thirty-first of December 1913, and 1 shall be appointed and hold office until the end of the thirty-first of December, 1914, 1 shall be appointed and hold office until the end of the thirty-first of December, 1915, and until their several successors are appointed and qualified. The term of office of each member of the commission, after the termination of the aforesaid terms shall be 5 years, and on the expiration of any term a new appointment shall be made in the same manner above prescribed. No more than 1 milk commission shall be appointed for any 1 city, village or township. Any and all members of such commission may be removed at any time by the board which appointed them. Such medical milk commission shall make and file a certificate in writing in the manner hereinafter mentioned.

HISTORY: CL 1915, 5149;—CL 1929, 6555;—CL 1948, 327.251.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to state health commissioner, see Compilers' § 325.4.

327.252 Certificates; contents.

Sec. 2. Such certificates shall set forth:

The name of such association, which shall be as hereinafter designated;

The purpose for which the association shall be formed;

The names and residences of the medical directors who shall manage the affairs of the association for the first year of its existence;

The city, village or township in this state where such association shall operate.

HISTORY: Am. 1913, p. 392, Act 196, Eff. Aug. 14;—CL 1915, 5150;—CL 1929, 6556;—CL 1948, 327.252.

327.253 Certificates; execution; filing, evidence.

Sec. 3. Such certificate shall be executed in triplicate and acknowledged before some person within this state authorized to take the acknowledgement of deeds, and 1 copy thereof shall be filed in the office of the clerk of the county where the purposes of such association are to be carried out and 1 copy shall be filed in the office of the secretary of state; said certificate or copy thereof duly certified by the said clerk or secretary of state shall be evidence in all courts or places.

HISTORY: CL 1915, 5151;—CL 1929, 6557;—CL 1948, 327.253.

327.254 Name of commission; form.

Sec. 4. The name of such association shall be "The Medical Milk Commission of the [stating whether city, village or township] of [designating the name of city, village or township] [designating the name of county] County of Michigan."

HISTORY: Am. 1913, p. 392, Act 196, Eff. Aug. 14;—CL 1915, 5152;—CL 1929, 6558;—CL 1948, 327.254.

327.255 By-laws; agents, duties.

Sec. 5. Such medical directors shall have the power from time to time to make, alter and amend by-laws not inconsistent with the constitution and laws of the United States and of this state, and to appoint such agents and officers as shall in their judgment tend to promote or advance any purpose or purposes of such commission, and to prescribe their respective duties; and for the regulating of the conditions under which milk shall be produced by any dairyman or dairymen under contract with such commission.

HISTORY: CL 1915, 5153;—CL 1929, 6559;—CL 1948, 327.255.

327.256 Receipt of compensation; penalty.

Sec. 6. No medical director of any association organized under this act shall receive, directly or indirectly, from such association or dairyman or dairymen producing milk under agreement with such commission, any salary or emolument or any compensation of any kind or character for any services rendered under the provisions of this act, and any medical director who shall receive any salary, emolument or any compensation of any kind or character for such services, shall be liable to a penalty of 100 dollars to be recovered in an action of debt by the association of which he is a member, and in addition thereto shall be removed from his office as a member of said association, and thereafter disqualified from becoming a member of any association incorporated under the provisions of this act.

HISTORY: CL 1915, 5154;—CL 1929, 6560;—CL 1948, 327.256.

327.257 Production agreements; contents.

Sec. 7. Every such association shall have the power to enter into agreement in writing with any dairyman or dairymen for the production of milk under the supervision of such association for the purposes enumerated in section 1 hereof, and to prescribe in such agreement the conditions under which such milk shall be produced, which conditions however, shall not be below the standards of purity and quality for certified milk as fixed by the American association of medical milk commissions, and the standards for milk now fixed or that may hereafter be fixed by the board of health of the state of Michigan. In any contract entered into by any such commission with any dairyman or dairymen, it may be provided that such medical milk commission may designate any analysts, chemists, bacteriologists, veterinarians, medical inspectors or other persons who in its judgment may be necessary for the proper carrying out of the purposes of such commission for employment by such dairyman or dairymen, and to prescribe and define their powers and duties, and that such persons so employed by such dairyman or dairymen may be discharged from employment whenever such medical milk commission may request such discharge or removal in writing.

HISTORY: CL 1915, 5155;—CL 1929, 6561;—CL 1948, 327.257.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

327.258 Containers; certificate or seal.

Sec. 8. All containers of any kind or character used in the carrying or distribution of milk produced by any dairyman or dairymen under contract with any medical milk commission shall have attached thereto or placed thereon a certificate or seal bearing the name of the medical milk commission with which such dairyman or dairymen producing such milk shall be under contract, which certificate shall have printed,

stamped or written thereon the day or date of the production of the milk contained in any such container and the words "certified milk" in plain and legible form.

HISTORY: CL 1915, 5156;—CL 1929, 6562;—CL 1948, 327.258.

327.259 State investigation; ex-officio membership.

Sec. 9. The work and methods of any milk commission organized under this act and of the dairies of which milk is produced under contract with any such commission, shall at all times be subject to investigation and scrutiny by the local board of health and the board of health of the state of Michigan. The secretary of said state board of health and the local health officer shall be ex-officio members of every milk commission organized under this act.

HISTORY: CL 1915, 5157;—CL 1929, 6563;—CL 1948, 327.259.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

327.260 Certified milk standard.

Sec. 10. No person, firm or corporation shall sell or exchange or offer or expose for sale or exchange in any city, village or township as and for certified milk, any milk which is not certified by the medical milk commission of that city, village or township, and which is not produced in conformity with the methods and regulations for the production of certified milk from time to time adopted by the American association of medical milk commissions, and which is below the standards of purity and quality for certified milk as fixed by the American association of medical milk commissions.

HISTORY: Am. 1913, p. 393, Act 196, Eff. Aug. 14;—CL 1915, 5158;—CL 1929, 6564;—CL 1948, 327.260.

327.261 Violation of act; penalty.

Sec. 11. Whoever shall by himself, servant or agent sell, exchange or deliver or have in his custody with intent to sell, exchange or deliver, or offer or expose for sale in any city, village or township as certified milk, any milk which has not been certified by the medical milk commission of that city, village or township, or shall violate any of the provisions of this act, shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than 50 dollars nor more than 500 dollars, or by imprisonment in the county jail not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1913, p. 393, Act 196, Eff. Aug. 14;—CL 1915, 5159;—CL 1929, 6565;—CL 1948, 327.261.

Sec. 12. (This was a repeal section.)

HISTORY: CL 1915, 5160;—CL 1929, 6566;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 215, 1861, p. 452; Eff. Jun. 15.

AN ACT to authorize boards of health to dispose of real estate.

The People of the State of Michigan enact:

327.301 Sale of real estate; fee in board; cemetery ground, sale by court order.

Sec. 1. That any board of health of this state may sell and convey any real estate, the fee of which is vested in them: Provided, That no real estate shall be sold by virtue of this act which is or has been in actual use as a cemetery or burial ground, unless the same shall be sold by an order of the circuit court upon the petition of the board of health of the township in which the burial ground is situated.

HISTORY: CL 1871, 1741;—Am. 1877, p. 146, Act 152, Eff. Aug. 21;—How. 1887;—CL 1897, 4463;—CL 1915, 5094;—CL 1929, 6567;—CL 1948, 327.301.

Act 37, 1917, p. 62; Eff. Aug. 10.

AN ACT to provide for the registration of cremations in Michigan.

The People of the State of Michigan enact:

327.311 Report of cremations; time.

Sec. 1. It shall be the duty of the health officer of each township, village and city in the state of Michigan to make a report of the cremations of the dead in their respective localities, or of the dead bodies removed from such township, village or city, for the purpose of incineration in other states, said report to be rendered to the state board of health at the end of each calendar year.

HISTORY: CL 1929, 6568;—CL 1948, 327.311.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

CREMATION: Records, see also Compilers' §§ 326.9 to 326.11.

CREMATION ASSOCIATIONS: See Act 58 of 1915, being Compilers' §§ 456.201 to 456.213.

327.312 Report of cremations; contents.

Sec. 2. In addition to the name and age of the deceased, the report shall give the names of the attending physician and undertaker, together with the dates of death and incineration, as well as the number of the permit that was filed before the cremation or removal of the dead body in question took place.

HISTORY: CL 1929, 6569;—CL 1948, 327.312.

327.313 Cremations; separate record.

Sec. 3. In order to facilitate the registration of instances of cremation or the removal of bodies to other states for that purpose, and in order to obtain accurate statistics of the cremations in and from this state, which is the purpose of this bill, the aforesaid health officers shall and hereby are required to keep a separate record, which shall be open to public inspection.

HISTORY: CL 1929, 6570;—CL 1948, 327.313.

327.314 Cremations; incorporation into state statistics.

Sec. 4. It shall be the duty of the state board of health to incorporate the statistics concerning cremation in the state of Michigan in its annual report, as a part of the general mortuary statistics of the state.

HISTORY: CL 1929, 6571;—CL 1948, 327.314.

ANNUAL REPORT: See Compilers' §§ 24.9 and 24.10.

327.315 Local boards; duties; misdemeanor, penalty.

Sec. 5. It shall be the duty of local boards of health to see that the provisions of this bill are enforced and to provide for a reasonable compensation of the official making the return. Any official failing or refusing to perform his duty, under this bill, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than 5 dollars, and not exceeding 100 dollars, or be imprisoned in the county jail not exceeding 30 days, or suffer both fine and imprisonment at the discretion of the court.

HISTORY: CL 1929, 6572;—CL 1948, 327.315.

CHAPTER 328. HEALTH—UNCLAIMED BODIES, DISSECTION, AUTOPSIES

UNCLAIMED DEAD HUMAN BODIES Act 142 of 1909		328.202	Dead human body; agreement by recipient, old age assistance or aid to blind; consent of social welfare department.
328.1, 328.2 Repealed.		328.203	Violation of act; penalty.
ANATOMY COMMITTEE Act 138 of 1958		GIFTS OF THE HUMAN ANATOMY Act 82 of 1958	
328.11 Department of health anatomy committee; creation, members, chairman, officers, rules of procedure.		328.251-328.257 Repealed.	
328.12 Anatomy committee; allocation of bodies, medical instruction or use.		UNIFORM ANATOMICAL GIFT ACT Act 189 of 1969	
328.13 Anatomy committee; rules; records.		328.261	Uniform anatomical gift act; short title.
328.14 Unclaimed body; definition.		328.262	Uniform anatomical gift act; definitions.
328.15 Unclaimed body; availability to anatomy committee; religious benevolent association, surrender.		328.263	Donors; eligibility; notice of objections, priorities; examination of body; donee's rights.
328.16 Unclaimed body; holding for claim by relative or special administrator.		328.264	Donees; eligibility.
328.17 Unclaimed body; use, purposes of instruction.		328.265	Manner of executing gift; wills; documents, form; donees; physician; surgeon; foreign gifts.
328.18 Unclaimed body; expenses, records.		328.266	Documents of gift; permission delivery, filing; examination.
328.19 Unclaimed body; disposal of remains.		328.267	Amendment or revocation of gift; procedure.
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328.21 Unclaimed body; unfit bodies, interment.		328.269	Construction of act.
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328.23 Repeal.		DISINTERMENT OF HUMAN REMAINS Act 95 of 1970	
UNCLAIMED BODY IN INSTITUTION Act 115 of 1925		328.281	Disinterment of human remains; permit required.
328.101 Unclaimed body in state institution; autopsy.		328.282	Disinterment or removal permits; uniform procedures for issuance.
328.102 Unclaimed body in state institution; disposal.		328.283	Requests for disinterment, who may make.
CONSENT TO AUTOPSIES, POST-MORTEMS AND DISSECTIONS Act 95 of 1953		328.284	Affidavits for disinterment; contents.
328.151 Autopsy; post-mortem or dissection; consent, custody; exceptions.		328.285	Disinterment or removal permits; grounds for denial.
AGREEMENTS FOR DISPOSITION OF DEAD HUMAN BODIES		328.286	Disinterment by court order.
328.201 Dead human body; final disposition; funeral plan account, deposit; copy of death certificate.		328.287	Affidavits for disinterment; retention, duplicate copy.
		328.288	Disinterment or removal permits; fees.
		328.289	Delayed interment; authorization, contents.

328.1, 328.2 Repealed. 1958, p. 152, Act 138, Eff. Sep. 13.

Sections provided for use of unclaimed bodies for dissection in advancement of science.

Act 138, 1958, p. 151; Eff. Sep. 13.

AN ACT to create within the state department of health an anatomy committee; to prescribe the powers and duties of the committee in relation to dead human bodies for scientific use; to provide penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

328.11 Department of health anatomy committee; creation, members, chairman, officers, rules of procedure .

Sec. 1. There is hereby created within the department of health an anatomy committee, to consist of the state health commissioner, ex officio, and 2 members each from the department of anatomy of each of the medical schools in this state, who shall be appointed by and serve at the pleasure of the dean of the respective medical schools. The members shall serve without compensation. Biennially the board shall select 1 of their number as chairman. The board shall determine its own officers and rules of procedure.

HISTORY: New 1958, p. 151, Act 138, Eff. Sep. 13.

328.12 Anatomy committee; allocation of bodies, medical instruction or use.

Sec. 2. The anatomy committee shall receive those dead human bodies, or parts thereof, which are designated for scientific uses and allocate such bodies, or parts thereof, to hospitals or educational institutions requiring them for medical instruction or use.

HISTORY: New 1958, p. 151, Act 138, Eff. Sep. 13.

328.13 Anatomy committee; rules; records.

Sec. 3. The anatomy committee, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, shall make and promulgate the necessary rules and regulations relating to the transportation, reception, preservation, storage and allocation of dead bodies or parts thereof. The anatomy committee shall keep permanent records of the receipt and disposition of dead bodies or parts thereof.

HISTORY: New 1958, p. 151, Act 138, Eff. Sep. 13.

328.14 Unclaimed body; definition.

Sec. 4. An unclaimed body is one concerning which the deceased has made no disposition, and there is no estate or assets to defray costs of burial, and which is not claimed for burial by any person, relative or court appointed fiduciary who has the right to control the disposition of the remains.

HISTORY: New 1958, p. 151, Act 138, Eff. Sep. 13;—Am. 1966, p. 413, Act 290, Imd. Eff. Jul. 12.

328.15 Unclaimed body; availability to anatomy committee; religious benevolent association, surrender.

Sec. 5. Every official of a public institution or state, county, city or township officer having charge or control of remains of a person who died leaving no property and would have to be interred at public expense shall use due diligence to notify the relatives of the decedent. In the absence of any known relative of the decedent or a special administrator of the estate of the decedent appointed by the probate court desiring to direct the disposition of the remains in a manner other than in this act provided, the remains shall become available to the anatomy committee. Upon written request by the anatomy committee for notification concerning unclaimed bodies coming under his jurisdiction, such officer, for the definite period specified in the request of the committee, shall notify the chairman of the anatomy committee by telegraph or telephone collect, immediately after the lapse of 72 hours after death, excluding Sundays and holidays, stating, whenever possible, the name, age, sex, religion and cause of death of the decedent, and shall release the body of the decedent according to the rules or instructions of the anatomy committee. If the decedent was a member of a re-

ligious faith maintaining a benevolent association, which association will provide for the burial of the decedent in accordance with the tenets of the religion, the anatomy committee shall notify the benevolent association of the death of the decedent by telegram collect, and shall surrender the body of the decedent to the benevolent association upon request.

HISTORY: New 1958, p. 151, Act 138, Eff. Sep. 13;—Am. 1968, p. 413, Act 290, Imd. Eff. Jul. 12.

328.16 Unclaimed body; holding for claim by relative or special administrator.

Sec. 6. The unclaimed dead retained by the anatomy committee for scientific or educational purposes shall be embalmed and disposed of in accordance with the rules and regulations of the anatomy committee. The unclaimed dead shall be held for a period of 30 days by those to whom they may have been assigned for scientific or educational purposes and are subject, during this period, to identification and claim by any authenticated relative of the decedent or a special administrator appointed by the probate court of the decedent's estate for the purpose of interment or other disposition in accordance with the directions of such relative or the special administrator.

HISTORY: New 1958, p. 151, Act 138, Eff. Sep. 13;—Am. 1968, p. 414, Act 290, Imd. Eff. Jul. 12.

328.17 Unclaimed body; use, purposes of instruction.

Sec. 7. The bodies or parts thereof of the unclaimed dead retained by the anatomy committee shall be used for the purpose of instruction, study and use in the promotion of education in the health sciences within the state.

HISTORY: New 1958, p. 152, Act 138, Eff. Sep. 13.

328.18 Unclaimed body; expenses, records.

Sec. 8. All persons receiving unclaimed dead for educational purposes shall bear all reasonable expense incurred in the preservation and transportation of the dead and shall keep a permanent record of bodies received, giving the identification number, name, age, religion and sex, together with the place of last residence of the decedent and the source and disposition, with dates, of the body.

HISTORY: New 1958, p. 152, Act 138, Eff. Sep. 13.

328.19 Unclaimed body; disposal of remains.

Sec. 9. The persons or institutions receiving unclaimed dead bodies or parts thereof for educational purposes shall be responsible for the disposal of the remains in accordance with the rules and regulations adopted by the anatomy committee.

HISTORY: New 1958, p. 152, Act 138, Eff. Sep. 13.

328.20 Unclaimed body; post mortem examination, anatomy committee.

Sec. 10. It is unlawful for any person, unless specifically authorized by law, to hold a post mortem examination of any unclaimed dead without the express permission of the anatomy committee.

HISTORY: New 1958, p. 152, Act 138, Eff. Sep. 13.

328.21 Unclaimed body; unfit bodies, interment.

Sec. 11. Whenever, through the failure of any person to notify the anatomy committee or promptly to release an unclaimed dead body as required by the anatomy committee, such body becomes unfit for scientific or educational purposes, the anatomy committee shall so certify, and the remains shall be interred at the expense of those responsible for such noncompliance.

HISTORY: New 1958, p. 152, Act 138, Eff. Sep. 13.

328.22 Violation of act; penalty.

Sec. 12. Every person who unlawfully disposes, uses, or sells the body of an unclaimed dead person, or who violates any provision of this act, is guilty of a misdemeanor.

HISTORY: New 1958, p. 152, Act 138, Eff. Sep. 13;—Am. 1966, p. 414, Act 280, Eff. Jul. 12.

328.23 Repeal.

Sec. 13. Act No. 142 of the Public Acts of 1909, as amended, being sections 328.1 and 328.2 of the Compiled Laws of 1948 is hereby repealed.

HISTORY: New 1958, p. 152, Act 138, Eff. Sep. 13.

Act 115, 1925, p. 157; Eff. Aug. 27.

AN ACT authorizing the performance of an autopsy on unclaimed dead human bodies, in possession or control of any state institution for the care and treatment of mentally diseased persons and Wayne county general hospital and infirmary. Am. 1958, p. 150, Act 137, Eff. Sep. 13.

The People of the State of Michigan enact:

328.101 Unclaimed body in state institution; autopsy.

Sec. 1. The medical superintendent of any state institution for the treatment and care of mentally diseased persons and the general superintendent of Wayne county general hospital and infirmary, having in his possession or control the unclaimed dead body of any person, which dead body under the provisions of law must be delivered to the anatomy committee, may direct and authorize the performance of an autopsy upon such dead body by any medical officer of the institution for the sole purpose of the study of mental diseases and the advancement of the science relating thereto.

HISTORY: CL 1929, 6735;—CL 1948, 328.101;—Am. 1958, p. 150, Act 137, Eff. Sep. 13.

328.102 Unclaimed body in state institution; disposal.

Sec. 2. Upon the completion of the autopsy upon the unclaimed dead body of any such person performed under the authority of this act, the dead body shall be treated and disposed of in the same manner as any other unclaimed dead body in accordance with the provisions of law.

HISTORY: CL 1929, 6736;—CL 1948, 328.102;—Am. 1958, p. 150, Act 137, Eff. Sep. 13.

Act 95, 1953, p. 91; Eff. Oct. 2.

AN ACT to regulate the obtaining of consent to the performance of autopsies, post-mortems and dissections of bodies of deceased persons.

The People of the State of Michigan enact:

328.151 Autopsy; post-mortem or dissection; consent, custody; exceptions.

Sec. 1. Except as otherwise provided by law, no autopsy, post-mortem or dissection shall be performed upon the body of a deceased person except by a licensed physician, who has been granted written consent therefor by whichever one of the following assumes custody of the body for purposes of burial: Father, mother, widow, widower, guardian, next-of-kin, or a person charged by law with the responsibility for burial. If 2 or more such persons assume custody of the body, the consent of 1 of them shall be deemed sufficient.

The provisions of this act shall not be construed to prevent the ordering of autopsies or post-mortems by coroners or a county health officer: Provided, That this act shall

not pertain to departments of anatomy in schools of medicine located within the limits of the state of Michigan, or to autopsies, post-mortems or dissections performed pursuant to and under the authority of existing statutes.

HISTORY: New 1953, p. 91, Act 95, Eff. Oct. 2.

Act 70, 1954, p. 86; Eff. Aug. 13.

AN ACT relative to agreements providing for the final disposition of a dead human body; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

328.201 Dead human body; final disposition; funeral plan account, deposit; copy of death certificate.

Sec. 1. All payments made under an agreement providing for the final disposition of a dead human body, as consideration for the purchase of caskets or other personal property, excluding burial space in any cemetery, or services, excluding perpetual care of burial space in any cemetery, which are only to be delivered or performed subsequent to the death of the person for whose benefit the agreement is made, shall remain intact as a fund until the death of the person for whose benefit the agreement is made: Provided, however, That any deposit made pursuant to this section shall be released upon demand of the person for whose benefit such deposit was made unless an irrevocable agreement has been made under the provisions of section 2 of this act. All such funds shall be deposited within 7 days after receipt with any bank, building and loan association or savings and loan association or members of the federal home loan bank system authorized to do business in the state of Michigan, and shall be held in an account for the person for whose benefit such fund was established as a prearranged funeral plan account. A certified copy of the certificate of death or other evidence of death satisfactory to such depository shall be furnished to such depository as evidence of death, and the depository shall forthwith pay the funds and accumulated interest, if any, to the person entitled thereto under the agreement. The payment of such funds and accumulated interest or dividends pursuant to this section shall relieve such depository of any further liability on such funds or interest.

HISTORY: New 1954, p. 86, Act 70, Eff. Aug. 13.

328.202 Dead human body; agreement by recipient, old age assistance or aid to blind; consent of social welfare department.

Sec. 2. An agreement may be made under this act by an applicant for or recipient of old age assistance, aid to the disabled, or aid to the blind with the consent of the director of the state department of social welfare, which consent may be given in cases where the director finds the agreement to be in the interest of the applicant or recipient and that the state will thereby be made not liable for his funeral expenses.

HISTORY: New 1954, p. 87, Act 70, Eff. Aug. 13;—Am. 1961, p. 77, Act 76, Eff. Sep. 8;—Am. 1965, p. 388, Act 225, Imd. Eff. Jul. 16.

328.203 Violation of act; penalty.

Sec. 3. Any person who shall wilfully violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000.00 or imprisonment in the county jail for not more than 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 87, Act 70, Eff. Aug. 13.

328.251-328.257 Repealed. 1969, p. 371, Act 189, Eff. Mar. 20, 1970.

Sections related to gifts of the human anatomy.

Act 189, 1969, p. 367; Eff. Mar. 20, 1970.

AN ACT authorizing the gift of all or part of a human body after death for specified purposes; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

328.261 Uniform anatomical gift act; short title.

Sec. 1. This act shall be known and may be cited as the “uniform anatomical gift act”.

HISTORY: New 1969, p. 367, Act 189, Eff. Mar. 20, 1970.

328.262 Uniform anatomical gift act; definitions.

Sec. 2. As used in this act:

(a) “Bank or storage facility” means a facility licensed, accredited or approved under the laws of any state for storage of human bodies or parts thereof.

(b) “Decedent” means a deceased individual and includes a stillborn infant or fetus.

(c) “Donor” means an individual who makes a gift of all or part of his body.

(d) “Hospital” means a hospital licensed, accredited or approved under the laws of any state: includes a hospital operated by the United States government, a state or a subdivision thereof, although not required to be licensed under state laws.

(e) “Part” means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

(f) “Person” means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(g) “Physician” or “surgeon” means a physician or surgeon licensed or authorized to practice under the laws of any state.

(h) “State” includes any state, district, commonwealth, territory, insular possession and any other area subject to the legislative authority of the United States of America.

HISTORY: New 1969, p. 367, Act 189, Eff. Mar. 20, 1970.

328.263 Donors; eligibility; notice of objections, priorities; examination of body; donee's rights.

Sec. 3. (1) Any individual of sound mind and 18 years of age or more may give all or any part of his body for any purpose specified in section 4, the gift to take effect upon death.

(2) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 4:

(a) The spouse.

(b) An adult son or daughter.

(c) Either parent.

(d) An adult brother or sister.

(e) A guardian of the person of the decedent at the time of his death.

(f) Any other person authorized or under obligation to dispose of the body.

(3) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (2) may make the gift after or immediately before death.

(4) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(5) The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection (4) of section 8.

HISTORY: New 1969, p. 368, Act 189, Eff. Mar. 20, 1970.

328.264 Donees; eligibility.

Sec. 4. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(a) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation.

(b) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy.

(c) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation.

(d) Any specified individual for therapy or transplantation needed by him.

HISTORY: New 1969, p. 368, Act 189, Eff. Mar. 20, 1970.

328.265 Manner of executing gift; wills; documents, form; donees; physician; surgeon; foreign gifts.

Sec. 5. (1) A gift of all or part of the body under subsection (1) of section 3 may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or part of the body under subsection (1) of section 3 may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of 2 witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of 2 witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid. The document shall conform substantially to the following form:

"Certificate of Authorization for Postmortem Study and Examination or Removal of Tissues or Organs"

I, the undersigned, this day of 19....
desiring that my be made available after my demise for

A. Any licensed hospital, surgeon or physician; for medical or dental education, research, advancement of medical science therapy or transplantation to individuals;

B. Any accredited medical school, college or university engaged in medical or dental education or research; for therapy, educational, research or medical science purposes;

C. Any person operating a bank or storage facility for blood, arteries, eyes, pituitaries, or other human parts, for use in medical or dental education, research, therapy or transplantation to individuals;

D. The donee specified below, for therapy or transplantation needed by him or her; do hereby donate my for said purpose to

.....
(Name of Person)

.....
(Address)

I hereby authorize a licensed physician or surgeon, or the State Anatomy Committee to remove and preserve for use my for said purpose.

Witnessed this day of
, 19.....
 (Donor)
 (Name and Address)
 (Address)
 (Name and Address)
 (Telephone)

The gift becomes effective immediately after the death of the donor.

(3) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(4) Notwithstanding subsection (4) of section 8, the donor may designate in his will, card or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(5) Any gift by a person designated in subsection (2) of section 3 shall be made by a document signed by him or made by his telegraphic, recorded telephonic or other recorded message.

(6) A document of gift executed in another state or foreign country and in accord with the laws of that state or country is valid as a document of gift in this state, although the document does not conform substantially to the form set forth in subsection (2).

HISTORY: New 1969, p. 368, Act 189, Eff. Mar. 20, 1970.

328.266 Documents of gift; permission delivery, filing; examination.

Sec. 6. If the gift is made by the donor to a specified donee, the will, card or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

HISTORY: New 1969, p. 370, Act 189, Eff. Mar. 20, 1970.

328.267 Amendment or revocation of gift; procedure.

Sec. 7. (1) If the will, card or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by any of the following methods:

- (a) The execution and delivery to the donee of a signed statement.
- (b) An oral statement made in the presence of 2 persons and communicated to the donee.

(c) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee.

(d) A signed card or document found on his person or in his effects.

(2) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (1), or by destruction, cancellation or mutilation of the document and all executed copies thereof.

(3) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (1).

HISTORY: New 1969, p. 370, Act 189, Eff. Mar. 20, 1970.

328.268 Acceptance or rejection of gift; mortician's liability; time of death; immunity; autopsies.

Sec. 8. (1) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, the surviving spouse, next of kin or other persons having authority to direct and arrange for the funeral and burial or other disposition of the body may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin or such other persons having authority to direct and arrange for the funeral and burial or other disposition of the remainder of the body. A funeral director, embalmer or person licensed to practice mortuary science under Act No. 268 of the Public Acts of 1949, as amended, being sections 338.861 to 338.875 of the Compiled Laws of 1948, who acts pursuant to the directions of persons alleging to have authority to direct and arrange for the funeral and burial or other disposition of the remainder of the body, is relieved of any liability for the funeral and for the burial or other disposition of the remainder of the body. A funeral director, embalmer or person licensed to practice mortuary science under such act may rely on the instructions and directions of any person alleging to be either a donee or a person authorized under this act to donate a body or any part thereof. A funeral director, embalmer or person licensed to practice mortuary science under such act is not liable for removal of any part of a body donated under this act.

(2) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The attending or certifying physician shall not participate in the procedures for removing or transplanting a part.

(3) A person who acts in good faith in accord with the terms of this act or with the anatomical gift laws of another state or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(4) The provisions of this act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

HISTORY: New 1969, p. 370, Act 189, Eff. Mar. 20, 1970.

328.269 Construction of act.

Sec. 9. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1969, p. 371, Act 189, Eff. Mar. 20, 1970.

328.270 Repeal.

Sec. 10. Act No. 82 of the Public Acts of 1958, as amended, being sections 328.251 to 328.257 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1969, p. 371, Act 189, Eff. Mar. 20, 1970.

Act 95, 1970, p. 271; Imd. Eff. Jul. 20.

AN ACT to provide for lawful authorization for disinterment of human remains; to provide for supervision, permits, court action, records and fees.

The People of the State of Michigan enact:

328.281 Disinterment of human remains; permit required.

Sec. 1. A cemetery authority shall not remove or permit the removal of interred remains unless a permit for the removal has been issued by the local health officer in whose jurisdiction the cemetery is located.

HISTORY: New 1970, p. 271, Act 95, Imd. Eff. Jul. 20.

328.282 Disinterment or removal permits; uniform procedures for issuance.

Sec. 2. The state department of public health shall prescribe uniform procedures for the issuance of disinterment or removal permits.

HISTORY: New 1970, p. 271, Act 95, Imd. Eff. Jul. 20.

328.283 Requests for disinterment, who may make.

Sec. 3. A request for disinterment must be made to the local health officer in whose district the cemetery is located on affidavit forms provided by one of the following, in the order named:

- (a) The surviving spouse.
- (b) The surviving children.
- (c) The surviving parents.
- (d) The surviving brothers or sisters.

HISTORY: New 1970, p. 271, Act 95, Imd. Eff. Jul. 20.

328.284 Affidavits for disinterment; contents.

Sec. 4. Affidavits shall contain the following information:

- (a) Name and address of person requesting disinterment permit.
- (b) Name of lot or burial right owner.
- (c) Name of deceased.
- (d) Present location of deceased grave, section number or other location such as location in a mausoleum.
- (e) Reinterment location.
- (f) Relationship of petitioner to deceased.
- (g) Reason for disinterment.
- (h) Approval of all persons who may have a claim on the deceased if spouse is not living in the order named in section 3.
- (i) Written consent of lot or burial space owner or owners if other than petitioner.

HISTORY: New 1970, p. 271, Act 95, Imd. Eff. Jul. 20.

328.285 Disinterment or removal permits; grounds for denial.

Sec. 5. The local health officer may deny any such permit if it is determined that the required consent has not been obtained.

HISTORY: New 1970, p. 272, Act 95, Imd. Eff. Jul. 20.

328.286 Disinterment by court order.

Sec. 6. If the required consent to disinter cannot be obtained, any person may petition the circuit court of the county where the cemetery is located for a disinterment order.

HISTORY: New 1970, p. 272, Act 95, Imd. Eff. Jul. 20.

328.287 Affidavits for disinterment; retention, duplicate copy.

Sec. 7. The affidavit for disinterment will be retained by the local health officer for a period of 5 years. A duplicate copy of the permit shall be maintained as part of the permanent records of the cemetery from which the deceased was removed.

HISTORY: New 1970, p. 272, Act 95, Imd. Eff. Jul. 20.

328.288 Disinterment or removal permits; fees.

Sec. 8. Local health officers shall collect a fee of \$10.00 for issuing a disinterment or removal permit.

HISTORY: New 1970, p. 272, Act 95, Imd. Eff. Jul. 20.

328.289 Delayed interment; authorization, contents.

Sec. 9. When weather conditions prevent an immediate interment and a period of storage is necessary, the cemetery shall obtain written authorization for delayed interment signed by the next of kin or authorized agent. The authorization shall specify the approximate hour and date of interment and place of temporary storage.

HISTORY: New 1970, p. 272, Act 95, Imd. Eff. Jul. 20.

CHAPTER 329. HEALTH—COMMUNICABLE DISEASES

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- 329.2 Quarantine; purpose.
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- 329.101 Rabid dog; quarantine; complaint by township board.
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- 329.401 Tuberculosis; communicable disease; notices, form, time.
- 329.402 Tuberculosis; rules and regulations, contents; court review.
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Act 230, 1885, p. 335; Eff. Sep. 19.

AN ACT to provide for the prevention of the introduction and spread of cholera and other dangerous communicable diseases.

The People of the State of Michigan enact:

329.1 Communicable diseases; quarantine provisions; martial law.

Sec. 1. Whenever it shall be shown to the satisfaction of the state board of health, that cholera, diphtheria, or other dangerous communicable disease exists in any foreign country, neighboring state, or locality within this state whereby the public health is imperiled, and it shall be further shown that immigrants, passengers or other persons seeking to enter this state, or to travel from place to place within this state, are coming from any locality where such dangerous communicable disease exists, the state board of health shall be authorized to establish a system of quarantine for the state of Michigan and the governor shall have authority to order the state militia to any section of the state on request of the state board of health to enforce such quarantine.

HISTORY: How. 1632a;—Am. 1893, p. 49, Act 47, Imd. Eff. April 26;—CL 1897, 4477;—Am. 1911, p. 59, Act 49, Eff. Aug. 1;—CL 1915, 5011;—CL 1929, 6600;—CL 1948, 329.1.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

ANTITOXINS: Manufacture and distribution by state health commissioner, see Compilers' § 325.41 et seq.

329.2 Quarantine; purpose.

Sec. 2. Such quarantine shall be for the purpose of preventing all immigrants, passengers or other persons, under the circumstances mentioned in section 1 of this act, from entering the state or from going from place to place within the state, who, in the opinion of the state board of health, or in the opinion of an inspector duly appointed by said board, are likely to carry infection of cholera, small-pox, diphtheria or other dangerous communicable disease, and for the detention of all such persons outside the borders of the state, or if already within the state, at the places where they may be or at the place they have been exposed to or have contracted such dangerous communicable disease, or at such suitable place as such board may provide, during the period of the incubation of such disease, or of its existence if already developed, and until in the opinion of the state board of health such persons are free from all danger of infection.

HISTORY: How. 1632b;—Am. 1893, p. 49, Act 47, Imd. Eff. April 26;—CL 1897, 4478;—CL 1915, 5012;—CL 1929, 6601;—CL 1948, 329.2.

329.3 Communicable diseases; rules; detention of persons and conveyances; hearing.

Sec. 3. The state board of health is authorized to establish general rules, and, by an inspector acting by virtue thereof, to detain railroad cars or other public or private conveyances whenever it shall be shown to the satisfaction of such board, or to the inspector as provided in such rules, that such cars or other conveyances contain any passenger, person or property which has been exposed to cholera, diphtheria, or other

dangerous communicable disease, or when it shall be shown to the satisfaction of such board or inspector as aforesaid, any passenger, person or property, are being transported on such railroad cars or other public or private conveyance from any locality within or without this state where any such dangerous communicable disease exists and where under the circumstances shown to such board, such persons or property are likely to carry infection of such dangerous communicable disease. In such case said board may, by its duly constituted inspectors, remove, isolate, place under the care of local boards of health, order to be returned to the places whence they came, or dispose of in any other manner it may consider proper, all railroad cars, or other conveyances, all passengers in such railroad cars or other conveyances, when there is reason, as aforesaid, to believe such may have contracted or become infected with any dangerous communicable disease, or have been exposed or infected by any such disease in a manner likely to render them bearers of infection. In case any person or property is detained by an inspector, for any of the purposes mentioned in this act, the party or parties interested shall have a right to a hearing before the said board, and the decision of such board shall be final.

HISTORY: How. 1632c;—Am. 1893, p. 49, Act 47, Imd. Eff. April 26;—CL 1897, 4479;—CL 1915, 5013;—CL 1929, 6602;—CL 1948, 329.3.

329.4 Disinfection; persons and property.

Sec. 4. All such persons, their baggage and other personal effects, and all such conveyances shall be disinfected under such rules and regulations as the state board of health may establish for the purpose of carrying into effect the provisions of this act, before such persons or baggage or conveyances shall be permitted to enter the state, or to proceed to their or its destination if already in the state.

HISTORY: Add. 1893, p. 50, Act 47, Imd. Eff. April 26;—CL 1897, 4480;—CL 1915, 5014;—CL 1929, 6603;—CL 1948, 329.4.

329.5 Disinfection; property and conveyance; prohibition of entry.

Sec. 5. The state board of health is hereby authorized to cause the disinfection of goods, merchandise, conveyance or other property which they have reason to believe may carry the germs of cholera or other dangerous communicable disease, and under the circumstances mentioned in sections 2 and 3 of this act, to prohibit the entry of such goods, merchandise or other property into the state, or their being moved if within the state, until such disinfection shall be accomplished.

HISTORY: Add. 1893, p. 50, Act 47, Imd. Eff. April 26;—CL 1897, 4481;—CL 1915, 5015;—CL 1929, 6604;—CL 1948, 329.5.

329.6 Rules contemplated in act; publication; penalty.

Sec. 6. It shall be the duty of the state board of health to frame and publish rules for the inspection, isolation, detention and disinfection contemplated in this act. Whoever shall willfully violate the rules of the state board of health, made in pursuance of this act, or the order, by its duly appointed inspector, made in obedience to such rules, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to payment of a fine of 100 dollars and costs of prosecution, or imprisonment in the county jail for a period not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court.

HISTORY: Add. 1893, p. 50, Act 47, Imd. Eff. April 26;—CL 1897, 4482;—CL 1915, 5016;—CL 1929, 6605;—CL 1948, 329.6.

329.7 Expenses; payment.

Sec. 7. Upon the written request of the state board of health and the governor, the auditor general is hereby directed to draw his warrant on the state treasurer from time to time for such sums of money as may be necessary to be used by the state board of health to carry into full effect all the provisions of this act, said warrant to be paid from any money in the state treasury to the credit of the general fund not otherwise appropriated.

HISTORY: Add. 1893, p. 51, Act 47, Imd. Eff. April 26;—CL 1897, 4483;—CL 1915, 5017;—CL 1929, 6606;—CL 1948, 329.7.

Act 293, 1909, p. 691; Imd. Eff. Jun. 2.

AN ACT in relation to the public health in this state.

The People of the State of Michigan enact:

329.51 State medical inspector; selection; powers; communicable diseases, designation; local health authorities, duties.

Sec. 1. The state board of health is hereby authorized and empowered, whenever it becomes necessary to promote the work of the state board of health, to appoint any 1 of its members a state medical inspector, to the end that the rules and regulations adopted by said board for the preservation of public health may be strictly enforced in the various parts of the state. Any member of the board selected or appointed as a medical inspector, or any other person the board may so designate to act as a medical inspector, shall have the same right of inspection and the same authority in regard to all matters affecting the public health as has been or may be conferred upon the state or local boards of health. The said state board of health is hereby expressly authorized to designate what diseases are dangerous communicable diseases and what diseases are contagious diseases, and it shall be the duty of every local board of health and health officer to observe such rules in relation to dangerous communicable diseases and contagious diseases as may be prescribed by the said state board of health.

HISTORY: CL 1915, 5018;—CL 1929, 6607;—CL 1948, 329.51.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

329.52 Medical inspector; duties.

Sec. 2. Every person selected to act as medical inspector shall act under the direction of the state board of health and shall make a thorough and complete investigation of all nuisances, sources of sickness, epidemics of infectious or dangerous communicable diseases or contagious diseases, water supplies, the sewerage disposal systems, the sanitary conditions of public vaults, jails, school houses and school grounds, and such other work as is found necessary to improve the general sanitary and hygienic condition of the state.

HISTORY: CL 1915, 5019;—CL 1929, 6608;—CL 1948, 329.52.

329.53 Medical inspector; report.

Sec. 3. It shall be the duty of any person acting as such medical inspector after the completion of any investigation to immediately report in writing to the state board of health, upon such forms and in such manner as may be prescribed, a complete account of the essential facts disclosed by the investigation, together with the recommendations made and the work done to better safe-guard the public health.

HISTORY: CL 1915, 5020;—CL 1929, 6609;—CL 1948, 329.53.

329.54 Medical inspector; compensation and expenses.

Sec. 4. The compensation of any person selected to act as medical inspector, and the members of the state board of health when acting as medical inspectors, shall be determined by the state board of health. All actual expenses incurred by the medical inspector in the discharge of his official duties, together with his compensation, not to exceed 10 dollars per diem, shall be paid from the general fund in the state treasury upon vouchers audited by the board of state auditors and approved by the state board of health.

HISTORY: CL 1915, 5021;—CL 1929, 6610;—CL 1948, 329.54.

329.55 Appropriation; tax clause.

Sec. 5. There is hereby annually appropriated out of the general fund in the state treasury such amount as may be necessary to enable the state board of health to carry out the provisions of this act. The auditor general shall add to and incorporate in the

state tax for the year 1909 and every year thereafter, a sufficient amount to reimburse the general fund in the state treasury when collected for the amounts appropriated by the provisions of this act.

HISTORY: CL 1915, 5022;—CL 1929, 6611;—CL 1948, 329.55.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1915, 5023;—CL 1929, 6612;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 146, 1879, p. 144; Eff. Aug. 30.

AN ACT to authorize boards of health of cities, villages and townships, to furnish vaccination to the inhabitants thereof.

The People of the State of Michigan enact:

329.81 Vaccination; public expense.

Sec. 1. That the board of health of each city, village and township, may at any time direct its health officer or health physician to offer vaccination or inoculation, with bovine vaccine virus, anti-toxine and anti-typhoid-vaccine to every child and to all other persons, without cost to the person vaccinated or inoculated, but at the expense of such city, village or township, as the case may be.

HISTORY: How. 1665;—CL 1897, 4465;—Am. 1915, p. 197, Act 118, Eff. Aug. 24;—CL 1915, 5098;—CL 1929, 6617;—CL 1948, 329.81.

Act 306, 1909, p. 751; Eff. Sep. 1.

AN ACT in relation to the disease of rabies among dogs, to provide for the treatment of persons infected with the virus of rabies, and for the payment of certain damages for domestic animals infected with rabies by dogs and to provide penalties for the violation of this act. Am. 1925, p. 485, Act 321, Eff. Aug. 27.

The People of the State of Michigan enact:

329.101 Rabid dog; quarantine; complaint by township board.

Sec. 1. It is hereby made the duty of all township boards of health to whom cases of rabies among dogs are reported to immediately investigate the same by some member or members of the board; and should such investigation show a reasonable probability that a dog is affected with the disease known as rabies, the said board of health shall immediately establish such temporary quarantine as may be necessary to prevent the spread of the disease and to make immediate complaint thereof in the manner provided in section 4 hereof.

HISTORY: CL 1915, 5114;—CL 1948, 329.101.

QUARANTINE: By department of agriculture, see Compilers' § 287.6.

DOG LAW: See Compilers' § 287.261 et seq.

329.102 Muzzling or confinement of dogs; order.

Sec. 2. The said board of health, when in its judgment such action is necessary to prevent the spread of the disease, shall have power to order all dogs in the township or any part thereof, restrained, confined or muzzled.

HISTORY: CL 1915, 5115;—CL 1929, 6623;—CL 1948, 329.102.

329.103 Muzzling or confinement of dogs; notice of order.

Sec. 3. The order of the board of health to restrain, confine or muzzle dogs shall be operative when a copy of such order shall have been left at the usual place of residence of the owner or owners of dogs that are believed to have been exposed to the

said disease, or when a copy of said order has been posted in 3 of the most public places in the township or part thereof to which said order applies.

HISTORY: CL 1915, 5116;—CL 1929, 6624;—CL 1948, 329.103.

329.104 Complaint to justice; hearing, notice; order.

Sec. 4. Any member of the board of health or any resident of the township may make complaint to any justice of the peace of said township when any dog within the township is rabid, or has been bitten by or been fighting with a dog that is rabid, or has been running at large in violation of the order of the board of health. Upon such complaint it shall be the duty of the said justice of the peace to give notice to the owner of such dog or dogs to appear forthwith for the hearing of said complaint. Upon such hearing, if the said justice shall be satisfied that the said dog is rabid, has been bitten by or been fighting with a dog that is rabid, or has been running at large in violation of the said order of the board of health, he shall be authorized to make an order that such dog or dogs be killed: Provided, That the said justice, in his discretion, in all cases in which it does not appear at the hearing that the dog or dogs in question are rabid, may order the said dog or dogs restrained for a period of at least 90 days: Provided further, That in all cases in which the owner of the dog complained against cannot be ascertained, the justice may immediately order the said dog to be killed.

HISTORY: CL 1915, 5117;—CL 1929, 6625;—CL 1948, 329.104.

329.105 Order to kill; fee.

Sec. 5. In all cases in which a dog is ordered killed the justice shall issue an order to any constable of the township directing him to forthwith kill and bury the said dog, for which service the constable shall receive a fee of 1 dollar to be paid by the township out of its general fund in the manner that other constable fees are paid.

HISTORY: CL 1915, 5118;—CL 1929, 6626;—CL 1948, 329.105.

329.106 Pasteur treatment; county chargeable; domestic animal loss.

Sec. 6. Whenever it shall satisfactorily appear to the local board of health that any person within its jurisdiction has been bitten by a rabid dog; or in any other manner has been infected with the virus of rabies, said local board of health shall make the necessary arrangements for Pasteur treatment. The necessary expense thus incurred, not to exceed in any 1 case the sum of 200 dollars, shall be a charge upon the county in which the expense was authorized and all bills for such expense shall be audited and allowed by the board of supervisors of the county and payable out of the general fund of the county to the person or persons or institution incurring the said expense. Whenever any rabid dog shall infect any domestic animal with rabies, and said animal shall die therefrom or be ordered killed on account thereof, the owner of said animal shall be reimbursed for the said loss in the manner and out of the fund provided by Act No. 339 of the Public Acts of 1919 and the amendments thereto: Provided, That when any domestic animal shall be infected with rabies by a dog belonging to the owner of said domestic animal, and said animal shall die from said infection or be ordered killed on account thereof, then the owner of said domestic animal shall in no case be reimbursed for said loss, as herein provided.

HISTORY: CL 1915, 5119;—Am. 1925, p. 485, Act 321, E.H. Aug. 27;—CL 1929, 6627;—CL 1948, 329.106.

NOTE: Act 339 of 1919, above referred to, is Compilers' § 287.261 et seq.

329.107 Violation of act by officers; penalty.

Sec. 7. Any officer refusing or neglecting to perform any of the duties imposed upon him by any of the provisions of this act shall be deemed guilty of a misdemeanor and subject to the penalties prescribed by law in such cases.

HISTORY: CL 1915, 5120;—CL 1929, 6628;—CL 1948, 329.107.

MISDEMEANOR: Penalty, see Compilers' § 750.504.

329.108 Violation of act by other persons; penalty.

Sec. 8. Any person violating any of the provisions of this act, or of a quarantine or regulation or order to restrain, confine or muzzle dogs, duly established or issued by the board of health as provided in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than 10 dollars nor more than 100 dollars, or to imprisonment in the county jail for a period of not less than 10 days nor more than 30 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 5121;—CL 1929, 6629;—CL 1948, 329.108.

Act 116, 1903, p. 137; Imd. Eff. May 14.

AN ACT to provide for the prevention of rabies in indigent persons.

The People of the State of Michigan enact:

329.121 Poor persons; treatment, expenses.

Sec. 1. Whenever it shall be proved to the satisfaction of the local board of health that any indigent person or persons within its jurisdiction has been bitten by a rabid dog, or other rabid animal, or in any other manner has been infected with the virus of rabies, said local board of health shall make the necessary arrangements and send said person or persons supposed to be infected with rabies, to the Pasteur Institute at the University of Michigan. The necessary expenses thus incurred shall be a charge upon the township, city or incorporated village in which the expense was authorized. Before their payment or allowance all bills for such expenses shall be audited by the local board of health.

HISTORY: CL 1915, 5122;—CL 1929, 6630;—CL 1948, 329.121.

Act 272, 1919, p. 474; Imd. Eff. May 13.

AN ACT to protect the public health; to prevent the spreading of venereal diseases, to prescribe the duties and powers of the state department of health and of local health officers and health boards, and physicians, with reference thereto. Am. 1939, p. 190, Act 106, Imd. Eff. May 16.

The People of the State of Michigan enact:

329.151 Venereal diseases; control.

Sec. 1. The diseases commonly known as syphilis, gonorrhea and chancroid are hereby declared to be dangerous, communicable and infectious diseases and are declared to be subject to all the laws of the state pertaining to such diseases, except as in this act modified or otherwise provided.

HISTORY: CL 1929, 6631;—CL 1948, 329.151.

329.152 Venereal diseases; rules to prevent spread; reports, not public record.

Sec. 2. The state department of health is hereby authorized and directed to adopt rules and regulations to prevent the spreading of said diseases to facilitate the proper treatment thereof and to regulate the quarantining and isolation of infected persons. Proper steps should also be taken for the dissemination to the public of such information as is deemed proper and expedient to prevent infection from said diseases. A system of reports for the use of physicians and health officers shall be prescribed, and suitable blanks shall be prepared and furnished to physicians and health officers. A

physician or health officer having knowledge of a case of syphilis, gonorrhea or chancre shall immediately report the same in accordance with the rules and regulations of the state department of health and shall give such detailed information as may be required by said board. All such reports and all records and data of the state board of health or any local health officer pertaining to the care and treatment of such diseases are hereby declared not to be public records.

HISTORY: CL 1929, 6632;—CL 1948, 329.152.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

329.153 Pregnant women; test for syphilis; statement on birth certificate.

Sec. 3. Every physician attending a pregnant woman in the state of Michigan shall, in the case of each woman so attended, take or cause to be taken a sample of blood of such woman at the time of first examination, and submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend upon pregnant women in the state, but not permitted by law to take blood tests, shall cause a sample of the blood of such pregnant woman to be taken and submitted to an approved laboratory for a standard serological test for syphilis. The term "approved laboratory" shall mean a laboratory approved for this purpose by the state department of health. A standard serological test for syphilis shall be one recognized as such by the state department of health. Such laboratory tests as are required by this act may be made on request without charge by the state department of health.

In reporting every birth and stillbirth, physicians and others permitted to attend pregnancy cases and required to report births and stillbirths, shall state on the birth certificate or stillbirth certificate, as the case may be, whether a blood test for syphilis has been made during such pregnancy upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and, if made, the date when such test was made, and if not made, the reason why such test was not made. In no event shall the birth certificate state the result of the test.

Such tests and reports shall not be made a matter of public record but shall be available to local health officers and to the physicians treating the patient.

HISTORY: Add. 1939, p. 190, Act 106, Imd. Eff. May 16;—CL 1948, 329.153.

NOTE: The original section 3 was repealed 1927, p. 370, Act 180, Eff. Sept. 5. This section provided for care of venereal disease patients through state department of health.

329.154 Venereal diseases; failure to report; misdemeanors; penalty.

Sec. 4. Any physician or local health officer who fails to report any case of syphilis, gonorrhea or chancroid in accordance with the rules and regulations of the state department of health, or any person who while receiving treatment for any such diseases under the direction, supervision and control of the said board as herein contemplated, shall without leave break quarantine and leave the place of treatment or any persons who shall violate any of the provisions of this act or the rules and regulations of the state department of health adopted hereunder shall be guilty of a misdemeanor and upon conviction shall be liable to a fine of not more than 1,000 dollars or to imprisonment in the county jail for not more than 1 year, or to both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6633;—CL 1948, 329.154.

Sec. 5.

HISTORY: Am. 1921, p. 61, Act 42, Eff. Aug. 18;—Rep. 1927, p. 370, Act 180, Eff. Sept. 5.

This section regulated the giving of prescriptions for diseases mentioned in Sec. 1 of this act.

Secs. 6-7. (These were appropriation sections.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

329.158 Disposition of fees.

Sec. 8. All fees or other moneys received by said institution shall be forwarded to the state treasurer each month and shall be by said treasurer deposited in the state

treasury to be disbursed in such manner and for such purposes as may be provided by law.

HISTORY: CL 1929, 6634;—CL 1948, 329.158.

ADMINISTRATIVE BOARD: This section to be construed in light of Compilers' § 17.6.

Sec. 9. (This was a tax clause section.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

Act 6, 1942 (2nd Ex. Ses.), p. 42; Imd. Eff. Feb. 25.

AN ACT to protect the people from venereal disease, to provide for the care, treatment, isolation and hospitalization of persons afflicted therewith, to provide for the commitment of certain persons afflicted with venereal disease, to provide for their care, custody and discharge, and to prescribe penalties for the violation of this act.

The People of the State of Michigan enact:

329.201 Venereal diseases; definition.

Sec. 1. "Venereal disease" as used herein shall mean syphilis, gonorrhea, chancroid, lymphogranuloma venereum and granuloma inguinale. Such venereal diseases are recognized and hereby declared to be communicable and infectious diseases, and are hereby declared to be dangerous to the public health.

HISTORY: CL 1948, 329.201.

CITED IN OTHER SECTIONS: Sections 329.201 to 329.206 are cited in § 750.449a.

329.202 Physician to report cases of venereal disease to state health department.

Sec. 2. Every licensed physician is required to give notice in writing as required by law for reporting of venereal diseases under Act No. 272, Public Acts of 1919, and regulations issued thereunder, of every case of any form of venereal disease which comes under his professional observation. The notice shall be made upon blanks to be furnished by the state commissioner of health and shall include such information as may be required by the said state commissioner of health. The notice herein provided for shall be given within 24 hours from the time the physician determines that the patient is afflicted with venereal disease.

HISTORY: CL 1948, 329.202.

329.203 Examination of arrested persons; detention.

Sec. 3. Every person arrested and charged with committing an act of prostitution in violation of sections 448, 449, 450, 452 and 455 of Act No. 328 of the Public Acts of 1931, or any city or village ordinance prohibiting prostitution, shall be examined by the local health officer or his authorized deputy to determine whether such person is afflicted with venereal disease. Any such person so taken into custody may be detained in the detention room of any county jail or in any city or village police station in this state, or in such other appropriate place as shall be designated by the peace officer having custody of such person, until such examination shall be made by the local health officer, and diagnosis established, but not for a period of more than 5 days.

HISTORY: CL 1948, 329.203.

NOTE: Secs. 448, 449, 450, 452 and 455, Act 328, 1931, above referred to, are Compilers' §§ 750.448, 750.449, 750.450, 750.452 and 750.455.

329.204 Venereal diseases; rules and regulations for discovery and control.

Sec. 4. The state health commissioner is hereby authorized to make such rules and regulations in the manner prescribed in section 7 of Act No. 146, Public Acts of 1919, as he shall deem proper for the discovery and control of persons afflicted with venereal disease, and to establish rules of procedure for the guidance of health officers and

other officials charged with the administration and enforcement of the laws of this state relating to the care, treatment and hospitalization and isolation of persons afflicted with venereal disease. Nothing in this act shall be construed or operate to empower or authorize the state commissioner of health, or any health officer, or their representatives, to restrict in any manner the individual's right to select the physician or mode of treatment of his choice: Provided, That sanitary laws and the laws, rules and regulations relating to infectious and contagious diseases are satisfactorily followed.

HISTORY: CL 1948, 329.204.

NOTE: Sec. 7, Act 146, 1919, above referred to, is Compilers' § 325.7.

329.205 Rules and regulations; noncompliance by afflicted person; hospitalization, procedure; discharge.

Sec. 5. When knowledge comes to a health officer or to the state commissioner of health that any person who is afflicted with venereal disease has failed or refused to comply with orders, rules and regulations made under section 4 of this act, or is unable or unwilling to conduct himself and to live in such a manner as not to expose members of his family or household or other persons with whom he may be associated or come in contact to danger of infection, the health officer or state commissioner of health shall forthwith investigate or have investigated the circumstances alleged. If he shall find that any such person is a menace to others he shall petition the probate court of the county in which such person resides or is found for an order directing the admission of such person to any approved hospital or institution. Upon receiving said petition the court shall fix a date for hearing thereof, and notice of such petition and the time and place of hearing thereof shall be served personally, at least 24 hours before the hearing, upon the person afflicted with such venereal disease and alleged to be dangerous to others, and upon the health officer or state commissioner of health who made the petition. The person so afflicted and the local health officer or state commissioner of health may waive notice of hearing, and upon the filing of such waiver in writing the court may proceed to hear such petition forthwith. Upon such hearing, if it shall appear that the complaint of the health officer or state commissioner of health is well founded and that the said person is a source of danger to others, such court shall commit the person afflicted to any approved hospital or institution. Such person shall be deemed to be committed until discharged in the manner authorized in this section. In making such commitment the judge of probate shall make an order for payment for the transportation of such persons, and for the maintenance of such persons as required by such hospital, which order may be a charge against the county from which the person is committed. If the person afflicted is found to have sufficient means to pay the cost of transportation and hospitalization, in whole or in part, the court may order such afflicted person to pay a part or all of such cost. The chief administrative officer of the hospital or other institution to which any such person has been committed, upon signing and placing among the permanent records of such hospital or institution a statement to the effect that such person has obeyed the rules and regulations of such hospital or institution, and that said person has received sufficient treatment to render said person no longer infectious, and that in the judgment of the attending physician such person may be discharged without danger to the health or life of others, or for any other reason stated in full which he may deem adequate and sufficient, may discharge the person so committed. He shall report each such discharge as required by law under Act No. 272, Public Acts of 1919, and regulations issued thereunder.

HISTORY: CL 1948, 329.205.

NOTE: Act 272, 1919, above referred to, is Compilers' § 329.151 et seq.

329.206 Compliance with hospital rules; violation, penalty.

Sec. 6. Every person committed under the provisions of this section shall observe all the rules and regulations of such hospital or institution. Any patient so committed who

neglects or refuses to obey the rules or regulations of the institution may, by direction of the chief administrative officer of the institution, be placed apart from the others and restrained from leaving the institution. Any such patient who wilfully violates the rules and regulations of the institution or who repeatedly conducts himself in a disorderly manner may be taken before a justice of the peace by order of the chief administrative officer of the institution. The chief administrative officer may enter a complaint against such person for disorderly conduct and the justice of the peace, after a hearing and upon due evidence of such disorderly conduct, may commit such person for a period not to exceed 6 months to any institution to which persons convicted of disorderly conduct or vagrancy may be committed and such institution shall keep such person separate and apart from the other inmates, provided that nothing in this section shall be construed to prohibit any person committed to any institution under the provisions hereof from appealing to any court of competent jurisdiction for a review of the evidence on which such commitment was made.

HISTORY: CL 1948, 329.206.

329.207 Treatment furnished by local health officer; expense; removal.

Sec. 7. If it shall be determined by the health officer of the city, village, township, county or district, that there is any person afflicted with venereal disease found within such city, village, township, or district who requires care, treatment, isolation or hospitalization, it shall be the duty of such health officer to provide such care, treatment, isolation or hospitalization as such person requires or may be necessary for the protection of the public in accordance with the rules and regulations made by the state commissioner of health as authorized in section 4 of this act. In making such provisions the health officer shall issue such order or orders as may be necessary authorizing the care, treatment, isolation or hospitalization of such persons. Notice of the action taken, under this section or section 5 hereof, shall be reported promptly by such officer to the county department of social welfare, of the probable place of settlement of such afflicted person. Nothing herein contained shall be construed to abridge the authority of the health officer in furnishing care, treatment, isolation or hospitalization to such afflicted person, pending the determination by such health officer or upon his request, by the county department of social welfare of the financial ability and probable place of settlement of such person so afflicted, but it shall be the duty of such health officer, immediately upon being apprised of any case reported to him, to extend aid and assistance to such afflicted person, and to promptly furnish such care, treatment, isolation or hospitalization as such person may require. The health officer shall present to the board of supervisors or board of auditors of such county an itemized statement of the expense incurred in the care, treatment, isolation or hospitalization of such person with his approval of the reasonableness of such charges. The county wherein such person afflicted with venereal disease is found and cared for shall pay such charges as the board of supervisors or board of auditors thereof decides are reasonable and as are not paid by the afflicted person.

If the place of settlement of such afflicted person is determined by said department of social welfare to be in another state, said department of social welfare may proceed to remove such person to his place of settlement in the manner authorized in section 8275 of the Compiled Laws of 1929 and amendments thereto: Provided, however, That the chief administrative officer of the hospital where such person is being cared for and treated, shall first certify in writing that such patient is able to be removed without danger to such person or to other persons who may come in contact with such afflicted person. If such place of settlement is determined by said department of social welfare to be in another county within this state, care shall be provided where such person is found at the expense of the county where such person has settlement. The

department of social welfare shall, within 30 days after the commencement of care, give notice in writing by mail to the department of social welfare of the county of settlement of such person that such care is being given. The health officer of the county of settlement may make such arrangements as he deems necessary to provide for the return of such person to and care in said county. If the settlement of such person is not acknowledged by the alleged county of settlement within 30 days after mailing of such notice, the question of settlement of such person may be submitted for decision to the state social welfare commission, as provided herein. When disputed or contested claims arise between 2 or more counties on account of the settlement of a person or family for the purposes of this act, it shall be the duty of the director of the state social welfare commission to determine and declare the county of settlement in any instance: Provided, however, That pending determination by the director of the state social welfare commission of the county of settlement of any person afflicted with venereal disease, the county in which such person is found shall provide necessary care, treatment, isolation or hospitalization: And provided further, That upon determination by the director of the state social welfare commission that the county wherein such person is found is not the county of his or her settlement, the county of settlement, as determined by such commission, shall reimburse the county where such person is found for all expenses incurred less any reimbursements from the state, from such afflicted person or other source for such care, treatment, isolation or hospitalization.

HISTORY: CL 1948, 329.207.

NOTE: CL 1929, 8275, above referred to, is Compilers' repealed § 403.2.

329.208 Violation of act; misdemeanor.

Sec. 8. Except as otherwise provided for in this act, any person who shall violate any provision of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 329.208.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 238, 1969, p. 463; Imd. Eff. Aug. 11.

AN ACT concerning consent by minors to treatment for venereal disease.

The People of the State of Michigan enact:

329.221 Minors; consent to treatment for venereal disease; legal responsibility; notice to parents.

Sec. 1. (1) The consent to the provisions of medical or surgical care or services by a hospital, public clinic, or the performance of medical or surgical care or services by a physician, licensed to practice medicine, when executed by a minor who is or professes to be afflicted with a venereal disease, shall be valid and binding as if the minor had achieved his or her majority. Any such consent shall not be subject to later disaffirmance by reason of minority. Parents, guardians or custodian of a minor shall not be legally responsible for any medical service rendered under the act.

(2) The consent of no other person or persons, including but not limited to a spouse, parent, custodian or guardian, shall be necessary in order to authorize such hospital or clinical care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine to such a minor.

(3) Upon the advice and direction of a treating physician or, if more than 1, any 1 of them, a member of the medical staff of a hospital, public clinic, or physician licensed to practice medicine, may, but shall not be obligated to, inform the spouse, parent,

custodian or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent, custodian or guardian without the consent of the minor patient and even over the express refusal of the minor patient to the providing of such information.

HISTORY: New 1989, p. 463, Act 238, Imd. Eff. Aug. 11.

Act 276, 1941, p. 479; Eff. Jan. 10, 1942.

AN ACT to safeguard the public health by regulating the sale or the giving away of any articles, devices, appliances, drugs, or other medicinal preparations designed or intended for the purpose of preventing syphilis, gonorrhea, chancroid, or such other diseases as may be defined as genito-infectious or venereal diseases by regulations of the Michigan department of health; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

329.251 Venereal prophylactic; definition.

Sec. 1. Definition. The following term as used in this act is hereby defined as follows: Venereal prophylactic: any article, device, appliance, drug, or other medicinal preparation designed or intended for the purpose of preventing syphilis, gonorrhea, chancroid, or such other diseases as may be defined as genito-infectious or venereal diseases by regulations of the Michigan department of health.

HISTORY: CL 1948, 329.251.

329.252 Venereal prophylactic; sale prohibited; exceptions; identification of manufacturer.

Sec. 2. It shall be unlawful for any person, firm, corporation, or association to sell, to offer for sale or to give away any such prophylactic article or drug either individually or through the medium of vending machines or by any other means: Provided, however, That the foregoing provisions shall not apply to (1) those licensed under Act No. 237 of the Public Acts of 1899, as amended, or (2) those licensed under Act No. 162 of the Public Acts of 1903, as amended, or (3) registered pharmacists while employed on the premises of a licensed drug store, or to wholesalers of such articles, devices, appliances, or medicinal preparations who sell to retail stores for resale. It is further provided that all and any such articles, devices, appliances, drugs or medicinal preparations herein described shall, when sold, offered for sale, given away or distributed whether at wholesale or retail in accordance with the provisions of this act, conspicuously bear the identification of the manufacturer thereon or on the retail container thereof. Such articles, devices, appliances, drugs or medicinal preparations shall comply with standards with respect to grade and quality as designated by the pure food and drug administration of the United States department of agriculture.

HISTORY: CL 1948, 329.252.

NOTE: Act 237, 1899, above referred to, is Compilers' § 338.51 et seq. Act 162, 1903, above referred to, is Compilers' § 338.101 et seq.

329.253 Venereal prophylactic; display or advertisement prohibited; exceptions.

Sec. 3. It shall be unlawful to exhibit or display prophylactics in any show window, upon the streets, or in any public place, or to advertise such in any magazine, newspaper or other form of publication originating in, or published within the state of Michigan, to publish, or distribute from house to house or upon the streets, any circular, booklet or other form of advertising, or by other visual means, or by auditory method, or by the use of outside signs on stores, billboards, window displays or other advertising visible to persons upon the streets or public highways: Provided, however, That

nothing in this act shall prevent the advertising of prophylactics in those magazines whose principal circulation is to the medical and pharmaceutical professions. It is further provided that nothing in this act shall prevent the display or exhibit of such articles, devices, appliances, or other medicinal preparations by federal, state, county, district or municipal departments of health, or incorporated medical, pharmaceutical or scientific organizations.

HISTORY: CL 1948, 329.253.

329.254 Violators of act; arrest; seizure of merchandise.

Sec. 4. Any officer of the law shall be required to arrest any person violating any of the provisions of this act, to seize stocks so illegally held, and to make seizure of any mechanical device or vending machine containing any merchandise coming within the provisions of this act; holding the owner of such machine, the proprietor and the owner of the premises where seizure is made to be in violation of this act.

HISTORY: CL 1948, 329.254.

329.255 Violation of act; penalty; confiscation of merchandise.

Sec. 5. Any person, firm, corporation, or association or the officers or members of such firm, corporation, or association who or which knowingly violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof said person or persons shall be fined not to exceed \$100.00, or imprisoned not to exceed 30 days in the county jail, or both such fine and imprisonment at the discretion of the court, and all property seized under the provisions of this act shall be destroyed.

HISTORY: CL 1948, 329.255.

Sec. 6. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Sec. 7. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 353, 1919, p. 626; Eff. Aug. 14.

AN ACT to prohibit the employment of persons affected with infectious or venereal disease in places where cigars are manufactured.

The People of the State of Michigan enact:

329.271 Infected persons; cigar makers, employment prohibited; examination.

Sec. 1. No person who is affected with any infectious disease, or with any venereal disease in a communicable form, shall work, or be permitted to work, in any place where cigars are manufactured. Whenever required by any local health officer, any person employed in such place shall submit to a physical examination by such officer, or by some physician designated by such person so employed. If as a result of such examination, such person shall be found to be affected with any infectious disease, or with any venereal disease in a communicable form, such employment shall immediately cease and such person shall not be permitted to work in any such place.

HISTORY: CL 1929, 6637;—CL 1948, 329.271.

329.272 Violation of act; penalty.

Sec. 2. Any person knowingly affected with any infectious disease, or with any venereal disease in a communicable form, who shall work in any place defined in section 1, and any person knowingly employing or permitting such person to work in such place, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a

fine not exceeding 250 dollars or by imprisonment not exceeding 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6638;—CL 1948, 329.372.

Act 314, 1927, p. 577; Eff. Sep. 5.

AN ACT to protect the people from tuberculosis, to provide for the care, treatment, isolation and hospitalization of persons afflicted therewith, to provide for the commitment of certain persons afflicted with tuberculosis, to provide for their care, custody and discharge, and to prescribe penalties for the violation of this act. Am. 1937, p. 127, Act 93, Eff. Oct. 29.

The People of the State of Michigan enact:

329.401 Tuberculosis; communicable disease; notices, form, time.

Sec. 1. Tuberculosis is hereby declared to be a communicable disease dangerous to the public health. Every practicing physician is required to notify in writing the health officer of the city, village, township, county or district in which the case resides, of every case of any form of tuberculosis which comes under his professional observation, except that superintendents of hospitals or sanatoriums shall send such notice direct to the Michigan department of health when a case of tuberculosis is hospitalized from a jurisdiction other than that in which the hospital or sanatorium is located. The notice shall be made upon blanks to be furnished by the state commissioner of health and shall include such information as may be required by the said state commissioner of health. The notice herein provided for shall be given within 24 hours from the time the physician determines that the patient is afflicted with tuberculosis.

HISTORY: CL 1929, 6638;—Am. 1937, p. 127, Act 93, Eff. Oct. 29;—CL 1948, 329.401.

FORMER ACT: Act 27 of 1908, being CL 1915, 5099-5113, as amended by Act 216 of 1925.

SANATORIUMS: See Compilers' § 332.1 et seq.

329.402 Tuberculosis; rules and regulations, contents; court review.

Sec. 2. The state department of public health may make such rules and regulations as it shall deem proper for the discovery and control of tuberculosis and of persons afflicted with tuberculosis including the requirement for an annual examination of persons who by nature of their occupation could constitute a public health hazard if infected with communicable tuberculosis, and establish rules of procedure for the guidance of health officers and other officials charged with the administration and enforcement of the laws of this state relating to the care, treatment and hospitalization of persons afflicted with tuberculosis. The rules and regulations shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. Such rules and regulations shall have a reasonable relationship to the control and elimination of tuberculosis, and shall include provision for the confinement of recalcitrant or uncooperative patients who refuse to conduct themselves in accordance with the reasonable regulations of the sanatorium or hospital in which they are being treated, in any state or other public institution equipped to provide treatment and means of control. The reasonableness of any such rule or regulation or of any order of confinement made thereunder shall be subject to review in the circuit court of the county from which the patient was hospitalized or of the county in which he is under treatment, on his petition. Nothing in this act shall be construed or operate to empower or authorize the state department of public health, or any health officer, or their representatives, to restrict in any manner the individual's right to se-

lect the physician or mode of treatment of his choice, if sanitary laws and the laws, rules and regulations relating to infectious and contagious diseases are complied with.

HISTORY: CL 1929, 6640;—Am. 1937, p. 127, Act 93, Eff. Oct. 29;—Am. 1945, p. 348, Act 249, Eff. Sep. 6;—CL 1948, 329.402;—Am. 1966, p. 479, Act 290, Imd. Eff. Jul. 14.

329.402a Tuberculosis; infected persons, involuntary commitment to hospital, procedure; nonresident; petition, notice, service; hearing; discharge, report; restraint of committed person.

Sec. 2a. When knowledge comes to a health officer or to the state commissioner of health that any person is afflicted with tuberculosis and is unable or unwilling to conduct himself and to live in such a manner as not to expose members of his family or household or other persons with whom he may be associated to danger of infection, the health officer or state commissioner of health shall forthwith investigate or have investigated the circumstances alleged. If he shall find that any such person is a menace to others and is unwilling to voluntarily enter a sanatorium for treatment, he shall petition the probate court of the county in which such person resides or is found for an order directing the admission of such person to a specialized care facility at the northern Michigan tuberculosis sanatorium, or to any approved hospital or institution maintained for the care and treatment of persons afflicted with tuberculosis: Provided, That if such person belongs to another state, the county department of social welfare shall furnish transportation and necessary attendants in their discretion to such person, and return such person to the state to which he belongs, and the expense of the same shall be allowed by the auditor general and paid by the state on properly attested vouchers from the said county department of social welfare. Notice of such petition and the time and place for hearing thereof shall be served personally, at least 24 hours before the hearing, upon the person who is afflicted with tuberculosis and alleged to be dangerous to others, and upon the health officer, or state commissioner of health, who made the petition. Upon receiving said petition the court shall fix a date for hearing thereof and if, upon such hearing, it shall appear that the complaint of the health officer or state commissioner of health is well founded and that the said person is a source of danger to others, such court shall commit him to a specialized care facility at the northern Michigan tuberculosis sanatorium, or to any approved hospital or institution maintained for the care and treatment of persons afflicted with tuberculosis. Such order shall include a provision that the place of treatment shall be subject to change by the state commissioner of health for reasonable cause, subject to review in the court making the order, on application made within 30 days after the patient is informed of such modification. Such person shall be deemed to be committed until discharged in the manner authorized in this section or section 2c of this act. The chief medical officer of the hospital or other institution to which any such person has been committed, upon signing and placing among the permanent records of such hospital or institution a statement to the effect that such person has obeyed the rules and regulations of such hospital or institution for a period of not less than 60 days and that in his judgment such person may be discharged without danger to the health or life of others, or for any other reason stated in full which he may deem adequate and sufficient, may discharge the person so committed. He shall report each such discharge together with a full statement of the reasons therefor at once to the probate court initiating the order and to the health officer of the city, village, township, county or district from which the patient came and at the next meeting of the board of managers or other controlling authority of such hospital or institution. Every person hospitalized under the provisions of this section shall observe all the rules and regulations of such hospital or institution. Any patient so committed who neglects or refuses to obey the rules or regulations of the institution may, by direction of the chief medical officer of the institution, be placed apart from the others and restrained from leaving the institu-

tion. The chief medical officer of the hospital to which any such person has been committed may take such measures as he deems necessary to insure the continued presence of any person so committed, for the protection of the patient or for the protection of the community from infection by such person.

HISTORY: Add. 1937, p. 137, Act 93, Eff. Oct. 29;—Am. 1945, p. 349, Act 249, Eff. Sep. 6;—CL 1948, 329.402a;—Am. 1954, p. 439, Act 184, Eff. Aug. 13;—Am. 1957, p. 278, Act 219, Eff. Sep. 27.

329.402b Tuberculosis; isolation of suspect, petition, notice, service; hearing; termination of commitment, notification; selection of physician.

Sec. 2b. If a health officer or the state health commissioner has reasonable grounds for believing that a person is afflicted with tuberculosis and is unwilling to submit to examination, including x-ray studies and the collection of such specimens for laboratory study as shall be requested by the health officer, or refuses to make the results of such studies available to the health officer or the state health commissioner, the health officer or the state health commissioner shall petition the probate court of the county in which such person resides or is found for an order directing the isolation of the suspect in such a place and under such conditions as, in the opinion of the health officer or the state health commissioner, will prevent the direct or indirect conveyance of the infectious agent to susceptible persons. Notice of such petition and the time and place of hearing thereof shall be served personally, at least 3 days before the hearing, upon the person who is suspected of being afflicted with tuberculosis and upon the health officer, or the state health commissioner, who made the petition. Upon receiving said petition the court shall fix a date for hearing thereof and if, upon such hearing, it shall appear that the suspicion of the health officer or the state health commissioner is reasonable, such court shall order the isolation of the suspect in a tuberculosis sanatorium or hospital approved by the state health commissioner. Such order shall remain in effect for a period of 60 days or until such time as the medical director of the sanatorium or hospital shall certify to the health officer that in his opinion the suspected individual is not a danger to the public health, whichever occurs earlier, or the commitment may be terminated in accordance with the provisions of section 2c. Upon termination of the commitment, the chief medical officer of the sanatorium shall forthwith notify the probate court initiating the order. If, prior to the expiration of such 60-day period, the health officer shall petition the probate court in the form provided in section 2a of this act, alleging that such person is afflicted with tuberculosis and is a source of danger to others, the matter shall thereafter proceed in accordance with said section 2a, and the order made under this section 2b shall remain in effect until the further order of such probate court: Provided, That nothing in this act shall be construed to empower the court, the state health commissioner or any health officer, or their representatives, to restrict in any manner the individual's right to select the physician or mode of treatment of his choice.

HISTORY: Add. 1954, p. 440, Act 184, Eff. Aug. 13;—Am. 1957, p. 279, Act 219, Eff. Sep. 27.

329.402c Medical review board; findings.

Sec. 2c. Any patient committed under this act shall have the right of appeal through the committing court for a medical review board recommendation as to whether or not his medical status is such that commitment can be properly terminated. The medical review board shall consist of 3 physicians appointed by the probate court from a list of physicians, having training and experience in the treatment of tuberculosis, submitted by the state health commissioner. If the patient requests, the court shall appoint as 1 of the 3 members of the medical review board a physician, having training

and experience in the treatment of tuberculosis, selected by the patient, and such physician need not be taken from the list submitted by the state health commissioner. After the findings of the review board have been turned over to the committing court, the said court may in its discretion either continue or terminate the commitment.

HISTORY: Add. 1967, p. 279, Act 219, Eff. Sep. 27.

329.403 Tubercular person; care required; notice to social welfare department.

Sec. 3. If it shall be determined by the health officer of the city, village, township, county or district, that there is any person afflicted with tuberculosis found within such city, village, township or district who requires care, treatment, isolation or hospitalization, it shall be the duty of such health officer to provide such care, treatment, isolation or hospitalization as such person requires or may be necessary for the protection of the public in accordance with the rules and regulations made by the state commissioner of health as authorized in section 2 of this act. In making such provisions the health officer shall issue such order or orders as may be necessary authorizing the care, treatment, isolation or hospitalization of such persons. Notice of the action taken, under this section or section 2a hereof, shall be reported promptly by such officer to the county department of social welfare, of his probable place of settlement. Nothing herein contained shall be construed to abridge the authority of the health officer in furnishing care, treatment, isolation or hospitalization to such person, pending the determination by such health officer or upon his request, by the county department of social welfare of the probable place of settlement of such person so afflicted, but it shall be the duty of such health officer, immediately upon being appraised of any case reported to him, to extend aid and assistance to such afflicted person, and to promptly furnish such care, treatment, isolation or hospitalization as such person may require.

Expense of treatment; payment of claims; review.

In the case of any person hospitalized under this act, the county in which he has legal settlement in accordance with Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.90 of the Compiled Laws of 1948, shall be chargeable with the expense of such treatment, hospitalization or isolation, being reimbursed for a portion of such expense by the state in such amounts as the legislature may appropriate therefor. Patients who have not so resided within any county in this state for such period, and persons honorably discharged from the military services of the United States not otherwise hospitalized, and patients of the second class as defined by section 15 of Act No. 254 of the Public Acts of 1905, as amended, being section 332.65 of the Compiled Laws of 1948, shall for the purpose of this act be deemed residents of the state at large, and the expense of their treatment and hospitalization under this act while the same continues with the approval of the state commissioner of health shall be paid by the state, on certification of said state commissioner of health. The reasonableness and propriety of all claims and accounts under this act shall be passed upon and determined by the said state commissioner of health, subject to appeal to the circuit court for the county of Ingham as to questions of law.

Place of settlement; contest.

If such place of settlement is determined by said department of social welfare to be in another state or country, said department of social welfare may proceed to remove such person to his place of settlement in the manner authorized by Act No. 280 of the Public Acts of 1939, as amended, if the medical superintendent of the hospital where such person is being cared for, shall first certify in writing that such patient is able to be removed without endangering his life. If such place of settlement is determined by said department of social welfare to be in another county within this state, care shall be provided where such person is found at the expense of the county where such per-

son has settlement. The department of social welfare shall, within 30 days after the commencement of care, give notice in writing by mail to the department of social welfare of the county of settlement of such person that such care is being given. The health officer of the county of settlement may make such arrangements as he deems necessary to provide for the return of such person to and care in said county. If the settlement of such person is not acknowledged by the alleged county of settlement within 30 days after mailing of such notice, the question of settlement of such person may be submitted for decision to the state social welfare commission, as provided herein. When disputed or contested claims arise between 2 or more counties on account of the settlement of a person or family for the purposes of this act, it shall be the duty of the director of the state social welfare commission to determine and declare the county of settlement in any instance, when so requested or on the department's own volition: Provided, however, That pending determination by the director of the state social welfare commission of the county of settlement of any person afflicted with tuberculosis, the county in which such person is found shall provide necessary care, treatment, isolation or hospitalization: And provided further, That upon determination by the director of the state social welfare commission that the county wherein such person is found is not the county of his or her settlement, the county of settlement, as determined by such commission, shall reimburse the county where such person is found for all expenses incurred less any reimbursements from the state or other source for such care, treatment, isolation or hospitalization.

HISTORY: CL 1929, 6641;—Am. 1937, p. 128, Act 93, Eff. Oct. 29;—Am. 1941, p. 393, Act 240, Eff. Jan. 10, 1942;—Am. 1945, p. 350, Act 249, Eff. Sept. 6;—CL 1948, 329.403;—Am. 1961, p. 250, Act 175, Imd. Eff. Jun. 2.

NOTE: Act 280, 1939, above referred to, is Compilers' § 400.1 et seq. CL 1929, 8275, above referred to, is Compilers' § 403.2.

TUBERCULAR POOR PERSONS: Admission into tuberculosis hospitals, see Compilers' § 332.159.

329.403a Expenditures of public funds considered expenditures for protection of public health; reimbursement.

Sec. 3a. Expenditures of public funds for the treatment or control of tuberculosis or for the treatment, isolation or control of persons afflicted with tuberculosis, shall be considered expenditures for the protection of the public health, and not as moneys advanced in the nature of welfare or relief. No person shall be under legal obligation to make reimbursement for such expense so incurred, unless the state commissioner of health and the county of settlement, after reasonable notice and upon fair hearing under rules of procedure to be determined by the state commissioner of health, shall have found that the person so hospitalized or treated, or the person or persons legally liable for his support, are possessed of sufficient income or estate to enable them to make such reimbursement in whole or in part without materially affecting their reasonable economic security or support, in the light of their respective resources, obligations, and responsibilities to dependents. No such order shall be made retroactive unless said state commissioner of health and the county of settlement shall find that the person to be charged has been guilty of misrepresenting or withholding knowledge of facts material to the issue. Receipts under any such order, and moneys voluntarily paid as reimbursement, shall be distributed pro rata to the funds out of which the expenditures were made.

HISTORY: Add. 1945, p. 351, Act 249, Eff. Sept. 6;—CL 1948, 329.403a.

CITED IN OTHER SECTIONS: The above section is cited in § 400.77.

329.404 Printed matter; payment of costs from general fund.

Sec. 4. The cost of all printed matter required by this act to be furnished by the state commissioner of health shall be paid by the auditor general out of the general fund of the state treasury, on presentation of vouchers approved by the state commissioner of health.

HISTORY: CL 1929, 6642;—CL 1948, 329.404.

329.405 Violation of act; penalty.

Sec. 5. Any person who violates any of the provisions of this act or the rules and regulations of the state commissioner of health shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine not exceeding \$100.00: Provided, That any person having been previously determined by the probate court to be a source of danger to others because of his unwillingness or inability to live in such a manner as to prevent the spread of his disease and as such committed by said probate court to an approved hospital or institution established for the care and treatment of persons suffering from tuberculosis as in section 2a hereinbefore provided, who shall thereafter leave such hospital or institution prior to the termination of such commitment as provided by law, shall be guilty of a misdemeanor and shall be punished by confinement for not more than 1 year in a state, city or county tuberculosis sanatorium.

HISTORY: CL 1929, 6643;—CL 1948, 329.405;—Am. 1954, p. 440, Act 184, Eff. Aug. 13.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1929, 6644;—Am. 1945, p. 351, Act 249, Eff. Sept. 6;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 27, 1909, CL 1915, 5099-5113, Amended by Act 216, 1925, repealed by Act 309, 1929, CL 1929, 121.

Act 164, 1949, p. 172; Eff. Sep. 23.

AN ACT to provide free immunization treatments of children for protection against diphtheria, whooping cough, poliomyelitis, tetanus and smallpox; and to provide free immunization treatments of the public at large for protection against smallpox, poliomyelitis and typhoid in the event of an epidemic or threatened epidemic of said diseases. Am. 1960, p. 137, Act 121, Eff. Aug. 17.

The People of the State of Michigan enact:

329.501 Immunization treatments to children against certain diseases; consent.

Sec. 1. In order to provide adequate protection for all children of the state against certain dangerous diseases and to safeguard the public health, every physician engaged in general practice and every county, district, city, village and township health department employing a full-time health officer, shall offer immunization treatments for protection against diphtheria, whooping cough, poliomyelitis, tetanus and smallpox to all children over 3 months of age at their first visit to the doctor's office or health department, except when it is contraindicated. In no instance shall a health officer or any member of his staff give immunization treatments to any child without the written consent of one of the parents or the guardian nor to any child whose parents or guardian have religious objections to such treatments.

HISTORY: New 1949, p. 172, Act 164, Eff. Sep. 23;—Am. 1960, p. 137, Act 121, Eff. Aug. 17.

329.502 Free clinics; notice of service, time, place; approval of immunization.

Sec. 2. Health officers shall conduct free periodic immunization clinics for all school and preschool children residing within the jurisdiction of the county health department to offer immunization treatments for protection against diphtheria, whooping cough, poliomyelitis, tetanus and smallpox, who are unable for any reason to obtain such treatments from a practicing physician. The health officers shall notify parents of this free immunization service; also the time and place of such clinics so that such immunization treatments will be readily available to all children. The state health commissioner, with the advice and approval of the state council of health, shall determine what constitutes proper immunization and adequate protection against said diseases.

HISTORY: New 1949, p. 173, Act 164, Eff. Sep. 23;—Am. 1960, p. 137, Act 121, Eff. Aug. 17.

329.503 Free treatment to public; protection against smallpox, poliomyelitis, typhoid.

Sec. 3. Every health department, as defined in section 1 of this act, shall also offer free immunization treatments to the public at large, for protection against smallpox, poliomyelitis and typhoid, in the event of an epidemic or threatened epidemic of said diseases.

HISTORY: New 1949, p. 173, Act 164, Eff. Sep. 23;—Am. 1960, p. 137, Act 121, Eff. Aug. 17.

329.504 Treatment by public health nurses.

Sec. 4. Public health nurses employed by the health department who are duly registered in the state and who possess the qualifications set forth in section 2 of Act No. 7 of the Public Acts of 1925, being section 338.382 of the Compiled Laws of 1948, may be authorized by the health officer or the health department to give the immunization treatments provided they shall do so under the direction of a duly registered and licensed physician.

HISTORY: New 1949, p. 173, Act 164, Eff. Sep. 23;—Am. 1960, p. 372, Act 191, Imd. Eff. Aug. 6.

329.505 Certificate of immunization; contents.

Sec. 5. Upon completion of the immunization treatments of school and preschool children, the private physician and/or the health department shall present each child so treated with a written certificate designed and supplied by state department of health indicating the diseases for which the child has been immunized, the number of treatments given, the time when completed and whether further treatments are indicated in the future in order to give the child adequate protection against these diseases.

HISTORY: New 1949, p. 173, Act 164, Eff. Sep. 23.

Act 169, 1966, p. 188; Eff. Mar. 10, 1967.

AN ACT to protect the public health by providing for the immunization and tuberculin testing of children; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

329.521 Group care or camping of children; immunization statements; tuberculin test; request for treatment; exception.

Sec. 1. Any person, persons or facility providing for the group residence, care, education or camping experience of children shall have on file, for each child accepted, a statement signed by a licensed physician that the child has been immunized against smallpox, diphtheria, tetanus, pertussis, measles and poliomyelitis, and tuberculin tested to determine the presence of infection from tuberculosis, or a request signed by a parent or guardian that the local health department give the needed protective injections and diagnostic test; except that no child whose parents have religious convictions against immunizations should be required to be immunized under this statute.

HISTORY: New 1966, p. 188, Act 169, Eff. Mar. 10, 1967.

329.522 Immunization and tuberculin status of children; report; cooperation with local health department.

Sec. 2. Within 1 month after the acceptance of a child, the person providing for his residence, care, education or camping experience shall provide the state department

of public health, through the approved local health department of the area in which they are located, with a report on the immunization and tuberculin status of each child accepted, and shall cooperate with the local health department in making arrangements for any needed protective treatments and diagnostic tests.

HISTORY: New 1966, p. 188, Act 169, Eff. Mar. 10, 1967.

329.523 Proper immunization and testing procedure; promulgation of rules and regulations.

Sec. 3. The state department of public health may promulgate, amend and repeal rules and regulations for the enforcement of this act and the determination of what constitutes proper immunization and proper testing procedure against diseases, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 189, Act 169, Eff. Mar. 10, 1967.

329.524 Reports; forms; approval by department.

Sec. 4. Reports required by this act shall be on forms provided by the state department of public health or otherwise reported in a manner approved by it.

HISTORY: New 1966, p. 189, Act 169, Eff. Mar. 10, 1967.

329.525 State department of social services cooperating with state department of public health; enforcement of act.

Sec. 5. The state department of social services shall cooperate with the state department of public health in the enforcement of this act.

HISTORY: New 1966, p. 189, Act 169, Eff. Mar. 10, 1967.

329.526 Violation of act; penalty.

Sec. 6. Any person who violates any provision of this act or the rules and regulations of the state department of public health is guilty of a misdemeanor.

HISTORY: New 1966, p. 189, Act 169, Eff. Mar. 10, 1967.

CHAPTER 330. HEALTH—MENTAL DISEASE INSTITUTIONS

DEPARTMENT OF MENTAL HEALTH

Act 271 of 1945

- 330.1 Department of mental health; creation; state hospital commission, transfer of powers and duties, abolition; proceedings, records, files.
- 330.2 Repealed.
- 330.3 Mental health director; appointment, qualifications, removal, salary; superintendents of state hospitals, appointment, duties.
- 330.4 Repealed.

MENTALLY DISEASED, INSTITUTIONS

Act 151 of 1923

- 330.11 State mental health institutions; maintenance, jurisdiction of department of mental health, sites; state hospital commission, powers and duties.
- 330.11a Repealed.
- 330.11b Hospital act for mentally diseased persons; short title.
- 330.11c Center for forensic psychiatry; maintenance, functions.
- 330.12 State hospital commission; jurisdiction, duties.
- 330.12a State-owned surplus farm land; lease.
- 330.13 Officers of mental disease institutions; oath; jury and military service exemptions.
- 330.14 State hospital districts; establishment, rearrangement.
- 330.15 Medical superintendents of mental disease institutions; powers, duties.
- 330.16 Stewards of mental disease institutions; duties.
- 330.17 Patients; classification.
- 330.18 Detention of patients; commitment order, admission; adjudgment of addiction.
- 330.18a Petition for declaring person not addicted.
- 330.19 Temporary detention of mentally ill; certificate of physicians; protective custody; proceedings.
- Official physicians, certification; detention.
- 330.19a Voluntary patients; application; rate of charge, report of financial status.
- 330.19b Transfer of patients; notice to committing court.
- 330.20 Certificates of mental illness; content, physician's restrictions, application to accompany order; senile patients; estate, fees.
- 330.21 Petition for hospitalization of mentally ill; hearing, notice; guardian ad litem; regional diagnostic and treatment center; jury; temporary detention; transfer of physically infirm; county and personal liability.
- 330.21b Commissioner of revenue; public guardian, powers and duties.
- 330.21c County of settlement; reimbursement, files; committing county.
- 330.21d Removal of patients to regional diagnostic and treatment centers; liquor and

narcotic addicts.

- 330.22 Transfer of patient to hospital; guardian, appointment, bond, rights, duties.
- 330.23 Order for admission of patient; form.
- 330.24 Admission certificate; certified copy to superintendent, lapse of time.
- 330.25 Expenses of state institutions; payment by state.
- 330.26 Order for admission; certified copy to institution; reimbursement proceedings, investigation.
- 330.27 Reimbursement proceedings to subject estate of patient to payment of expenses; setting aside of conveyances by person liable for expenses.
- 330.28 Liability of relatives for support; enforcement.
- 330.28a Reimbursement proceedings for expenses of persons in institutions.
- 330.29 Petition for change of order of contribution; costs, proceedings.
- 330.30 Michigan soldiers' home inmates; admission to hospital, status, expenses.
- 330.31 Industrial school inmates; adjudication of mental illness, admission, return on recovery, expenses.
- 330.32 Private institutions; commitment procedure, expenses.
- 330.33 State institutions; care of residents and nonresidents, admission authorization, commitment petitions.
- Legal settlement; hospitalization of patient.
- Arbitration of questions between states; rules and regulations; audit of expenses of patient removal.
- 330.34 Recapture of escaped patients; rewards, expenses, protection of peace officer.
- 330.35 Discharge of patients.
- Discharge of patient certified as unrecovered; security; notice to local police officers.
- 330.35a Mentally ill patient; discharge when not detrimental to self or public.
- 330.35b Criminal sexual psychopath; parole, conditions; discharge, notice.
- 330.36 Leave of absence; conditions, limitations.
- 330.37 Readmission during leave of absence or convalescent status.
- 330.37a Leave of absence or convalescent status; return.
- 330.38 Discharge or leave of absence; clothing, expenses.
- 330.38a State liability for discharged, paroled or escaped patients.
- 330.39 Desirous of being adjudged of sound mind; petition, hearing, report of physicians, finding of court.
- 330.39a Discharge; notice to probate court, hearing, findings, testimony, notice to guardian, accounting.
- 330.40 Repealed.
- 330.41 Patient care; rate of charges.

- 330.42 Costs in proceedings; award, collection.
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 330.52b Medical superintendent's accounts for patients; disbursement to state, current needs funds, burial funds, rehabilitation fund.
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 330.60 Feeble-minded or epileptics; admission to Wayne county institutions, maintenance costs, state reimbursements.
 330.60a Insane persons in county institutions; maintenance costs, state reimbursement.
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 330.63 Mental health services; certificate of approval, form, inspection of services, minimum standards.
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 330.171 James Decker Munson hospital; lease; approval of execution; provisions.
 330.172 Contracts for heat, power and light; approval.
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- 330.191 Conveyance of property; authorization.
- 330.192 Conveyance of property; reversion to state.
- 330.193 Provisions applicable.
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- 330.201 Detention of mentally diseased persons; procedure.
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- 330.251 Feeble-minded and epileptic persons; county care; bond issue, tax.
- 330.252 Feeble-minded and epileptic persons; court commitment, county reimbursement by state.
- 330.253 Feeble-minded and epileptic persons; contracts as to patients from other counties, county reimbursement by state.
- 330.254 Resolutions; approval by referendum.
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Act 148 of 1957

- 330.261 Mentally handicapped children; county day school program, appropriations, facilities.

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- 330.301 Drug addicts; commitment to Wayne county hospital, time limitations.
- 330.302 Patients from other counties; contracts with Wayne county, expenses.
- 330.303 Patients from other counties; conveyance to hospital.
- 330.304 Superintendent of Wayne county hospital; duties.
- 330.305 Defendant; release, discharge.

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Act 85 of 1937

- 330.401 State psychopathic hospital; transfer of property and unexpended appropriations to university of Michigan.
- 330.402 Patients committed for observation; disposition.
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- 330.406 State hospital patients; transfer to neuro-psychiatric institute.
- 330.407 Repeal.

COMBINED PSYCHIATRIC HOSPITAL AND CLINIC

Act 217 of 1954

- 330.421 Lafayette clinic; psychiatric hospital and outpatient clinic, location.
- 330.422 Lafayette clinic; mental health personnel training program; inpatient and outpatient service, admission; direct commitment prohibited, exception.
- 330.422a Lafayette clinic; drug abuse center, purposes, funds.
- 330.423 Lafayette clinic; transfer of patient.
- 330.424 Lafayette clinic; voluntary admission to inpatient service, procedure.
- 330.425 Lafayette clinic; care of patients; charge, liability of relatives or county of residence, provisions applicable.
- 330.426 Lafayette clinic; director, qualifications.
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MICHIGAN PICTURE TEST CONTRACT

Act 5 of 1951

- 330.451 Michigan picture test; contract for publication and distribution.
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HOSPITAL BONDS

Act 12 of 1951

- 330.501 Hospital bonds; authority to issue, amount, interest, duration, sale.
- 330.502 Hospital bonds; appropriation for payment; hospital bond redemption fund and state hospital building fund, transfer of surplus, termination.
- 330.503 Hospital bonds; tax exemption.
- 330.504 Hospital bonds; mutilation, issuance of new bonds.
- 330.505 Hospital bonds; cancellation.
- 330.506 Declaration of necessity.

EMERGENCY HOSPITALIZATION OF MENTALLY DEFICIENT CHILDREN

Act 1 of 1955 (2nd Ex. Ses.)

- 330.557 Hospitalization of mentally deficient children; contracts with private or local governmental hospitals, approval.
- 330.558 Lease of Fort Custer post hospital, approval.

GAYLORD STATE HOME

Act 21 of 1963

- 330.561 Gaylord state home; control.
- 330.562 Repeal.

SOUTHWESTERN TUBERCULOSIS SANATORIUM

Act 56 of 1969

- 330.571 Southwestern Tuberculosis Sanatorium; transfer to mental health department, use.
- 330.572 Repeal.

COMMUNITY MENTAL HEALTH SERVICES PROGRAM

Act 54 of 1963

- 330.601 Community mental health services programs; grants, services.

330.602	Establishment by local units; types of services, personnel.	CARE AND MAINTENANCE OF MENTALLY RETARDED PERSONS
330.603	Local funds for program.	Act 335 of 1965
330.604	Application for state grant; approval.	330.651 Mentally retarded persons; definition.
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330.607	Local matching funds.	330.653 County of settlement; reimbursement.
330.608	Fees for services.	330.654 Relatives liable for care; adopting parent; definitions.
330.609	Existing clinics; administration.	330.655 Voluntary patient; information furnished relatives and department of revenue; previously admitted patients.
330.610	Community mental health services board; appointment, eligibility; governmental agency.	330.656 Complete forms; filing by relatives, additional documents; billing, payments.
330.610a	Community mental health services board; participation by adjoining counties.	330.657 Information to be contained in forms.
330.611	Community mental health services board; terms, vacancies, removal.	330.658 Monthly liability; schedules, computation.
330.612	Community mental health services board; duties, reports.	330.659 Renewal forms; contents, filing returns, reascertainment of liability.
330.612a	Community mental health services board; contracts with state institutions.	330.660 Requests for determination of liability by revenue department; procedure before probate, appeals.
330.613	Community mental health services board; participation in state employees' retirement system.	330.661 Failure to make payments; effect; failure to file form, penalty.
330.614	Department of mental health; powers, duties.	330.662 Enforcement of liability.
		330.663 Conveyances and transfers, inadequate consideration; setting aside, procedure.
		330.664 Disbursement of sums collected during first year of patient's commitment.
		330.665 Prior laws; judgments or agreements; effect, imposition of liability under effective laws.
		330.666 Effective date.

Act 271, 1945, p. 426; Eff. Sep. 6.

AN ACT to create a department of mental health and to prescribe the powers and duties thereof; to provide for the transfer to said department of the powers and duties of the state hospital commission; to provide for the appointment of a director of mental health; and to create a state advisory council on mental health services and to define its function. Am. 1963, p. 399, Act 236, Imd. Eff. May 23.

The People of the State of Michigan enact:

330.1 Department of mental health; creation; state hospital commission, transfer of powers and duties, abolition; proceedings, records, files.

Sec. 1. There is hereby created a department to be known and designated as the department of mental health of the state of Michigan, which shall possess the powers and perform the duties hereby granted and imposed. The powers and duties now vested by law in the state hospital commission are hereby transferred to and vested in the department of mental health. Immediately upon the taking effect of this act the state hospital commission shall be abolished and whenever reference thereto is made in any law of the state, reference shall be deemed to be intended to be made to the department of mental health. Any proceeding pending before the state hospital commission shall not be abated but shall be deemed to be transferred to the department of mental health, and shall be conducted in accordance with the provisions of the law governing such proceedings. All records, files and other papers belonging to the state hospital

commission shall be turned over to the department of mental health and shall be continued as a part of the records and files thereof.

HISTORY: CL 1948, 330.1.

330.2 Repealed. 1963, p. 400, Act 236, Imd. Eff. May 23.

Section authorized creation of commission within department of mental health to assist in making policies, adopting regulations and other necessary acts.

330.3 Mental health director; appointment, qualifications, removal, salary; superintendents of state hospitals, appointment, duties.

Sec. 3. The governor shall appoint with the advice and consent of the senate a director of mental health directly responsible to the governor who shall be the chief executive of the department and who shall administer the department and establish the necessary policies and rules in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for its efficient operation. The director shall be either a board eligible psychiatrist or a psychiatrist certified by either of the boards of psychiatry and neurology. The director shall also be experienced in the treatment of mental diseases or administration of mental hospitals and mental health programs. The director may be removed by the governor for misfeasance, malfeasance or nonfeasance in office. The director of the department of mental health shall receive such annual salary as the legislature shall appropriate. The director shall appoint a superintendent for each state hospital for the mentally ill, who shall be a physician legally registered in the state, and a superintendent for each state home and training school who shall have such professional qualifications and experience as established by the director. The superintendent of each institution shall be responsible for the employment of all assistants and employees therefor. The salaries and expenses authorized under the provisions of this act shall be paid from appropriations made by the legislature. The department of administration shall provide suitable offices in the city of Lansing for the department.

HISTORY: CL 1948, 330.3;—Am. 1949, p. 213, Act 200, Imd. Eff. May 27;—Am. 1960, p. 76, Act 84, Imd. Eff. Apr. 25;—Am. 1963, p. 400, Act 236, Imd. Eff. May 23;—Am. 1964, p. 107, Act 108, Eff. Aug. 28;—Am. 1968, p. 730, Act 321, Eff. Mar. 20, 1970.

330.4 Repealed. 1970, p. 463, Act 138, Imd. Eff. Aug. 1.

Section created advisory council on mental health.

Act 151, 1923, p. 218; Eff. Aug. 30.

AN ACT to create a state hospital commission and to define the powers and duties thereof; to provide for the transfer to said commission of certain powers and duties now vested by law in certain commissions and officers of the state, and for the abolishing of the commissions and offices the powers and duties of which are hereby entirely transferred; to revise and consolidate the laws organizing hospitals for the mentally ill, homes and schools for the mentally handicapped and epileptic, institutions for the discovery and treatment of mental disorders; to regulate and provide for the care, management and use thereof; to provide for the licensing, visitation and supervision of privately owned hospitals, homes and institutions for the care and treatment of such mentally diseased persons; to provide for the care by county departments of social welfare of senile persons found not to be psychotic and for the appointment of temporary special guardians for such persons and their estates; to provide for the apprehension of persons believed to be mentally ill, mentally handicapped, or epileptic, and their admittance to a hospital, to provide for their care, treatment, custody, convalescent status and discharge; to provide for the return of escaped patients and patients on convalescent status to hospitals; to provide for the warrant therefor; to provide protection from civil liability for peace officers executing such warrants; to provide for the

accompanying of female patients to such hospitals by matrons; to provide penalties and to repeal certain acts or parts of acts contrary to the provisions hereof. Am. 1937, p. 148, Act 104, Imd. Eff. Jul. 1;—Am. 1941, p. 513, Act 299, Eff. Jan. 10, 1942;—Am. 1941, p. 555, Act 321, Eff. Jan. 10, 1942;—Am. 1949, p. 645, Act 313, Eff. Sep. 23;—Am. 1952, p. 171, Act 148, Imd. Eff. Apr. 24;—Am. 1953, p. 239, Act 183, Eff. Oct. 2.

The People of the State of Michigan enact:

330.11 State mental health institutions; maintenance, jurisdiction of department of mental health, sites; state hospital commission, powers and duties.

Sec. 1. There shall be maintained within the state the following state institutions, all of which are placed under the jurisdiction and control of the department of mental health; namely, at Kalamazoo, a hospital for the humane, curative and scientific treatment of mentally ill persons, to be known as the Kalamazoo state hospital; at Pontiac, a hospital for the humane, curative, scientific and economical treatment of mentally ill persons to be known as the Pontiac state hospital; at Traverse City, a hospital for the humane, curative, scientific and economical treatment of mentally ill persons, to be known as the Traverse City state hospital; at Newberry, a hospital for the humane, curative, scientific and economical treatment of mentally ill and mentally handicapped persons to be known as the Newberry state hospital; near Northville, a hospital for the humane, curative, scientific and economical treatment of mentally ill persons to be known as the Northville state hospital; near Ypsilanti, a hospital for the humane, curative, scientific and economical treatment of mentally ill persons to be known as the Ypsilanti state hospital; at Ionia, a hospital for the humane, curative, scientific and economical treatment of mentally ill persons, to be known as the Ionia state hospital; near Caro, a hospital, home and training school for the humane, scientific, educational and economical treatment of mentally handicapped persons, to be known as the Caro state home and training school; at Lapeer, a hospital, home and training school for the humane, scientific, educational and economical treatment of mentally handicapped persons, to be known as the Lapeer state home and training school; at Mt. Pleasant, a hospital, home and training school for the humane, scientific, educational and economical treatment of mentally handicapped persons, to be known as the Mt. Pleasant state home and training school; at Coldwater, a hospital, home and training school for the humane, scientific, educational and economical treatment of mentally handicapped persons, to be known as the Coldwater state home and training school; at Muskegon, a hospital, home and training school for the humane, scientific, educational and economical treatment of mentally handicapped persons to be known as Muskegon regional mental retardation center; and all similar institutions which may be hereafter established. The powers and duties now vested by law in the state hospital commission under section 4 of Act No. 163 of the Public Acts of 1921, are transferred to and vested in the state hospital commission hereinbefore provided for. Immediately on the taking effect of this act, the commissions and offices whose powers are entirely transferred shall be abolished, and whenever reference thereto is made in any law of the state reference shall be deemed to be intended to be made to the state hospital commission hereinbefore provided for. All records, files and other papers belonging to any of the commissions and offices the duties of which are transferred to the state hospital commission herein provided for shall be turned over to the commission and shall be continued as a part of the records and files thereof.

HISTORY: CL 1929, 6878;—Am. 1931, p. 382, Act 290, Eff. Sept. 18;—Am. 1937, p. 149, Act 104, Imd. Eff. July 1;—Am. 1939, p. 268, Act 142, Imd. Eff. May 23;—CL 1948, 330.11;—Am. 1949, p. 646, Act 313, Eff. Sep. 23;—Am. 1952, p. 171, Act 148, Imd. Eff. Apr. 24;—Am. 1966, p. 198, Act 175, Imd. Eff. Jul. 1;—Am. 1968, p. 183, Act 121, Eff. Nov. 15;—Am. 1969, p. 188, Act 100, Imd. Eff. Jul. 24.

This section as originally enacted superseded and merged Sec. 2 of Act 217 of 1903, being CL 1915, 1311; and Act 21 of 1911, being CL 1915, 1305, 1366; and Sec. 1 of Act 124 of 1893, being CL 1897, 1954;—CL 1915, 1406; and Sec. 1 of Act 101 of 1908, as Am. 1913, p. 765, Act 401, Eff. Aug. 14, being CL 1915, 1533; and Sec. 2 of Act 401 of 1913, being CL 1915, 1576; and Sec. 1 of Act 173 of 1913, being CL 1915, 1579.

CITED IN OTHER SECTIONS: Sections 330.11 to 330.71 are cited in §§ 330.93, 400.109, 767.27a, and 791.268.

330.11a Repealed. 1966, p. 198, Act 175, Imd. Eff. Jul. 1.

Section related to state hospital commission.

330.11b Hospital act for mentally diseased persons; short title.

Sec. 1b. This act shall be known and may be cited as "The hospital act for mentally diseased persons."

HISTORY: Add. 1944, 1st Ex. Sess., p. 81, Act 42, Imd. Eff. Mar. 4;—CL 1948, 330.11b.

330.11c Center for forensic psychiatry; maintenance, functions.

Sec. 1c. The department of mental health shall maintain under its jurisdiction a service to be known as the center for forensic psychiatry for the diagnosis, evaluation and treatment of patients committed to the department by criminal courts, for the reporting of findings and recommendations to the department and courts as indicated, and for the conduct of research on the interrelationship of mental disability and the criminal law. The head of the center for forensic psychiatry shall be directly responsible to the director of the department of mental health.

HISTORY: Add. 1966, p. 197, Act 175, Imd. Eff. Jul. 1.

330.12 State hospital commission; jurisdiction, duties.

Sec. 2. The state hospital commission is hereby vested with jurisdiction and control of all state institutions named in section 1 of this act and it shall be their duty to:

First, Have the general direction and control of all property and concerns of the several institutions over which they are appointed, not otherwise provided by law.

Second, Take charge of the general interests of the institutions herein named and see that its design is carried into effect according to law and its bylaws, rules and regulations;

Third, Such commission shall prosecute by methods provided by law all claims or demands against persons or corporations due or owing to any institution under its jurisdiction, and may defend all suits brought against itself or officers or employees of the institution, to recover damages because of any act done, or failure to perform any act, while discharging their official duties.

Fourth, Whenever a vacancy shall occur in the office of the superintendent in any institution mentioned in section 1 of this act, such vacancy shall be filled by appointment by the commission, of a physician legally registered in the state of Michigan and experienced in the treatment of the mentally afflicted, with at least 3 years' experience in mental diseases.

Fifth, Approve appointment by the medical superintendent, of an assistant medical superintendent and necessary assistant physicians (1 or more of whom shall be a woman in those institutions having more than 150 female patients) and steward. All medical officers shall be legally registered physicians in the state of Michigan.

Sixth, Determine from time to time by and with consent of the administrative board, the annual salaries and allowances of the officers of the institutions under its charge in such manner as may be provided by law. No officer shall be paid or receive fees, perquisites or further compensation from the state for any services or in any other manner than is provided in this section.

Seventh, Establish such bylaws, rules and regulations as they may deem necessary and expedient for regulating the appointment and duties of officers, attendants, assistants and employees, for fixing the conditions of admission, support and discharge of

patients, for conducting in a proper manner the business of the institutions and for the internal government, discipline and management of the same.

Eighth, Maintain an effective inspection of the institutions for which purpose they shall be visited and inspected thoroughly once every month by the members of such commission duly appointed by the commission for such purpose, and by the whole commission at least twice a year and at such other times as may be prescribed in the bylaws.

Ninth, Make to the governor in the month of July in each year, a report detailing the operations and actual state of such institutions and the result of their visits and inspections, with suitable suggestions, accompanied by the reports of the medical superintendents and stewards.

Tenth, Keep record of all their doings which shall be open at all times to the inspection of the governor of the state and all persons whom he, or either house of the legislature, may appoint.

Eleventh, Publish an annual report of the activities and needs of the institutions under its jurisdiction.

Twelfth, Submit each biennium to the budget director of the state a budget covering its anticipated needs for the next biennial period. The expenditures of the state hospital commission and for all of its activities shall be from funds specifically provided by the legislature.

Thirteenth, Establish standards for the care and treatment of the patients under the jurisdiction of the several institutions under their charge. No expenditures shall be charged to the appropriations of the several institutions mentioned in this act without the approval of the state hospital commission, and also shall have the power to reject any or all purchases that do not meet with the standards as provided by the commission.

Fourteenth, Make rules governing its own procedure; and make and enforce its own rules and regulations not inconsistent with the law governing the several institutions under its control respecting the conduct of each such institution, discipline therein, the care of property, the welfare of such wards and voluntary patients, the volunteer services program, and as to such other matters as come properly within the scope of its authority.

Fifteenth, Undertake and promote studies of the causes, nature, and the methods of care, treatment, and prevention of insanity, feeble-mindedness, and epilepsy; and develop and conduct a statewide mental hygiene program, with emphasis upon the promotion of mental health and the prevention of insanity, feeble-mindedness, and epilepsy.

Sixteenth, Provide drugs, as prescribed to any person who is being treated as an outpatient, or is on convalescent status, or has been discharged from the hospital if such person is unable to procure them without financial assistance.

Seventeenth, Establish aftercare programs, day hospital services and night hospital services necessary for the care and treatment of mentally diseased persons on convalescent status from any state hospital or state home and training school.

Eighteenth, Use the services of uncompensated volunteers to the extent deemed advisable. These volunteers shall not be allowed to replace presently paid employees.

HISTORY: Am. 1925, p. 405, Act 283, Eff. Aug. 27;—CL 1929, 6879;—Am. 1937, p. 151, Act 104, Imd. Eff. July 1;—Am. 1941, p. 514, Act 299, Eff. Jan. 10, 1942;—CL 1948, 330.12;—Am. 1960, p. 149, Act 128, Eff. Aug. 17;—Am. 1965, p. 307, Act 193, Imd. Eff. Jul. 15.

This section as originally enacted superseded part of Sec. 5 of Act 217 of 1903, as Am. 1907, p. 382, Act 290, Imd. Eff. June 27, being CL 1915, 1314; and, in part, Sec. 1 of Act 185 of 1899, as Am. 1901, p. 124, Act 85, Imd. Eff. April 25, being CL 1915, 1400; and superseded, in part, and merged Secs. 4, 5, 6, 9, and 11 of Act 124 of 1893, being CL 1897, 1957, 1958, 1959, 1962, 1964;—CL 1915, 1409, 1410, 1411, 1414, 1416; and Sec. 10 of Act 124 of 1893, being CL 1897, 1963;—As Am. 1901, p. 343, Act 221, Eff. Sept. 5;—CL 1915, 1415; and parts of Secs. 7, 8, 9, 10, and 11 of Act 101 of 1909, being CL 1915, 1539, 1540, 1541, 1542, 1543; and Secs. 18 and 19 of Act 173 of 1913, being CL 1915, 1596, 1597. See Sec. 40 of Act 101 of 1909, being CL 1915, 1572; and Secs. 10, 11, 12, 13, 14, 16, and 17 of Act 173 of 1913, being CL 1915, 1588, 1589, 1590, 1591, 1592, 1594, 1595; and Sec. 15 of Act 173 of 1913, as Am. 1915, p. 17, Act 11, Eff. Aug. 24, being CL 1915, 1593.

330.12a State-owned surplus farm land; lease.

Sec. 2a. The department may lease for a term of not more than 1 year, state-owned surplus farm land not needed for institutional purposes.

HISTORY: Add. 1970, p. 587, Act 209, Imd. Eff. Aug. 25.

330.13 Officers of mental disease institutions; oath; jury and military service exemptions.

Sec. 3. The officers of each institution shall be the medical superintendent, assistant medical superintendent, the assistant physicians, and steward, all of whom, before entering on their respective duties, shall severally take the oath prescribed by the constitution. These officers and all attendants and assistants and employes actually employed in such institutions during the time of such employment, shall be exempt from serving on juries and from all service in the militia; and the certificate of the superintendent shall be evidence of the fact of such employment.

HISTORY: CL 1929, 6880;—CL 1948, 330.13. This section supersedes Sec. 6 of Act 217 of 1903, being CL 1915, 1315; and merges Secs. 7 and 13 of Act 124 of 1903, being CL 1897, 1900, 1906;—CL 1915, 1412, 1418.

330.14 State hospital districts; establishment, rearrangement.

Sec. 4. The hospital commission may divide the state into districts which shall contain, as nearly as may be, a population in number proportioned to the capacity of the several hospitals for the insane, and the several counties shall be so located in the several districts as to promote, as far as possible, convenience of travel to and from the hospitals to which they are assigned. The said commission shall also have power at any time, and for satisfactory reasons, to transfer any county from 1 district to another. And whenever hereafter any other hospital for the insane or feeble-minded shall be built, organized and ready to receive patients, the commission shall reconstruct such hospital districts in accordance with the principles herein declared. Patients shall be sent to the hospital for the insane of the district of which the county in which they reside or are inhabitants is a part, if there be room at that hospital to receive them. The said commission may provide for the reception of patients residing in 1 district by the hospital of another district. The probate court shall not direct the admission of any patient to the hospital of a district other than that of which he is a resident or may be at the time the proceedings are commenced, unless authorized by such commission so to do.

HISTORY: CL 1929, 6881;—CL 1948, 330.14. This section supersedes Sec. 8 of Act 217 of 1903, being CL 1915, 1317.

330.15 Medical superintendents of mental disease institutions; powers, duties.

Sec. 5. The medical superintendent of each institution shall be its chief executive officer, and in his absence or sickness, the assistant medical superintendent shall perform the duties and be subject to the responsibilities of the medical superintendent. Subject to the bylaws and regulations established by the commission the medical superintendent shall have the general superintendence of the buildings, grounds and farm, together with the furniture, fixtures and stock, and the direction and control of all persons therein, and shall:

First, Personally maintain an effective supervision and inspection of all parts of the institution and generally direct the care and treatment of the patients. To this end the superintendent shall personally examine or delegate someone to examine the condition of each patient after his admission to the institution, and shall regularly visit all the wards or apartments for patients, at such times as the rules and regulations of the institution shall prescribe and at such other times as he shall deem necessary.

Second, Nominate his coresident officers, with power to assign to them their respective duties subject to the bylaws. He shall have power whenever he shall deem it for

the best interests of the institution to suspend until the next meeting of the commission any officer.

Third, Appoint, with the approval of the commission, such and so many other assistants, attendants and employees as he may deem necessary and proper for the economical and efficient performance of the business of the institution; prescribe their several duties; and fix with the approval of the commission, their compensation.

Fourth, Give such orders and instructions as he may deem best calculated to insure good conduct, fidelity and economy in every department.

Fifth, Maintain salutary discipline among all who are employed in the institution, and enforce strict compliance with his instructions and uniform obedience to all rules and regulations of the institution.

Sixth, Establish and supervise a training school for attendants or nurses, or both, at each of the several institutions, under rules and regulations of the institution as approved by the hospital commission.

Seventh, Use every proper means to furnish employment to such patients as may be benefited by regular labor suited to their capacity and strength. No payment shall be made or credit given on account of any labor done by any patient while an inmate of such institution, but payment may be made by the hospital to patients on work assignment outside the hospital, or on assignment in a sheltered workshop established within the institution where organized productive work is performed which does not include work assignments to support or maintain the regular institutional functions. Fees collected from the operation of a sheltered workshop may be used to pay patients working therein and to pay for supplies and equipment used directly in the productivity of the workshop.

Eighth, Cause full and fair accounts and records of all his doings and of the entire business and operations of the institution to be kept regularly from day to day, in the manner and to the extent prescribed by the commission.

Ninth, Admit any member of the commission or the director into any part of the institution and exhibit to him, or them, on demand, all the books, papers, accounts and writings belonging to the institution, or pertaining to its business, management, discipline or government, and furnish copies, abstracts and reports whenever required by the commission or director.

Tenth, Cause to be recorded the time of the reception of any patient, his name, residence and occupation and the date of such reception, by whom brought and by what authority, and on whose petition the admission was directed, and have all the orders, warrants, requests, certificates and other papers, accompanying him, forthwith filed. The order for admission shall be full and sufficient authority and protection to the medical superintendent, or the person acting as such in his absence, for receiving and detaining in such institution the person named therein, and he shall not be liable to any suit or action on account thereof, nor shall he be liable to any suit or action for any act done or omitted to be done by any other officer or subordinate, but he shall be responsible for his own misconduct.

Eleventh, Have the custody, or delegate such custody to the steward, under the supervision of the medical superintendent, of all moneys received by the institution from any source, all bonds, notes and mortgages, securities and other obligations belonging to such institution, and make such disposition of such moneys and other property as may be directed by the hospital commission, or as may be required by law.

HISTORY: CL 1929, 6882;—Am. 1937, p. 152, Act 104, Imd. Eff. July 1;—CL 1948, 330.15;—Am. 1965, p. 740, Act 376, Imd. Eff. Jul. 23, —Am. 1967, p. 31, Act 21, Eff. Nov. 2;—Am. 1968, p. 142, Act 89, Imd. Eff. Jun. 4.

This section as originally enacted superseded, in part, and merged parts of Sec. 9 of Act 217 of 1903, being CL 1915, 1318;—As Am. 1919, p. 462, Act 262, Eff. Aug. 14; and Sec. 10 of Act 217 of 1903, being CL 1915, 1319; and Sec. 1 of Act 185 of 1899, as Am. 1901, p. 124, Act 85, Imd. Eff. April 25; being CL 1915, 1400; and Sec. 12 of Act 124 of 1893, being CL 1897, 1965;—As Am. 1899, p. 117, Act 81, Imd. Eff. May 25;—CL 1915, 1417; and Secs. 14, 15, 18, and 26 of Act 124 of 1893, being CL 1897, 1967, 1968, 1971, and 1979;—CL 1915, 1419, 1420, 1423, 1431; and Secs. 8, 9, and 10 of Act 101 of 1909, being CL 1915, 1540, 1541, 1542; and Sec. 18 of Act 173 of 1913, being CL 1915, 1598.

RECORD OF INMATES: As to duty of person in charge of institution to keep; and contents, see also Compilers' § 404.32.

330.16 Stewards of mental disease institutions; duties.

Sec. 6. The steward, under the direction of the medical superintendent, shall be accountable for the careful keeping and economical use of all furniture, stores and other articles provided for such institution, and, under the direction of the medical superintendent, shall:

First, Make, or cause to be made, all requisitions for supplies, equipment and materials for the institution and conform to such regulations in regard thereto as are or shall be provided by the state administrative board;

Second, Keep, or cause to be kept, the accounts for the support of patients, and expenses incurred in their behalf, and furnish the commission and the medical superintendent when required any and all reports of such accounts;

Third, Have general oversight and charge of all the industrial departments of such institutions and of its farming operations, and of such other business as may be prescribed by the by-laws or directed by the commission or the medical superintendent.

HISTORY: CL 1929, 6883;—Am. 1937, p. 154, Act 104, Imd. Eff. July 1;—CL 1948, 330.16.

This section as originally enacted superseded and merged part of Sec. 12 of Act 217 of 1903, being CL 1915, 1321; and, in part, part of Sec. 17 of Act 124 of 1893, being CL 1897, 1970, being CL 1915, 1422; and Sec. 11 of Act 101 of 1909, being CL 1915, 1543; and Sec. 19 of Act 173 of 1913, being CL 1915, 1597.

330.17 Patients; classification.

Sec. 7. Patients are divided into 3 classes as follows:

First, Public patients, persons who are kept and maintained at the expense of the state;

Second, Partial-pay patients, persons who are kept and maintained partially at the expense of the state but who partially pay for their maintenance, or partially reimburse the state for the cost of maintenance;

Third, Full pay state patients, persons who are kept and maintained by the state but who reimburse the state fully for the expense of their maintenance.

Such classification shall not bar the right of the state as provided herein to recover for the keep and maintenance of any patient from the estate of said patient or the ones legally liable therefor.

HISTORY: Am. 1925, p. 406, Act 283, Eff. Aug. 27;—CL 1929, 6884;—Am. 1937, p. 154, Act 104, Imd. Eff. July 1;—Am. 1941, p. 515, Act 290, Eff. Jan. 10, 1942;—CL 1948, 330.17.

This section as originally enacted superseded, with additions, and merged Sec. 13 of Act 217 of 1903, being CL 1915, 1322; and, in part, Sec. 29 of Act 217 of 1903, being CL 1915, 1338; and Act 81 of 1913, as Am. 1915, p. 36, Act 27, Eff. Aug. 24, being CL 1915, 1399; and Sec. 12 of Act 101 of 1909, being CL 1915, 1544; and Sec. 20 of Act 173 of 1913, as Am. 1915, p. 16, Act 10, Eff. Aug. 24, being CL 1915, 1598; and Sec. 21 of Act 173 of 1913, being CL 1915, 1599.

PUBLIC PATIENTS: See Compilers' § 330.25.

WARDS: Admission of a certain class of persons under guardianship, see Compilers' §§ 703.28 and 703.29.

330.18 Detention of patients; commitment order, admission; adjudgment of addiction.

Sec. 8. No person who is a resident of this state shall be detained as a public or private patient in any institution, public or private, or in any institution, home or retreat for the care or treatment of the insane, feeble-minded or epileptic except upon an order for commitment and admission as hereinafter provided: Provided, That such persons as may have been or may hereafter be adjudged to be so addicted to the excessive use of intoxicating liquors, or narcotics or noxious drugs, as to be in need of medical and sanitary treatment or care, may upon petition of his guardian, spouse, or his next of kin, or some other suitable person designated by the probate judge, supported by the certificate of 2 qualified physicians under oath, and by the issuance of a commitment order of the probate court, be taken to or restrained in any suitable institution or

hospital for treatment and care of the insane, including such hospitals of this state as may be designated therefor by the state hospital commission. All proceedings for the commitment to and release or discharge from such hospital shall comply with the general provisions of this act relating to the commitment, care and discharge of mentally diseased persons.

HISTORY: CL 1929, 6885;—Am. 1937, p. 154, Act 104, Imd. Eff. July 1;—CL 1948, 330.18;—Am. 1949, p. 114, Act 111, Eff. Sep. 23;—Am. 1954, p. 38, Act 30, Eff. Aug. 13.

This section as originally enacted superseded part of Sec. 14 of Act 217 of 1903, as Am. 1907, p. 486, Act 335, Imd. Eff. June 28;—As Am. 1911, p. 252, Act 155, Eff. Aug. 1;—As Am. 1915, p. 167, Act 97, Eff. Aug. 24, being CL 1915, 1323.

330.18a Petition for declaring person not addicted.

Sec. 8a. Whenever any person who has been adjudged addicted to the excessive use of intoxicating liquors or narcotics or noxious drugs desires to be declared not so addicted, a petition may be presented to the probate court making adjudication for a finding and order declaring that such person is not so addicted.

HISTORY: Add. 1949, p. 115, Act 111, Eff. Sep. 23.

330.19 Temporary detention of mentally ill; certificate of physicians; protective custody; proceedings.

Sec. 9. (a) Whenever it shall appear to a judge of a court of record, a district court judge or a municipal court judge where such person may be, upon evidence produced and from a certificate of 2 legally qualified physicians, to be necessary and essential to public safety, the judge may authorize any superintendent of the poor or peace officer of the city or county to take into custody and cause to be removed to a veterans hospital, state hospital, any licensed hospital in the state or some other place which shall be designated by the county or district health officer or mental health authority but not to include the county jail, for the purpose of confinement and medical or psychiatric treatment excluding shock treatment, a person believed to be mentally ill against whom no proceedings have been instituted under this act, and such person may be detained or hospitalized until proceedings as hereinafter provided are instituted in the probate court. Such physicians need not be appointed by the probate court and they may be attending physicians in any institution to which it is proposed to admit such mentally ill person. The period of temporary detention or hospitalization shall not exceed 5 days, unless the probate court by special order extends the time. No person arrested under this act shall be confined in a jail or other lock-up unless the person manifests homicidal or other dangerous tendencies. No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone for healing and is being given care and will continue to be given care in a place satisfactory to the judge, may be ordered detained or committed unless the court has determined that he is or would likely become dangerous to himself or to the person or property of others, or unless he or his legal guardian consent to detention or commitment. Any peace officer of this state with the approval of the prosecuting attorney, obtained within 24 hours of the taking into custody and confinement, is authorized to take into temporary protective custody and confine in any veterans hospital, state hospital, or any licensed hospital in the state or some other place which shall be designated by the county or district health officer or mental health authority but not to include the county jail, for the purpose of confinement and medical or psychiatric treatment excluding shock treatment for a period of not to exceed 48 hours, not counting Sundays and legal holidays, a person believed to be mentally ill manifesting homicidal or other dangerous tendencies. Proceedings under this act, temporary or permanent, shall be instituted by the peace officer within 48 hours, not counting Sundays and legal holidays.

Official physicians, certification; detention.

(b) The regularly appointed official physician of any city or county who shall find, after careful examination, that any person in such city or county is mentally diseased and that the immediate detention of such person for examination, treatment and proceedings under this act, is necessary for public safety or the safety of the individual, shall make a certificate to that effect, which shall contain the facts and circumstances showing the mental condition of such person and why such action is necessary, and deliver the same to any peace officer of such city or county, who shall forthwith take such person into custody and transfer him to a hospital for confinement, examination and treatment or to some other place for detention if a hospital is not available, as the physician may direct. Any person taken into custody and confined under the provision of this section may be detained until proceedings as provided in this act are instituted in the probate court but the period of confinement shall not exceed 5 days, Sundays and legal holidays excluded, unless the probate court by special order extends the time.

HISTORY: CL 1929, 6886;—Am. 1947, p. 340, Act 172, Eff. Oct. 11;—CL 1948, 330.19;—Am. 1949, p. 646, Act 313, Eff. Sep. 23;—Am. 1965, p. 186, Act 125, Imd. Eff. Jun. 11;—Am. 1966, p. 17, Act 13, Imd. Eff. May 20;—Am. 1970, p. 163, Act 71, Imd. Eff. Jul. 12.

This section re-enacts part of Sec. 14 of Act 217 of 1903, as Am. 1907, p. 496, Act 335, Imd. Eff. June 28;—As Am. 1911, p. 252, Act 155, Eff. Aug. 1;—As Am. 1915, p. 167, Act 97, Eff. Aug. 24, being CL 1915, 1323, omitting word "further" after first "provided".

330.19a Voluntary patients; application; rate of charge, report of financial status.

Sec. 9a. The medical superintendent of any institution named in this act may receive and detain any adult or minor who is desirous of submitting himself to treatment in such institution as a voluntary patient, and who makes written application therefor, and whose mental condition is such as to render him competent to make such application. If such person is under 21 years of age and not an emancipated child, the written application shall be made by a parent or the guardian of the person of such child. Any voluntary patient shall not be detained for more than 5 days after giving notice in writing of his intention or desire to leave such institution, but if such person is under 21 years of age, and not an emancipated child, the written notice shall be made by a parent or the guardian of the person of such child, or by the probate court. The rate of charge for such patient shall be the same as may be fixed by law for a committed patient and the medical superintendent shall determine and fix the charge for each individual patient. The medical superintendent may request the county welfare department to ascertain the financial status of such person and report his findings to the superintendent.

HISTORY: Add. 1937, p. 155, Act 104, Imd. Eff. July 1;—Am. 1939, p. 269, Act 142, Imd. Eff. May 23;—Am. 1944, 1st Ex. Ses., p. 30, Act 19, Imd. Eff. Feb. 19;—CL 1948, 330.19a;—Am. 1949, p. 647, Act 313, Eff. Sep. 23;—Am. 1965, p. 276, Act 175, Imd. Eff. Jul. 15.

CITED IN OTHER SECTIONS: The above section is cited in §§ 330.424 and 330.652.

330.19b Transfer of patients; notice to committing court.

Sec. 9b. The department of mental health may, upon recommendation of the medical superintendents involved, transfer patients from 1 institution to another under their control, or to or from Wayne county hospital at Eloise, or Wayne county training school at Northville, or neuropsychiatric institute at Ann Arbor, or to or from a similar state institution, if for any cause it may become necessary or desirable to make such transfer. Persons assigned to 1 state institution or admitted thereto as mentally retarded, epileptic or mentally ill, upon court order or as a voluntary patient, may be transferred to any other state institution for the care and treatment of the mentally ill, epileptic or mentally retarded, either before or after admission to the first institution if it shall become necessary or desirable to make such transfer. In such case, if the person is admitted to an institution of a different type, additional proceedings shall not be required. The court which ordered the admission, or his parents or guardian, in the case

of both voluntary and court order admissions, shall be notified by the department of all such transfers.

HISTORY: Add. 1937, p. 155, Act 104, Imd. Eff. July 1;—Am. 1939, p. 269, Act 142, Imd. Eff. May 23;—Am. 1945, p. 54, Act 56, Imd. Eff. Mar. 21;—CL 1948, 330.19b;—Am. 1949, p. 647, Act 313, Eff. Sep. 23;—Am. 1954, p. 524, Act 208, Eff. Aug. 13;—Am. 1961, p. 320, Act 199, Eff. Sep. 8;—Am. 1967, p. 23, Act 15, Eff. Nov. 2.

330.20 Certificates of mental illness; content, physician's restrictions, application to accompany order; senile patients; estate, fees.

Sec. 10. Certificates of mental illness, feeble-mindedness, or epilepsy must be made by 2 reputable physicians, under oath, appointed by the probate court of the county where such person resides, or is an inhabitant, to conduct the examination, except as otherwise provided in section 9-b of this act. The physicians must be duly registered according to law, have the qualifications prescribed by the laws of this state, and shall not be related by blood or marriage to the person to be examined nor to the person applying for such certificate, and the appointment of such physicians shall be prima facie proof that such physicians are duly qualified. Neither of such physicians shall be a trustee, superintendent, proprietor, officer, stockholder, or have any pecuniary interest, directly or indirectly, or be an attending physician, in the institution to which it is proposed to admit such person. Such physicians are empowered to go where said person may be or make such personal examination of him as to enable them to form an opinion as to his mental condition, and no certificate shall be made except after such personal examination. Certificates of such physicians to authorize admission must show that it is their opinion that the person is actually mentally ill, or feeble-minded, or epileptic, as the case may be, and shall contain the facts and circumstances upon which the opinion of the physician is based, and show that the condition of the person examined is such as to require care and treatment in an institution for the care, custody and treatment of such mentally diseased persons. A copy of the application for care, custody and treatment of the patient shall accompany the order of admission, to be used as a history of the case and for no other purpose. No such certificate shall be issued by any physician if the person to whom it pertains manifests the general deterioration of mental processes, including disorientation, confusion or impairment of memory, associated with senility, but without psychotic implications: Provided, That persons not eligible for admission but who do require individualized medical care, treatment and supervision should, upon certification of the examining physicians that the person is not psychotic, be referred by the probate judge to the county department of social welfare: And provided further, That if it appears to the court that the person may require a guardian for the protection of his person or his estate, and no suitable person can be found immediately who is willing to act as guardian of such person without a charge for his services, then the judge of probate is authorized to appoint a member of the county social welfare board, or some employee of the county social welfare board nominated by said board for that purpose to act as temporary special guardian, as provided in section 11 of chapter 3 of Act No. 288 of the Public Acts of 1939, being section 703.11 of the Compiled Laws of 1948, until a regular guardian willing to act without expense to the public can be found. All costs in connection with the appointment of such temporary special guardian shall be waived. The word "estate" shall be construed to include benefits or gifts of government paid in monthly installments. Each physician making such examination and certifying as to the mental condition of such person shall, regardless of whether he finds such person to be mentally diseased or not, be entitled to receive for such services a sum of not less than \$5.00, and 10 cents per mile for travel necessarily performed in going to the place of such examination, and such further sum for expenses as the probate court shall allow.

HISTORY: CL 1929, 6987;—Am. 1933, p. 103, Act 85, Eff. Oct. 17;—Am. 1935, p. 33, Act 22, Eff. Sept. 21;—Am. 1937, p. 155, Act 104, Imd. Eff. July 1;—CL 1946, 330.20;—Am. 1949, p. 647, Act 313, Eff. Sep. 23;—Am. 1953, p. 239, Act 183, Eff. Oct. 2;—Am. 1966, p. 187, Act 125, Imd. Eff. Jun. 11.

This section as originally enacted superseded, with additions, and merged part of Sec. 15 of Act 217 of 1903, as Am. 1907, p. 209, Act 158, Eff. Sept. 28;—As Am. 1911, p. 34, Act 25, Eff. Aug. 1, being CL 1915, 1324; and Sec. 14 of Act 101 of 1909, being CL 1915, 1546; and Sec. 24 of Act 173 of 1913, being CL 1915, 1602.

330.21 Petition for hospitalization of mentally ill; hearing, notice; guardian ad litem; regional diagnostic and treatment center; jury; temporary detention; transfer of physically infirm; county and personal liability.

Sec. 11. The father, mother, husband, wife, brother, sister, child, if the petitioner be of legal age, or guardian of a person alleged to be mentally ill, mentally handicapped or epileptic, or the sheriff or supervisor of any township, or county agent, or by any other person whom a judge of probate, upon examination into the facts and circumstances of any particular case, shall determine would be a proper person to make such petition, or any peace officer within the county in which such alleged mentally diseased person resides, or may be, may petition the probate court of the county for an order directing the admission of such person to a hospital, home or institution for the care of the mentally ill, mentally handicapped or epileptic, such petition to contain a statement giving the facts and not the conclusions upon which the allegation of such mental disease is based and because of which the application for the order is made. Upon receiving such petition the court shall fix a day for hearing thereof and shall appoint 2 reputable physicians to make the required examination of such alleged mentally diseased person; such physicians shall file their report duly certified to with the court on or before such hearing. If such physicians do not agree, the court may appoint a third reputable physician to examine the alleged mentally diseased person as to his mental condition and such physician shall file his report duly certified to with the court. Notwithstanding any other provision of law, if an alleged mentally diseased person is temporarily admitted to any state hospital for the mentally ill, Wayne County General Hospital at Eloise or any municipal corporate hospital and the superintendent of such hospital or a member of the hospital medical staff designated by him certifies in a detailed psychiatric report that the person is mentally ill, the probate court may dispense with the requirement for the appointment of 2 reputable physicians and may accept the psychiatric report in lieu of physicians' certificates of mental illness. Notice of such petition and of the time and place of hearing thereon shall be served personally, at least 24 hours before the hearing, upon the person alleged to be so mentally diseased, the person who made the petition, the husband or wife, of such alleged mentally diseased person, if there be any such known to be residing within the county, and such other relatives or persons residing within this state as may be ordered by the court. This notice may be served in any part of the state. The court to whom the petition is presented may dispense with such personal service or may direct substituted service to be made upon some person to be designated by it. The court shall state in a certificate to be attached to the petition its reason for dispensing with personal service of such notice, and if substituted service is directed, the name of the person to be served therewith. In such cases the court shall appoint a guardian ad litem to represent such alleged mentally diseased person upon such hearing, and in other cases it may appoint such guardian ad litem. The court shall also take proofs as to the alleged mental condition or epilepsy of such person, and fully investigate the facts, and, if no jury is requested, the probate court shall determine the question of such alleged mental disease of such person. If it shall appear to the court or jury from evidence contained in the doctors' certificates, the psychiatric report or from evidence produced in court that such person is mentally diseased, but that the degree of mental disease does not warrant final adjudication and commitment or that a limited period of intensive treatment may make final adjudication and commitment unnecessary or if prior to the taking of any proof the alleged mentally diseased person or his attorney so demands,

the court shall order such person to be removed to a regional diagnostic and treatment center for diagnosis, care and intensive treatment for a period not to exceed 60 days, which period may be extended up to an additional 60 days by special order of the court upon request of the superintendent of the regional diagnostic and treatment center. Prior to the expiration of such period, the superintendent of such center shall certify to the court the results of intensive treatment of physical and mental examinations, the diagnosis of physical and mental ailments, and a recommendation that such person be finally admitted to a hospital, home or institution as herein provided or that such person be released. If the recommendation of the superintendent is for admission he shall specify the type of treatment indicated, the type of institution to which admission should be made and a prognosis of physical and mental ailments. Such determination shall be made by the court or by a jury as hereinafter provided only after the aforesaid certification including recommendation of the superintendent of the diagnostic and treatment center has been certified to the court which shall then become a matter of record. All the proceedings relating to diagnostic hearings and care and intensive treatment shall also apply to persons so addicted to the excessive use of intoxicating liquors, or narcotics or noxious drugs, as to be in need of medical and sanitary treatment and care. If the court shall deem it necessary, or if such alleged mentally diseased person, or any relative, or any person with whom he may reside, or at whose house he may be, shall so demand, a jury of 6 shall be summoned to determine the question of such alleged mental disease and shall be selected in accordance with sections 1301 to 1354 of Act No. 236 of the Public Acts of 1961, as amended, being sections 600.1301 to 600.1354 of the Compiled Laws of 1948. With respect to jurors any examination, challenge, replacement, oath or other practice which is not governed by the provisions of sections 1301 to 1354 of Act No. 236 of the Public Acts of 1961, as amended, shall be governed by rules adopted by the supreme court. Pending such proceedings for admission into the proper home, hospital or institution, if it shall appear, upon the certificate of 2 legally qualified physicians, who need not be appointed by the probate court and who may be attending physicians in any institution to which it is proposed to admit such mentally diseased person, to be necessary and essential so to do, the court may order such alleged mentally diseased person to be placed in the custody of some suitable person, or to be removed to any hospital, home or retreat, to be detained until such petition can be heard and determined or to be removed to any state hospital for the mentally diseased or licensed hospital for custody and treatment. The period of such temporary detention shall not exceed 60 days, which period may be extended up to an additional 60 days by special order of the court upon request of such alleged mentally diseased person, or of his father, mother, husband or wife, or of his child or other next of kin, if of full age, or of the superintendent of any hospital to which such person was removed by order of the court. Such alleged mentally diseased person shall have the right to be present at such hearing, unless it shall be made to appear to the court, either by the certificate of the medical superintendent in charge of such hospital, home or retreat to which he may have been temporarily admitted, or by the certificate of 2 reputable physicians, that his condition is such as to render his removal for that purpose, or his appearing at such hearing improper and unsafe. If such person shall be found and adjudged to be mentally ill, mentally handicapped or epileptic, the court may issue an order for his admission to the proper hospital, home or institution or, when eligible, to the United States veterans' bureau hospital at Fort Custer for his care and treatment. If such person so found and adjudged mentally diseased shall have been placed in the custody of some suitable person, removed to and admitted to any hospital, home, retreat, or other suitable place of detention, for a period of temporary detention, as hereinbefore provided, under sections 9 and 11, the court shall, in issuing the permanent order for admission to the proper hospital, home,

or institution for his care and treatment, also include in this order provision for the person's continued detention in the custody of the suitable person, hospital, home, retreat, or other place of detention, to which he had previously been temporarily confined, until such time as room can be made for the person's admission, as hereinafter provided, into the proper hospital, home, or institution for care and treatment to which the person has been (under this paragraph) ordered to be admitted. In case the admission of such mentally diseased person is ordered as a patient after the effective date of this act, then the county of which such person is a resident shall be liable to the state for the care and maintenance of such patient for 1 year. The liability of the county of residence of such patient shall commence as of the date such person is detained under the final order of commitment by the probate court in any hospital, home, retreat, or other suitable place of detention except as otherwise provided by law. When a person is temporarily committed to a regional diagnostic and treatment center under the provisions of this act, or temporarily detained in a private mental institution licensed by the state department of mental health pursuant to a final order by the probate court as provided in this act, the period of such temporary commitment shall be credited to the 1-year period of care for which the county is liable. A county shall not be liable for the care and maintenance of any mentally diseased person for more than a total of 1 year during the lifetime of such a person. The superintendent of the Wayne County General Hospital or any hospital for the mentally ill to which a person is finally admitted as a mentally ill person shall certify to the commissioner of revenue of the state the names of those patients finally admitted on and after July 1, 1957, whose principal incapacitation consists of a physical infirmity and who might properly be cared for in a county infirmary, convalescent home or nursing home. The counties of settlement of such persons shall be liable for the care and maintenance of such persons so long as they shall remain in a state institution.

If the relatives or friends of such mentally diseased person shall so request, or if on investigation at the time of the order for care, custody and treatment or at any time subsequent thereto, it shall appear that such mentally diseased person has means of property sufficient for the payment of his care and maintenance, or if those persons legally liable under this act for the care and maintenance of such mentally diseased person, have sufficient means for that purpose, the court shall order his admission as a full-pay patient, or partial-pay patient, to any hospital, home or institution for the care or treatment of the mentally ill, mentally handicapped or epileptic in this state, and shall specify the amount which the estate of such mentally diseased person, or those persons personally liable for the care and maintenance of such mentally diseased person shall pay for care and maintenance of such mentally diseased person in such state institution, and the amount so stated shall be subject to collection the same as any other moneys due the state are collected. The patient or his estate, children of over 21 years of age, spouse and the natural parents or legally adoptive parents of a child, being of sufficient ability, shall jointly and severally be liable for the care and maintenance of any patient. No divorce shall operate to relieve the spouse of a patient from this liability for such care and maintenance, unless the court shall specifically so order.

HISTORY: Am. 1925, p. 407, Act 283, Eff. Aug. 27;—CL 1929, 6888;—Am. 1937, p. 156, Act 104, Imd. Eff. July 1;—Am. 1941, p. 515, Act 290, Eff. Jan. 10, 1942;—Am. 1943, p. 463, Act 250, Eff. July 1;—Am. 1947, p. 139, Act 106, Eff. Oct. 11;—CL 1948, 330.21;—Am. 1949, p. 648, Act 313, Eff. Sep. 23;—Am. 1952, p. 172, Act 148, Imd. Eff. Apr. 24;—Am. 1954, p. 524, Act 208, Eff. Aug. 13;—Am. 1956, p. 299, Act 159, Eff. Jan. 1, 1957;—Am. 1957, p. 615, Act 313, Imd. Eff. Jul. 3;—Am. 1960, p. 131, Act 117, Eff. Aug. 17;—Am. 1963, p. 54, Act 52, Eff. Sep. 6;—Am. 1966, p. 74, Act 50, Eff. Mar. 10, 1967;—Am. 1969, p. 203, Act 110, Imd. Eff. Jul. 24;—Am. 1970, p. 158, Act 69, Imd. Eff. Jul. 12;—Am. 1970, p. 568, Act 210, Imd. Eff. Sep. 16.

This section as originally enacted, superseded, with additions, and merged parts of Sec. 16 of Act 217 of 1903, as Am. 1909, p. 185, Act 100, Eff. Sept. 1;—As Am. 1913, p. 118, Act 80, Eff. Aug. 14;—As Am. 1915, p. 167, Act 97, Eff. Aug. 24, being CL 1915, 1325; and Sec. 15 of Act 101 of 1909, as Am. 1913, p. 43, Act 29, Eff. Aug. 14, being CL 1915, 1547;—As Am. 1921, p. 235, Act 109, Eff. Aug. 18; and Sec. 23 of Act 173 of 1913, being CL 1915, 1601;—and, in part, Sec. 22 of Act 173 of 1913, being CL 1915, 1600.

NOTE: Sec. 2, Act 146, 1925, above referred to, is Compilers' § 401.2.

JURORS: Selection in condemnation proceedings by railroads, see Compilers' § 464.20.

CITED IN OTHER SECTIONS: The above section is cited in §§ 330.423, 330.652, 767.27a, and 767.27c.

330.21b Commissioner of revenue; public guardian, powers and duties.

Sec. 11b. Except as is otherwise provided herein the commissioner of revenue shall ex officio be the public guardian of every patient admitted to an institution until he is discharged therefrom.

The commissioner of revenue as such public guardian of any such patient shall have and may exercise all of the rights and powers with regard to the estate of the patient that such patient would have if of full age and of sound and disposing mind.

The powers of the public guardian of the estate of a patient may be exercised,

- (a) Notwithstanding the patient being released upon probation;
- (b) To carry out and complete any transaction entered into by the patient before he or she became a patient in an institution;
- (c) To carry out and complete any transaction entered into by the guardian of the estate of any patient notwithstanding that the patient may have been discharged or may have died after the transaction was commenced.

The acts of the public guardian shall not be rendered invalid by the making of an order appointing a guardian of the estate of any patient.

If some person has been appointed the guardian of the estate of any patient, the probate court of the county where the order for the commitment of such patient was made may at any time upon the application of the public guardian discharge said guardian from said trust and the public guardian shall serve in the capacity of said guardian and may exercise all the rights and powers conferred upon him by this act with regard to the management of the patients' estates: Provided, however, That a guardian shall not be replaced by said public guardian except upon a showing that said guardian has had funds in his hands belonging to said estate and has failed to use the same in providing for the maintenance of the patient of whose estate he is the guardian or has mismanaged the properties of said estate.

Upon the death of any patient the public guardian may until probate of the will or letters of administration to the estate of such patient is granted to some other person and notice is given to the public guardian, continue to manage the estate and may exercise with respect thereto the powers which an executor would have if the property were devised or bequeathed to him in trust for payment of the debts and distribution of the residue.

The public guardian shall be liable to render an account, if requested by the probate court or any relative of the patient but not more than once annually, as to the manner in which he has managed the property and effects of the patient in the same way and subject to the same responsibility as any trustee or guardian, but he shall not be allowed to tax costs or receive fees for his doings. The public guardian shall be personally liable only for wilful misconduct.

When a person discharged from an institution may not in the opinion of the public guardian based upon the report of the superintendent of such institution be competent to manage his or her affairs and the public guardian has in his hands property of such person, he may apply to the probate court where the commitment was made for directions as to the disposal of the property, and the court may give such orders and directions in the premises as it may deem just.

If there is any money in court to the credit of a patient the same shall be paid out to the public guardian upon his written application, and it shall not be necessary to obtain an order of the court for such purpose.

The public guardian shall, out of the money in his hands belonging to a patient, pay the proper charges for his or her maintenance in the institution in which he is a patient, and he may also pay such sums as he may deem advisable to the family of such patient or other person dependent upon him by law.

When an action or proceeding is brought by or on behalf of or taken against any patient in an institution, the writ or other document by which the proceedings are commenced and any other document requiring personal service shall be served upon the public guardian or any deputy in his office with a written statement of the institution in which the patient is detained besides the other persons on whom service is required by law.

It shall not be necessary to obtain an order of the probate court for the appointment of the public guardian but such appointment shall be absolute 3 months after the commitment order shall have been made by the probate court for the patient of any institution providing the court has not theretofore appointed a guardian and the public guardian has filed an application for the appointment of himself as said guardian. For good cause only the probate court may appoint any person to act as such guardian in the place and stead of the public guardian.

At the request of the public guardian every guardian of the estate of any patient shall turn over to him all papers, instruments, documents, evidences of accounts and indebtedness in said guardian's possession or under his control which refer to the patient, his estate, or the doings of said guardian in respect to said patient's estate, upon the appointment of said public guardian as guardian of said patient's estate.

HISTORY: Add. 1941, p. 517, Act 299, Eff. Jan. 10, 1942;—CL 1948, 330.21b.

There is no Sec. 11a of this act.

CONSTITUTIONALITY: Attorney general ruled Sec. 11b unconstitutional, see No. 0-953, August 2, 1943.

330.21c County of settlement; reimbursement, files; committing county.

Sec. 11c. The county of settlement of the committed mentally ill person shall have the same right for the first year of commitment to reimbursement from the estate of the committed person and his legally liable relatives and in the same manner as the state is permitted to have reimbursement. Any pertinent facts which a county has received, at the expiration of the first year, shall be transmitted to the state department of revenue to become a part of the reimbursement file of the patient. The committing county shall not receive reimbursement in any other manner than herein provided but the state in its reimbursing processes shall credit the county such moneys for reimbursement which the state collects during the county's first year liability.

HISTORY: Add. 1981, p. 137, Act 114, Eff. Sep. 8.

CITED IN OTHER SECTIONS: The above section is cited in § 330.653.

330.21d Removal of patients to regional diagnostic and treatment centers; liquor and narcotic addicts.

Sec. 11d. The provisions of section 11 of this act for removal of mentally diseased persons to regional diagnostic and treatment centers for diagnosis, care and intensive treatment shall also be applicable to persons alleged to be addicted to intoxicating liquors, narcotics or noxious drugs.

HISTORY: Add. 1983, p. 105, Act 94, Eff. Sep. 6.

330.22 Transfer of patient to hospital; guardian, appointment, bond, rights, duties.

Sec. 12. The court may appoint a proper person or persons to take such mentally diseased person to the hospital, institution, home or retreat, who shall each receive as pay for such services the sum of \$3.00 a day, together with his necessary expenses. The court, upon making such order for admission into such institution, if, in his judgment, a guardian of such mentally diseased person is needed before a guardian of his or her person and estate can be regularly appointed, may, by a separate order and without further notice, appoint summarily a guardian of the person and estate of such mentally diseased person, which guardianship of the person and estate shall continue only until a guardian of his person and estate shall be regularly appointed. Such guardian shall give a bond in such sum as may be directed by the court, and with sureties to be ap-

proved by the court. The guardian shall have the same rights and be subject to the same duties with respect to the person and estate of his ward as guardians of incompetent or mentally ill persons have by law, except that he shall not interfere with the admission and detention of such mentally diseased person pursuant to the order for admission.

HISTORY: CL 1929, 6889;—CL 1948, 330.22;—Am. 1949, p. 650, Act 313, Eff. Sep. 23.

This section supersedes and merges parts of Sec. 16 of Act 217 of 1903, as Am. 1909, p. 185, Act 100, Eff. Sept. 1;—As Am. 1913, p. 118, Act 80, Eff. Aug. 14;—As Am. 1915, p. 167, Act 97, Eff. Aug. 24, being CL 1915, 1325; and Sec. 15 of Act 101 of 1909, as Am. 1913, p. 43, Act 29, Eff. Aug. 14, being CL 1915, 1547;—As Am. 1921, p. 235, Act 109, Eff. Aug. 18.

330.23 Order for admission of patient; form.

Sec. 13. The order for admission shall be substantially in the following form:

State of Michigan,

The probate court of the county of

At a session of said court, held at the probate office in the of in said county, on the day of A.D.

Present Hon. Judge of Probate.

In the matter of (mentally ill, feeble-minded or epileptic).

..... having been appointed for hearing the petition of praying that said be admitted to the as a patient, and due notice of the hearing on said petition having been given as required by law and as directed by said court, the said petitioner appeared

It appearing that said person has estate available for support; that the relatives of said person who are legally liable for support have estate available for support in said institution to the extent of per cent of the amount set by the department of mental health for maintenance of patients, and

It appearing to the court upon filing the certificates of 2 legally qualified physicians, and after a full investigation of said matter, with the verdict of a jury that said is (mentally ill, feeble-minded or epileptic) and a fit person for care and treatment in said institution, and that should be admitted to said institution as a patient.

It is ordered, that said be admitted to said institution as a patient.

It is further ordered, that said be and is ordered to pay per cent of the amount set by the department of mental health for the maintenance of said in said institution.

It is further ordered, that be and is hereby authorized and directed to remove said to said institution, with full power and authority for that purpose.

Nothing in the foregoing shall prohibit the collection by the state of the full amount set by law for maintenance of a patient in a state institution if it shall be made to appear subsequent to the issuance of this order that the patient, or those legally liable is so able to pay.

.....
Judge of Probate

HISTORY: CL 1929, 6990;—Am. 1937, p. 158, Act 104, Imd. Eff. July 1;—Am. 1941, p. 519, Act 299, Eff. Jan. 10, 1942;—CL 1948, 330.23—Am. 1949, p. 650, Act 313, Eff. Sep. 23.

This section as originally enacted superseded, with additions, and merged part of Sec. 16 of Act 217 of 1903, as Am. 1909, p. 185, Act 100, Eff. Sept. 1;—As Am. 1913, p. 118, Act 80, Eff. Aug. 14;—As Am. 1915, p. 167, Act 97, Eff. Aug. 24, being CL 1915, 1325; and Sec. 25 of Act 173 of 1913, being CL 1915, 1603; and, in part, part of Sec. 15 of Act 101 of 1909, as Am. 1913, p. 43, Act 29, Eff. Aug. 14, being CL 1915, 1547;—As Am. 1921, p. 235, Act 109, Eff. Aug. 18.

CITED IN OTHER SECTIONS: The above section is cited in § 330.652.

330.24 Admission certificate; certified copy to superintendent, lapse of time.

Sec. 14. After said order for admission has been regularly made and entered as provided herein, the judge of probate shall mail a certified copy of such order to the medical superintendent of the institution to which the patient has been committed, and upon receipt of such order the said medical superintendent shall, as soon as there is room for such patient at such institution, notify the judge of probate of that fact, whereupon the judge of probate shall cause the patient to be transported to said institution for admission thereto: Provided, That no person shall be admitted to any such institution under such order after the expiration of 20 days from and including the date of receipt of such notice by the judge of probate: Provided further, That no person shall be admitted to any such institution under such order after the expiration of 1 year from and including the date of such order, unless the probate court shall issue a new order for said commitment based on such information as the court may require.

HISTORY: CL 1929, 6891;—Am. 1937, p. 159, Act 104, Imd. Eff. July 1;—CL 1948, 330.24. This section as originally enacted, re-enacted part of Sec. 16 of Act 217 of 1903, as Am. 1909, p. 185, Act 100, Eff. Sept. 1;—As Am. 1913, p. 118, Act 80, Eff. Aug. 14;—As Am. 1915, p. 167, Act 97, Eff. Aug. 24, being CL 1915, 1325.

330.25 Expenses of state institutions; payment by state.

Sec. 15. The state shall pay all the expense incurred by any of such state institutions in the care, maintenance, custody and treatment of any feeble-minded, mentally ill, epileptic or mentally diseased person admitted to any institution named in section 1 of this act except as herein otherwise provided.

HISTORY: CL 1929, 6892;—CL 1948, 330.25;—Am. 1949, p. 651, Act 313, Eff. Sep. 23.

This section supersedes, with additions, and merges parts of Secs. 17 and 28 of Act 217 of 1903, being CL 1915, 1326 and 1337; and Sec. 21 of Act 124 of 1893, being CL 1897, 1974;—CL 1915, 1426; and Sec. 16 of Act 101 of 1909, being CL 1915, 1548. See Secs. 22, 23, 24, and 25 of Act 124 of 1893, being CL 1897, 1975, 1976, 1977, 1978;—CL 1915, 1427, 1428, 1429, 1430; and Sec. 27 of Act 124 of 1893, being CL 1897, 1980;—As Am. 1899, p. 119, Act 81, Imd. Eff. May 25;—CL 1915, 1432; and Sec. 41 of Act 101 of 1909, being CL 1915, 1573; and Sec. 26 of Act 173 of 1913, being CL 1915, 1604.

330.26 Order for admission; certified copy to institution; reimbursement proceedings, investigation.

Sec. 16. Upon making the order for admission of a patient, the probate court shall forthwith deliver a certified copy thereof to the medical superintendent of the institution to which the patient has been committed, and to the commissioner of revenue of the state, and shall at that time give such other information as may be required. The prosecuting attorney, if requested by the commissioner of revenue, is charged with the duty of appearing for and representing the state in all proceedings to reimburse it for the expenses which it may pay for a patient, and to subject the estate of such mentally diseased person and his relatives who are legally liable for his support, to the payment of such expenses and cost of maintenance.

On the request of the probate judge, prosecuting attorney, commissioner of revenue, the county departments of public welfare shall investigate the ability of such mentally diseased person, and his relatives who are legally liable for his support, to pay expenses, and shall make a report of any such investigation to the person requesting the same.

HISTORY: CL 1929, 6893;—Am. 1937, p. 159, Act 104, Imd. Eff. July 1;—Am. 1941, p. 519, Act 299, Eff. Jan. 10, 1942;—CL 1948, 330.26. This section as originally enacted superseded, with additions, and merged Sec. 16 of Act 217 of 1903, being CL 1915, 1327; and Sec. 32 of Act 124 of 1893, as Add. 1919, p. 442, Act 250, Eff. Aug. 14; and, with additions, part of Sec. 17 of Act 101 of 1909, being CL 1915, 1549.

330.27 Reimbursement proceedings to subject estate of patient to payment of expenses; setting aside of conveyances by person liable for expenses.

Sec. 17. When such mentally diseased person has been admitted to any of the state institutions named in this act, as a patient, the commissioner of revenue or at its request the prosecuting attorney of the county in which the order for admission was made shall, if such person be possessed of any estate, or shall thereafter, while he shall

remain such patient, become possessed thereof, petition the probate court of said county in his name as prosecuting attorney, stating that such person is mentally diseased and has been admitted to a state institution as a patient, and that he has good reason to believe, and does believe, that he has an estate, and praying for the appointment of a guardian of such mentally diseased person, if one has not already been appointed, and that said estate may be subjected to the payment to the state of the expenses paid and to be paid by it on behalf of said person as a patient. The court shall thereupon issue a citation to show cause why the prayer of the petition should not be granted. If such mentally diseased person has a guardian, the citation shall be served on him. If he has no guardian, it shall be served on such mentally diseased person and also upon his father, mother, husband, wife or some one of his next of kin, if any are known and can be found. The citation shall be served at least 14 days before the day of hearing, and may be served in any part of the state, in the manner provided by the rules of the probate court. The court may appoint a guardian ad litem of such mentally diseased person. At the time of the hearing, if it appear that such mentally diseased person has an estate which ought to be subjected to the claim of the state, the court shall, without further notice, appoint a guardian of the person and estate of such mentally diseased person if he has no such guardian, and the court shall make an order requiring said guardian to appropriate and apply such estate to the payment of so much or such part thereof as may appear to be proper toward reimbursing the state for the expenses thereto incurred by it on behalf of such mentally diseased person, and such part thereof towards reimbursing the state for the future expenses which it may pay on his behalf, as may to the court appear to be just and equitable, regard being had to the claims of persons having a moral or legal right to maintenance out of the estate of such mentally diseased person. If such guardian shall neglect or refuse to comply with such order, the court shall cite him to appear before the court at such time as it may direct, and show cause why he should not be removed, and to render an account of all money or property in his hands as such guardian, and on his continued failure to comply with said order, or to appear or render such account, the court may remove him and appoint some other suitable person in his place. As an additional remedy, the prosecuting attorney may enforce payment of the sums provided in the original order, by a proper action in the name of the state. If, in the opinion of the court, the estate of such mentally diseased person is sufficient to pay the costs of these proceedings, the guardian shall be ordered to pay the same. In all other cases a certified copy of the taxed bill of costs shall be furnished to the county treasurer. The county treasurer shall pay the same to the persons entitled thereto. The proceedings provided for by this section may be begun at any time either before or after commitment, and recovery thereunder may be had for the expenses incurred on behalf of such mentally diseased person during the entire period or periods such mentally diseased person has been a patient in said hospital, home or institution and the court may order payments to be made in the future during the confinement of said patient in the institution at the rate established by said institution and the commission in accordance with the provisions herein. All of the remedies provided in this section may be enforced by the commissioner of revenue.

Every conveyance of any estate or interest in lands or the rents and profits thereof and the transfer of any personal property without consideration or wherein the consideration thereof was inadequate made by any person legally liable under this act for the care and maintenance of any patient during the time that he was a patient in an institution hereunder shall be void as against the state, the absence of any order of the probate court determining such liability notwithstanding.

The circuit court is hereby granted jurisdiction to set aside any such conveyances above mentioned, and may decree a lien upon the lands or property conveyed or

transferred upon petition of the commissioner of revenue. Said petition may be filed with the circuit court for any county wherein the transferor resides or where the property transferred was situated. Notice of said petition and the hearing thereon shall be served on both the transferor and transferee in any county in the state by personal service or by registered mail with return receipt demanded and addressed to said persons at the last known address of said persons.

HISTORY: CL 1929, 6894;—Am. 1941, p. 520, Act 299, Eff. Jan. 10, 1942;—CL 1948, 330.27. This section as originally enacted superseded, with additions, and merged Sec. 19 of Act 217 of 1903, being CL 1915, 1328;—As Am. 1921, p. 248, Act 116, Eff. Aug. 18; and Sec. 33 of Act 124 of 1893, as Add. 1919, p. 442, Act 250, Eff. Aug. 14; and, with additions, parts of Sec. 17 of Act 101 of 1909, being CL 1915, 1549; and Sec. 25 of Act 173 of 1913, being CL 1915, 1603.

330.28 Liability of relatives for support; enforcement.

Sec. 18. (a) If a patient is an indigent person and has relatives who are legally liable for his support, the commissioner of revenue or at his request the prosecuting attorney of the county in which the order of admission was made shall petition the probate court of said county, stating that such mentally diseased person has been ordered admitted to a state institution as a public patient, or partial-pay patient, that he is an indigent person and that he has relatives, naming them, who are legally liable for his support, and praying that said relatives may be adjudged to reimburse the state for the expenses paid and to be paid by it in his behalf or such portion thereof as may appear to the court to be just and equitable. The court shall thereupon issue a citation to said relatives, to show cause why the prayer of the petition should not be granted. The citation shall be served at least 14 days before the day of hearing, and may be served in any part of the state. If it shall appear to said court on said hearing that such mentally diseased person is indigent, and that he has relatives who are parties to said proceedings, who are legally liable for his support and who are able to contribute thereto, he shall make an order requiring the payment by such relatives of such sum or sums as he may find they are reasonably able to pay, not exceeding, however, the cost to the state of maintaining said patient. Said order shall require the payment of such sums to the commissioner of revenue to be made monthly or bi-monthly as the court may direct. The court shall furnish the commissioner of revenue with a certified copy of such order, and it shall be the duty of the commissioner of revenue to collect the sums therein named and to turn the same into the state treasury, so long as such mentally diseased person is a patient. If such relatives so ordered to pay shall neglect or refuse so to do, the commissioner of revenue or 1 of his deputies or duly appointed agents may file an affidavit in said matter in the probate court in which said order was entered, stating therein the amount that said person or persons are delinquent in paying and thereupon the court shall forthwith issue an execution in the amount so stated and the same shall be directed to any sheriff or constable of any county in the state or the commissioner of Michigan state police. The sheriff or other officer to whom such execution shall be directed shall proceed upon the same in all respects, as near as may be, and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record and shall be entitled to the same fees for his services in executing the same. The state through its commissioner of revenue or some agent designated by him is hereby authorized to bid for and purchase any property sold under the provisions hereof.

(b) In addition to the within means of collection the commissioner of revenue may bring an action at law in the county in which the persons named in said order reside and recover the amount of payments which said persons are delinquent in paying under said order.

HISTORY: CL 1929, 6895;—Am. 1937, p. 159, Act 104, Imd. Eff. July 1;—Am. 1941, p. 521, Act 299, Eff. Jan. 10, 1942;—CL 1948, 330.28.

This section as originally enacted superseded, with additions, and merged Sec. 20 of Act 217 of 1903, as Am. 1913, p. 32, Act 19, Eff. Aug. 14, being CL 1915, 1329;—As Am. 1921, p. 249, Act 116, Eff. Aug. 18; and Sec. 34 of Act 124 of 1893, as Add. 1919, p. 443, Act 250, Eff. Aug. 14; and with additions, part of Sec. 18 of Act 101 of 1909, being CL 1915, 1550;—As Am. 1921, p. 238, Act 109, Eff. Aug. 18.

CITED IN OTHER SECTIONS: The above section is cited in § 330.652.

330.28a Reimbursement proceedings for expenses of persons in institutions.

Sec. 18a. The attorney general, or at his request a prosecuting attorney, may, in the name and on behalf of the people of the state of Michigan, commence an action against a person discovered to have real or personal property or against the estate or the executors, administrators or successors in interest of a person who dies leaving real or personal property if such person, or any person for whose support he is or was responsible, received care, maintenance or treatment in an institution, school, home or retreat, under the provisions of this act, and shall be entitled to recover up to the value of such property the charge for such care, maintenance or treatment, regardless of the fact that the extent of such liability and responsibility had not theretofore been determined by a probate court.

HISTORY: Add. 1939, p. 749, Act 308, Imd. Eff. Jun. 22;—CL 1948, 330.28a;—Am. 1949, p. 651, Act 313, Eff. Sep. 23.
CITED IN OTHER SECTIONS: The above section is cited in § 330.652.

330.29 Petition for change of order of contribution; costs, proceedings.

Sec. 19. If any person so ordered to contribute to the support of such mentally diseased person shall at any time be unable to pay the sum so ordered, such person may petition the probate court, setting forth the facts; upon the filing of such petition the court shall appoint a day of hearing thereon, and notice of such hearing shall be served on the attorney general not less than 14 days before the day of the hearing. If the court is satisfied that such person is no longer able to contribute such sum, it may make an order vacating or modifying the original order, and a certified copy of the order so made shall be furnished to the auditor general. The costs of these proceedings shall be paid in the manner provided in the preceding section. The proceedings provided for by this section may be begun at any time before the final discharge of said patient from said state institution, and not afterwards; and recovery thereunder may be had for the expenses incurred on behalf of such mentally diseased person during the entire period or periods such mentally diseased person has been a patient in said state institution.

HISTORY: CL 1929, 6896;—CL 1948, 330.29.

This section supersedes and merges parts of Sec. 20 of Act 217 of 1903, as Am. 1913, p. 32, Act 19, Eff. Aug. 14, being CL 1915, 1329;—As Am. 1921, p. 249, Act 116, Eff. Aug. 18; and Sec. 35 of Act 124 of 1893, as Add. 1919, p. 444, Act 250, Eff. Aug. 14; and, with additions, part of Sec. 18 of Act 101 of 1909, being CL 1915, 1550;—As Am. 1921, p. 238, Act 109, Eff. Aug. 18.

CITED IN OTHER SECTIONS: The above section is cited in § 330.652.

330.30 Michigan soldiers' home inmates; admission to hospital, status, expenses.

Sec. 20. If any member of the Michigan soldiers' home shall be adjudged insane, in pursuance of this act, he may be ordered admitted to 1 of said hospitals for the insane as a public patient. He shall not thereby lose his connection with the said Michigan soldiers' home, and the proper officers of said soldiers' home shall claim from the general government any proportion of the cost of maintaining such insane inmate to which said soldiers' home is entitled by law. The expenses of the examination and transportation of such insane inmate to such hospital shall be paid by the state.

HISTORY: CL 1929, 6897;—CL 1948, 330.30.

This section supersedes Sec. 23 of Act 217 of 1903, being CL 1915, 1332.

330.31 Industrial school inmates; adjudication of mental illness, admission, return on recovery, expenses.

Sec. 21. Whenever the superintendent of the boys' vocational school, the girls' training school, the Michigan children's institute, or any other charitable institution supported by the state, shall certify to the probate court of the county in which such school, home or institution is situated, that in his opinion any inmate thereof is or has become mentally ill, feeble-minded or epileptic, such court shall immediately fully investigate the facts in the case. It shall cause such inmate to be personally examined by

2 reputable physicians to be appointed by the court, who shall have the qualifications hereinbefore prescribed, and in its discretion shall call such other credible witnesses as it may deem needful, and it shall have power to compel attendance of witnesses. If such inmate shall be found and adjudged to be mentally ill, feeble-minded or epileptic, the court shall immediately issue an order for his admission as a public patient to the proper state hospital, home or institution. Whenever any such patient shall have been restored to his normal condition, the medical superintendent of the institution to which he was admitted shall so certify in writing to the superintendent of said school, home, or institution, who shall forthwith, on receiving such certificate, send for and receive back such inmate into said school, home or institution. The expense of such examination and proceedings, and of removing said inmate to and from such institution shall be paid by the state on the certificate of the probate court, medical superintendent of the institution, superintendent of the school, home or institution having knowledge of the facts.

HISTORY: CL 1929, 6898;—CL 1948, 330.31;—Am. 1949, p. 651, Act 313, Eff. Sep. 23.

This section supersedes, with additions and merges Sec. 24 of Act 217 of 1903, being CL 1915, 1333, and Sec. 21 of Act 101 of 1909, being CL 1915, 1553.

CHANGE IN NAMES: Industrial school for boys has been changed to the boys' vocational school; state industrial home for girls to the girls' training school. See Compilers' §§ 803.101 and 804.101 respectively.

330.32 Private institutions; commitment procedure, expenses.

Sec. 22. Whenever any person alleged to be mentally ill, feeble-minded or epileptic, shall be received in any private institution, hospital, home or retreat, for the care and treatment of mental diseases, the probate court of the county in which said institution, hospital, home or retreat is located, is authorized and required, on application being made to him by an officer of such institution, hospital, home or retreat, as provided by law, to appoint medical examiners, institute an inquest and proceed in such cases as provided in said last named section. If such person shall be found and adjudged to be mentally ill, the court may issue an order for his admission as a private patient to such institution, hospital, home or retreat. The expense of such examination and inquest shall be defrayed by the institution, hospital, home or retreat in which such person has been temporarily received.

HISTORY: CL 1929, 6899;—Am. 1937, p. 160, Act 104, Imd. Eff. Jul. 1;—CL 1948, 330.32;—Am. 1949, p. 651, Act 313, Eff. Sep. 23.

This section as originally enacted superseded with additions, Sec. 26 of Act 217 of 1903, being CL 1915, 1335.

330.33 State institutions; care of residents and nonresidents, admission authorization, commitment petitions.

Sec. 23. The hospitals, homes and institutions named in this act are intended for the benefit of the bona fide residents of the state. A mentally diseased person having a legal settlement in this state is entitled to care in the state hospitals when legally admitted thereto. The department may authorize the direct admission to a hospital under its jurisdiction of a mentally diseased person who has been committed to a state operated hospital in another state where the person has been found to possess legal settlement in a county in this state, or where the person is being returned to this state under the provisions of the interstate compact on mental health. The authorization to admit the patient shall be directed to the medical superintendent of the proper hospital and constitutes sufficient authority to detain the patient in the hospital for 20 days. The medical superintendent upon receiving the patient shall immediately petition the probate court of the county where the hospital is located for an order directing the admission of the person to the proper hospital. Proceedings for the commitment of the patient shall follow the provisions of section 11.

Legal settlement; hospitalization of patient.

When the medical superintendent finds in his hospital a patient who is believed to have no legal settlement within this state, he shall immediately notify the department of such fact. The department shall investigate the question of legal settlement and re-

turn the patient to the state or country where, according to the laws thereof, he is a legal resident. If for any reason, the department deems it impractical to return the patient to his place of legal settlement, or if return is not in accordance with the provisions of the interstate compact on mental health, such fact shall be certified in writing. Such patient shall be entitled to hospitalization in this state until return to the other state is practicable or in accordance with the compact.

Arbitration of questions between states; rules and regulations; audit of expenses of patient removal.

The department may enter into agreements with authorities of other states for the arbitration of disputed questions between such states and this state respecting the residence of mentally diseased persons and for the return of mentally diseased persons to their place of legal settlement. All rules and regulations promulgated by the compact administrator shall be in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The actual and necessary expenses of such removal shall be audited by the board of state auditors and paid from the general fund in the state treasury upon vouchers certifying to the circumstances of such removal and showing in detail the expenses thereof.

HISTORY: CL 1929, 6900;—CL 1948, 330.33;—Am. 1965, p. 465, Act 271, Imd. Eff. Jul. 21.

This section supersedes, with additions, and merges Sec. 30 of Act 217 of 1903, being CL 1915, 1339; and Sec. 22 of Act 101 of 1909, being CL 1915, 1554. See Sec. 13 of Act 101 of 1909, being CL 1915, 1545;—As Am. 1917, p. 4, Act 2, Imd. Eff. March 15.

330.34 Recapture of escaped patients; rewards, expenses, protection of peace officer.

Sec. 24. If a patient shall escape, the medical superintendent shall take all proper measures for his apprehension, and he may offer a reasonable reward therefor. The expense of the recapture of a private patient shall be paid by the person responsible to the state for his care and maintenance, and of a public patient shall be paid by the state. Every such escaped patient shall be subject at any time to be taken back within the enclosure of the hospital from which he has escaped, and full power to retake and return any such escaped patient to the hospital from which he has escaped is hereby expressly conferred upon the medical superintendent of such hospital whose written order shall be a sufficient warrant commanding all peace officers to take into custody and to hold him for officers or agents of said hospital or the sheriff or his deputy. It shall be the duty of the sheriff, upon the request of any peace officer who has taken into custody any such escaped patient, to receive and confine in the county jail such escaped patient until he is returned to the institution from which he escaped by the sheriff or his deputies or agents of the institution, in accordance with the directions and orders of the superintendent of such institution. Said written order or warrant shall describe, with reasonable certainty, the person or persons to be apprehended and shall, in a general way, indicate the abnormal or insane tendencies possessed by the person to be apprehended. In case of escaped female patients, a matron shall accompany the sheriff, or agent of the institution, and the patient to the hospital designated in such warrant. No peace officer shall incur any civil liability by reason of his executing any such warrant: Provided, That he exercise reasonable care and diligence in the premises.

HISTORY: CL 1929, 6901;—Am. 1937, p. 160, Act 104, Imd. Eff. July 1;—Am. 1941, p. 555, Act 321, Eff. Jan. 10, 1942;—CL 1948, 330.34. This section as originally enacted superseded and merged Sec. 31 of Act 217 of 1903, being CL 1915, 1340; and in part, part of Sec. 30 of Act 124 of 1893, as Am. 1895, p. 244, Act 119, Eff. Aug. 30, being CL 1897, 1983;—CL 1915, 1435; and part of Sec. 23 of Act 101 of 1909, as Am. 1913, p. 46, Act 29, Eff. Aug. 14;—CL 1915, 1555.

330.35 Discharge of patients.

Sec. 25. The medical superintendent shall discharge any patient in the following cases:

(1) A patient who has been on convalescent status for such period of time as the medical superintendent shall specify. Any patient aggrieved by the term specified for convalescent status may appeal the decision of the medical superintendent to the probate court of the county of residence.

(2) Any patient whose temporary order shall have expired and for whom no permanent order has been issued.

(3) Any patient who has been legally transferred to another state or legally deported to another country.

(4) A patient cared for by an institution as mentally ill, feeble-minded or epileptic and who in the opinion of the medical superintendent is not mentally ill, feeble-minded nor epileptic.

(5) Any patient who shall have been adjudged sound of mind and recovered from mental illness or otherwise ordered released by a court of competent jurisdiction. The court must in all cases of patients on convalescent status from an institution notify the medical superintendent and grant him an opportunity for a hearing before adjudging such patient recovered from mental illness. If as the result of such a hearing the patient is adjudged recovered from mental illness, the court shall notify the medical superintendent of the institution from which the patient is on convalescent status. The foregoing provisions do not apply to patients in the Ionia state hospital who have been committed by a court of criminal jurisdiction.

Discharge of patient certified as unrecovered; security; notice to local police officers.

When the medical superintendent is unwilling to discharge an unrecovered patient upon request, and so certifies in writing, giving his reasons therefor, the probate court of the county from which the patient was admitted into the institution may, upon certificate, and an opportunity for hearing thereon being accorded the medical superintendent, and upon such other proofs as may be produced, direct, by order, to the medical superintendent, the discharge of such patient, upon such security to the people of the state as the court may require for the good behavior and maintenance of the patient. A certified copy of the order shall be delivered to the medical superintendent of the institution from which the patient is discharged. The medical superintendent of the Ionia state hospital shall notify the sheriff of the county of the patient's last known residence, and the chief of police of the city of such residence if the patient resided in a city, when a patient is discharged from such hospital.

HISTORY: CL 1929, 6902;—Am. 1937, p. 160, Act 104, Imd. Eff. July 1;—CL 1948, 330.35;—Am. 1949, p. 652, Act 313, Eff. Sep. 23;—Am. 1960, p. 147, Act 127, Eff. Aug. 17;—Am. 1964, p. 122, Act 127, Eff. Aug. 28;—Am. 1965, p. 165, Act 121, Imd. Eff. Jul. 8.

This section as originally enacted superseded with additions, and merged parts of Sec. 32 of Act 217 of 1903, as Am. 1915, p. 171, Act 97, Eff. Aug. 24, being CL 1915, 1341; and Sec. 24 of Act 101 of 1909, as Am. 1913, p. 46, Act 29, Eff. Aug. 14, being CL 1915, 1556; and Sec. 31 of Act 173 of 1913, as Am. 1915, p. 15, Act 9, Eff. Aug. 24, being CL 1915, 1609.

330.35a Mentally ill patient; discharge when not detrimental to self or public.

Sec. 25a. The medical superintendent may discharge any patient whose discharge in the judgment of the superintendent shall not be detrimental to the public nor the patient because of mental disease.

HISTORY: Add. 1937, p. 161, Act 104, Imd. Eff. Jul. 1;—CL 1948, 330.35a;—Am. 1965, p. 164, Act 120, Imd. Eff. Jul. 8.

330.35b Criminal sexual psychopath; parole, conditions; discharge, notice.

Sec. 25b. Any person committed by a criminal court as a criminal sexual psychopath under the provisions of Act No. 165 of the Public Acts of 1939, being sections 780.501 to 780.509 of the Compiled Laws of 1948, and confined in a state institution under the jurisdiction of the state department of mental health, may be placed on parole by the hospital superintendent with the approval of the department. No such person shall be paroled unless there are reasonable grounds to believe that the person has recovered

from such psychopathy and is not a menace to the safety of himself and others. Such person may be discharged by the hospital superintendent in accordance with this act, provided that no discharge shall be entered until such criminal sexual psychopathic person has been on parole in the open community for a continuous period of at least 2 years without recurrence of the criminal sexual psychopathic behavior which led to his original commitment. Prior to any such parole, release or discharge, the superintendent of the institution to which such person is committed or held, must first give written notice by certified mail to the prosecuting attorney and chief of police of the county from where such person was committed, and the prosecuting attorney and chief of police of the county to which such person will be released.

HISTORY: Add. 1908, p. 203, Act 143, Eff. Aug. 1.

330.36 Leave of absence; conditions, limitations.

Sec. 26. The medical superintendent may grant leave of absence to a patient under such conditions as may be prescribed by the department of mental health. This shall not affect the validity of the bond given for the support of any patient, nor shall such leave of absence in any way affect or modify the claim of the state for reimbursement for maintenance of such person. The medical superintendent may grant a leave of absence to any patient whose leave of absence in his judgment will not be detrimental to the public welfare, nor injurious to the patient. Before ordering such leave of absence, the medical superintendent shall if he does not deem it to be against the best interests of the patient give in person or send notice by mail to the relatives or guardian of such patient or to the department of social welfare of the county whence he came, and if such patient is not removed within 10 days thereafter, he may be returned to his home and relatives or to the county department of social welfare.

HISTORY: CL 1929, 6903;—Am. 1937, p. 161, Act 104, Imd. Eff. July 1;—CL 1948, 330.36;—Am. 1949, p. 652, Act 313, Eff. Sep. 23;—Am. 1968, p. 197, Act 175, Imd. Eff. Jul. 1.

This section as originally enacted superseded, with additions, and merged parts of Sec. 32 of Act 217 of 1903, as Am. 1915, p. 171, Act 97, Eff. Aug. 24, being CL 1915, 1341; and Sec. 24 of Act 101 of 1909, as Am. 1913, p. 46, Act 29, Eff. Aug. 14, being CL 1915, 1556; and Sec. 31 of Act 173 of 1913, as Am. 1915, p. 15, Act 9, Eff. Aug. 24, being CL 1915, 1609.

330.37 Readmission during leave of absence or convalescent status.

Sec. 27. A patient who has been granted leave of absence or convalescent status by the medical superintendent may, with the approval of the medical superintendent, be returned to the institution under the original order of admission at any time within the period of such leave of absence or convalescent status, but thereafter he shall only be readmitted upon a new adjudication and a new order for admission. If the patient has been discharged by order of any court, or has been found restored to soundness of mind as provided herein, he shall not again be admitted to the institution except upon a new adjudication and order for admission.

HISTORY: CL 1929, 6904;—Am. 1937, p. 161, Act 104, Imd. Eff. July 1;—CL 1948, 330.37;—Am. 1949, p. 652, Act 313, Eff. Sep. 23;—Am. 1960, p. 148, Act 127, Eff. Aug. 17;—Am. 1965, p. 274, Act 173, Imd. Eff. Jul. 15.

This section as originally enacted superseded and merged parts of Sec. 32 of Act 217 of 1903, as Am. 1915, p. 171, Act 97, Eff. Aug. 24, being CL 1915, 1341; and Sec. 24 of Act 101 of 1909, as Am. 1913, p. 46, Act 29, Eff. Aug. 14, being CL 1915, 1556.

330.37a Leave of absence or convalescent status; return.

Sec. 27a. Every such patient while on leave of absence or convalescent status shall remain in the legal custody of the medical superintendent of the mental hospital from which he is on leave of absence or convalescent status and shall be subject at any time to be taken back within the enclosure of said hospital for any reason that may be satisfactory to the medical superintendent and full power to retake and return any such leave of absence or convalescent status patient to the mental hospital from which he was allowed to go at large is hereby expressly conferred upon the medical superintendent of such hospital whose written order shall be a sufficient warrant commanding all peace officers to take into custody and hold him for officers or agents of said hospital or the sheriff or his deputy. It shall be the duty of the sheriff, upon the request

of any peace officer who has taken into custody any such leave of absence or convalescent status patient, to receive and confine in the county jail such leave of absence or convalescent status patient until he is returned to the institution, in accordance with the directions or orders of the superintendent of such institution from which he was on leave of absence or convalescent status or permitted to go at large. Said written order or warrant shall describe, with reasonable certainty, the person or persons to be apprehended and shall, in a general way, indicate the abnormal or mentally ill tendencies possessed by such person. Female patients, while being returned by the sheriff or the agents of the institution to the hospital from which they were permitted to go at large, shall be accompanied by a matron. No peace officer shall incur any civil liability by reason of his executing any such warrant: Provided, That he exercise reasonable care and diligence in the premises.

Any peace officer may apprehend and take into custody any escaped or leave of absence or convalescent status patient from a mental hospital or institution, upon being advised by the medical superintendent thereof that he is issuing a written order for the apprehension of any such leave of absence or convalescent status patient, and it appear that such patient has either demonstrated dangerous tendencies or is likely to flee from the jurisdiction of such peace officer unless immediately apprehended.

HISTORY: Add. 1937, p. 161, Act 104, Imd. Eff. Jul. 1;—Am. 1941, p. 556, Act 321, Eff. Jan. 10, 1942;—CL 1948, 330.37a;—Am. 1949, p. 653, Act 313, Eff. Sep. 23.

330.38 Discharge or leave of absence; clothing, expenses.

Sec. 28. No patient shall be discharged or granted leave of absence or convalescent status without suitable clothing; and if it cannot otherwise be obtained, the steward shall, upon the order of the medical superintendent, furnish the same and money not exceeding \$25.00 to defray his necessary expenses until he can reach his relatives or friends, or find employment to earn a subsistence.

HISTORY: CL 1929, 6905;—Am. 1937, p. 162, Act 104, Imd. Eff. July 1;—CL 1948, 330.38;—Am. 1949, p. 653, Act 313, Eff. Sep. 23.

This section as originally enacted re-enacted Sec. 33 of Act 217 of 1903, being CL 1915, 1342; and supersedes and merges Sec. 25 of Act 101 of 1909, being CL 1915, 1557; and Sec. 32 of Act 173 of 1913, being CL 1915, 1610.

330.38a State liability for discharged, paroled or escaped patients.

Sec. 28a. Neither the state nor any medical superintendent nor officers of any institution named in this act shall be liable for damages for any act of any patient paroled, discharged or escaped therefrom.

HISTORY: Add. 1937, p. 162, Act 104, Imd. Eff. July 1;—CL 1948, 330.38a.

330.39 Desirous of being adjudged of sound mind; petition, hearing, report of physicians, finding of court.

Sec. 29. Whenever any person who shall have been adjudged mentally ill desires to be declared to be again of sound mind, a petition may be presented to the probate court making adjudication for a finding and order declaring that such person is at such time of sound mind. Such petition shall be made on forms to be provided by the court. Upon the filing of such petition the court shall appoint a time for hearing thereon and give notice thereof to the medical superintendent of the hospital, home or retreat to which such patient was committed, or in which such person is or has been an inmate, and to such other persons as the court shall direct. The court shall appoint 2 registered physicians to examine such person who shall report their findings to the court upon certificate, duly verified, or by testimony in open court, or both as directed by the court and such physicians shall be compensated as provided in section 10 of this act. The court may receive the testimony of other physicians or lay witnesses as it may deem proper. In the event that the medical superintendent and 1 other physician who is a member of the staff of the hospital, home or retreat of which such person was or is an inmate shall certify in writing, authenticated by affidavit, to the court that in their opinion such person is again of sound mind, the court may dispense with the appoint-

ment of the 2 physicians hereinbefore provided. Upon the hearing of such petition the court, from the testimony given and certificates filed, shall find: (a) That such person has recovered and is of sound mind and is discharged from the custody of the medical superintendent of the institution to which the person had been previously committed, (b) That such person is not recovered and is not of sound mind. The court shall cause a copy of its finding and adjudication to be sent to the medical superintendent of the hospital, home or retreat to which such person had been previously committed. Whenever any person who shall have been adjudged feeble-minded or epileptic desires to be declared not feeble-minded or epileptic, a petition may be presented to the probate court making adjudication for a finding and order declaring that such person is not feeble-minded or epileptic. The proceedings relative thereto shall be as in this section provided in respect to persons who have been adjudged mentally ill.

HISTORY: CL 1929, 9806;—Am. 1937, p. 162, Act 104, Imd. Eff. Jul. 1;—CL 1948, 330.39;—Am. 1949, p. 653, Act 313, Eff. Sep. 23.

This section as originally enacted re-enacted Sec. 34 of Act 217 of 1903, being CL 1915, 1343, changing word "asylum" to "hospital," inserting word "probate" before "court" in first sentence.

330.39a Discharge; notice to probate court, hearing, findings, testimony, notice to guardian, accounting.

Sec. 29a. Whenever any patient shall have been discharged as recovered from the custody of any institution referred to in this act, the medical superintendent of such institution shall immediately notify the probate court by which the patient was ordered for care, custody and treatment that the patient has been discharged from the custody of such institution. Upon receiving such notice, or upon petition of any former patient who has been discharged or who has been continuously on leave of absence or convalescent status for more than 1 year, the court shall fix a date for a hearing and cause notice to be sent to the medical superintendent of the institution from which such former patient has been discharged and shall also cause notice to be given to the person who applied for the adjudication of mental illness, feeble-mindedness, or epilepsy pursuant to which the patient in question was ordered for care, custody and treatment, if such person be found in such county, and cause such further notice to be given to such interested persons as the court may deem proper. If, upon the hearing, the court, from the testimony given, shall find such former patient to be not mentally ill, feeble-minded, or epileptic, as the case may be, an order shall be entered declaring such finding: Provided, however, That the court may, in its discretion, or if requested by the medical superintendent or any interested person shall, require the testimony of at least 2 reputable physicians in order to establish the mental condition of such former patient and such physicians shall be appointed and compensated by the court as provided in section 10 of this act. No testimony shall be required, unless medical testimony is ordered, for restoration of a person who has been continuously on leave of absence or convalescent status for more than 1 year. Notice shall be given to a guardian, if any, of the person who shall thereby be required to present a final account at the hearing for its allowance and the discharge of the guardian.

HISTORY: Add. 1937, p. 163, Act 104, Imd. Eff. Jul. 1;—CL 1948, 330.39a;—Am. 1949, p. 654, Act 313, Eff. Sep. 23;—Am. 1957, p. 239, Act 189, Eff. Sep. 27;—Am. 1960, p. 148, Act 127, Eff. Aug. 17.

330.40 Repealed. 1966, p. 198, Act 175, Imd. Eff. Jul. 1.

Section related to removal of patients to Ionia state hospital.

330.41 Patient care; rate of charges.

Sec. 31. The amount to be paid the state for the care and treatment of mental patients in state hospitals shall be determined by an average rate per day to be fixed by the state mental health commission with the approval of the auditor general at the beginning of each fiscal year, subject to adjustment during any fiscal year for the balance thereof; said rate not to exceed the anticipated operating cost, exclusive of capital outlay. Under the provisions of this section an average rate per day shall be fixed for the

several state institutions caring for the civil insane, a separate average rate per day for the several state institutions caring for the feeble-minded exclusively, and separate rates for the state institution caring for the criminal insane and the state institution caring for the epileptic.

HISTORY: CL 1929, 6908;—Am. 1937, p. 163, Act 104, Imd. Eff. July 1;—Am. 1944, 1st Ex. Ses., p. 81, Act 42, Imd. Eff. Mar. 4;—CL 1948, 330.41;—Am. 1956, p. 301, Act 159, Eff. Jan. 1, 1957.

This section as originally enacted superseded and merged parts of Sec. 38 of Act 217 of 1903, as Am. 1905, p. 320, Act 221, Imd. Eff. June 13, being CL 1915, 1347; and Sec. 21 of Act 124 of 1893, being CL 1897, 1974;—CL 1915, 1426; and Sec. 27 of Act 101 of 1909, being CL 1915, 1559; and Sec. 33 of Act 173 of 1913, being CL 1915, 1611.

CITED IN OTHER SECTIONS: The above section is cited in § 330.425.

330.42 Costs in proceedings; award, collection.

Sec. 32. In proceedings for adjudication of mental illness, recovery from mental illness, feeble-mindedness, or epilepsy, costs of such proceedings shall be in the discretion of the probate court. An execution for the collection thereof may be issued which shall be in the form, as near as may be, of a circuit court execution, and shall be enforced in the same manner, and the same shall be directed to the sheriff of any county in the state, or any constable in any county, or the commissioner of Michigan state police and the same may be executed in any county of the state where property of the persons named therein may be found. If costs are recovered against a person adjudged to be mentally ill, his guardian may be ordered to pay them out of his estate. In all other cases, and also in all cases in which costs shall be awarded to a prevailing party which he shall be unable to collect on execution or from the guardian of such mentally diseased person as aforesaid, the costs of such proceeding shall be paid by the county in the manner provided by law. The costs shall include the medical examiner's fees, jury fees, the expense of taking said mentally diseased person to the hospital, home or institution, necessary clothing, and all other fees and disbursements, in the case, except attorneys' fees.

HISTORY: CL 1929, 6909;—Am. 1937, p. 163, Act 104, Imd. Eff. July 1;—Am. 1941, p. 522, Act 299, Eff. Jan. 10, 1942;—CL 1948, 330.42;—Am. 1949, p. 654, Act 313, Eff. Sep. 23.

This section as originally enacted superseded, in part, and merged Sec. 39 of Act 217 of 1903, as Am. 1911, p. 414, Act 241, Eff. Aug. 1, being CL 1915, 1348; parts of Sec. 28 of Act 101 of 1909, being CL 1915, 1580; and Sec. 27 of Act 173 of 1913, being CL 1915, 1605.

330.43 Conveyance of patient to state hospital; attendants; violation of section, misdemeanor.

Sec. 33. All officers sending a patient to any such state institution shall, before sending him, see that he is in a state of bodily cleanliness and comfortably clothed. Each female admitted to any such institution shall be accompanied by a female attendant of reputable character and mature age, unless accompanied by her father, brother, husband or son. Any person or officer who shall bring a female patient to any such state institution in violation of the last preceding provision of this section, or who shall, under the provisions of law, or otherwise, bring or accompany any patient to such institution, and not in due time deliver her or him into the lawful care and custody of the proper officer of the institution, taking his receipt therefor, if he be admitted, or who shall wilfully leave, abandon, neglect or abuse such patient, either in going to or returning from the institution, shall be deemed guilty of a misdemeanor.

HISTORY: CL 1929, 6910;—CL 1948, 330.43. This section supersedes and merges Sec. 40 of Act 217 of 1903, being CL 1915, 1349; and Sec. 29 of Act 101 of 1909, being CL 1915, 1561; and Sec. 34 of Act 173 of 1913, being CL 1915, 1612.

MISDEMEANOR: Penalty, see Compilers' § 750.504.

330.44 County superintendent of poor; reports to director of state department of welfare.

Sec. 34. The superintendents [sic] of the poor in each county shall transmit to the director of the state welfare department on the first day of July in each year the name and age of each mentally ill, feeble-minded or epileptic person in the poorhouse of the county, or elsewhere, receiving county aid in any form. Every county, city or town officer to whom application for aid, in behalf of any mentally ill, feeble-minded or epi-

leptic person shall be made, shall at once report the name and age of such person to the director of the state welfare department.

HISTORY: CL 1929, 6011;—CL 1948, 330.44;—Am. 1949, p. 654, Act 313, Eff. Sep. 23.

This section supersedes and merges parts of Sec. 41 of Act 217 of 1903, being CL 1915, 1350; and Sec. 30 of Act 101 of 1909, being CL 1915, 1562.

REPORTS: See also Compilers' § 402.24.

330.45 Service of process on inmates; return, service on attorney general.

Sec. 35. Any citation, order or process required by law to be served on a patient of the hospitals or homes for the mentally ill, mentally handicapped or epileptic, or any other state hospital, home or institution shall be served only by the medical superintendent in charge thereof or by some member of his staff designated by him. Return thereof to the court from which the same issued shall be made by the person making such service, and such service and return shall have the same force and effect as if it had been made by the sheriff of the county. Service of such citation, order or process shall also be made by registered mail by the plaintiff or petitioner upon the attorney general and due return shall be made thereof with registry receipt attached.

HISTORY: CL 1929, 6012;—CL 1948, 330.45;—Am. 1949, p. 654, Act 313, Eff. Sep. 23;—Am. 1952, p. 174, Act 148, Imd. Eff. Apr. 24.

This section supersedes, with additions, and merges Sec. 42 of Act 217 of 1903, being CL 1915, 1351; and Sec. 31 of Act 101 of 1909, being CL 1915, 1563.

330.46 Trust fund for mentally ill; validity, acceptance by state.

Sec. 36. Any bequest or conveyance of money or any will or conveyance of any property that may direct the sale of such property and its conversion into money and in either case the proceeds thereof is directed to be paid to the state in trust for any mentally ill, feeble-minded, or epileptic person, is hereby declared to be a valid trust, and the state shall accept such trust, subject to the conditions contained in this act: Provided, That the state shall be under no obligations to accept any such trust where the amount involved is less than \$100.00.

HISTORY: CL 1929, 6013;—Am. 1937, p. 163, Act 104, Imd. Eff. July 1;—CL 1948, 330.46;—Am. 1949, p. 655, Act 313, Eff. Sep. 23.

This section as originally enacted superseded and merged Sec. 44 of Act 217 of 1903, being CL 1915, 1353; and Sec. 33 of Act 101 of 1909, being CL 1915, 1565.

330.47 Trust funds; duty of probate judge and attorney general, suits.

Sec. 37. It shall be the duty of any officer, or any judge of probate on the filing of any such conveyance, or when such will is presented for probate, to at once notify the auditor general and the attorney general of such fact together with a certified copy of such instrument and it shall be the duty of the attorney general to institute and carry on all necessary suits and proceedings to secure the payment to the state of all moneys which may be received under such trust.

HISTORY: CL 1929, 6014;—CL 1948, 330.47.

This section supersedes and merges Sec. 45 of Act 217 of 1903, being CL 1915, 1354; and Sec. 34 of Act 101 of 1909, being CL 1915, 1566.

330.48 Trust funds; duty of executor or administrator, use.

Sec. 38. It shall be the duty of the executor of such will or administrator with the will annexed to pay to the auditor general all moneys which may be payable to the state or the people thereof, as trustee for any such trust, and said moneys shall be placed to the credit of the fund to be known as the (naming the mentally diseased person) "trust fund," and the interest on the same shall be computed annually at the rate of 3 per cent, and such interest and trust fund shall be paid out for the benefit of the persons for whom such trust may be created, and as provided by this act.

HISTORY: CL 1929, 6015;—CL 1948, 330.48.

This section supersedes and merges Sec. 46 of Act 217 of 1903, being CL 1915, 1355; and Sec. 35 of Act 101 of 1909, being CL 1915, 1567.

330.49 Trust funds; expenditures of interest and principal.

Sec. 39. The state hospital commission shall have charge of all persons for whose benefit any such trust shall be created, and of all expenditures payable by such interest trust fund. Any person confined in any state hospital, home or institution under the

provisions hereof while the said interest and trust fund shall be sufficient for that purpose, shall be furnished with clothing, lodging, board, medicines, medical and other attendance, care, comforts and conveniences as are usual and, in accordance with the rules of such institution, allowed to other patients whose support shall be paid for by private persons, and at the same rate of charges. And said commission shall, so far as it may be possible, but within their reasonable discretion, regulate the expenditures on behalf of such mentally diseased person so that the same may be defrayed from the interest authorized to be paid on the principal of the fund so created for his benefit. If the interest shall be insufficient, such expenditures may be made from the principal of the fund. And if any sum be received from any other source for the support and care of such person, the moneys so received shall be first used for the payment of such expenditures in preference to money drawn from such interest or trust fund. Should any such mentally diseased person be removed from such institution by his legal custodian or guardian, while so mentally diseased, such expenditure on his behalf shall cease; and such interest or trust fund shall remain unappropriated until such person shall be returned to the institution, or the same shall be paid out as hereinafter provided by this act.

HISTORY: CL 1929, 6916;—CL 1948, 330.49.

This section supersedes and merges Sec. 47 of Act 217 of 1903, being CL 1915, 1356; and part of Sec. 36 of Act 101 of 1909, being CL 1915, 1568.

330.50 Trust funds; removal of beneficiary to state institution.

Sec. 40. If any such mentally diseased person for whose benefit any such trust shall be created, shall be confined or kept in any other place than a state hospital, home or institution, the state hospital commission shall, upon notice of such trust from the state treasurer, cause such person to be removed to the proper state institution, and shall there provide for the support of such person, the same as provided herein for state patients.

HISTORY: CL 1929, 6917;—CL 1948, 330.50.

This section supersedes and merges Sec. 48 of Act 217 of 1903, being CL 1915, 1357; and Sec. 36 of Act 101 of 1909, being CL 1915, 1568.

330.51 Trust funds; disposition on recovery or death of beneficiary.

Sec. 41. If any such mentally diseased person for whose benefit any such trust shall have been created shall recover and be free from liability to a return of his malady, or shall die, the state hospital commission shall certify to the auditor general and state treasurer that such person has recovered or is deceased and is no longer in need of support from such trust fund. The state treasurer, upon the warrant of the auditor general, shall pay to such person or persons as may be entitled thereto, under the will or conveyance by which such fund was created, the balance, if any, of the principal and interest standing to the credit of such mentally diseased person. And if such will or conveyance shall not provide for or make any disposition of such fund in such cases, then such money shall be paid to the person for whose benefit such fund has been created, if he is living, and if he be dead, then to his legal representatives. But if, because of a liability to a return of his mental disease the commission and medical superintendent shall not deem it prudent that the state relinquish custody and control of the trust fund created for the benefit of any such mentally diseased person, the commission and medical superintendent, in their discretion, may authorize the use of the interest and a necessary portion of the principal of said fund for the benefit of such person though not an inmate of a state institution.

HISTORY: CL 1929, 6918;—CL 1948, 330.51.

This section supersedes and merges Sec. 49 of Act 217 of 1903, being CL 1915, 1358; and Sec. 37 of Act 101 of 1909, being CL 1915, 1569.

330.52 Trust funds; notice of receipts, payments.

Sec. 42. Immediately upon receipt of moneys into the state treasury under this act, the state treasurer shall notify the state hospital commission of the amount thereof,

and of the name of the person for whose benefit the fund has been created, and all payment from the treasury under this act shall be paid as provided by law.

HISTORY: CL 1929, 6919;—CL 1948, 330.52.

This section supersedes and merges Sec. 50 of Act 217 of 1903, being CL 1915, 1350; and Sec. 38 of Act 101 of 1909, being CL 1915, 1570.

330.52a Moneys and effects of patient; duties of superintendent, trust and benefit funds, discharge, death or escape of patient.

Sec. 42a. The medical superintendent is hereby authorized to take possession and shall have control over all moneys and personal effects on the persons of patients admitted into the several state hospitals and institutions and such right to possess and control shall extend to negotiable instruments which may be converted into moneys by the medical superintendent at his discretion; shall be authorized to receive on behalf of and have control over earnings of patients; and shall be authorized to accept and have control over such donations and gifts for the benefit of patients as are not governed by the provisions of sections 36 to 42, inclusive, of this act, as amended. Accounts shall be kept with respect to each patient, in accordance with the rules and regulations of the department of mental health. The medical superintendent shall deposit moneys belonging to patients in a special patients' trust fund, to be disbursed as directed by the rules of the department of mental health: Provided, That the total of deposited moneys shall not exceed a maximum to be established for each institution by the department of mental health and that all funds in excess of such limit shall be transmitted by the medical superintendent to the state treasurer.

The moneys forwarded from the special patients' trust fund to the state treasurer shall be credited to a special trust fund in the state treasury to be known as the "hospital patients' trust fund," which may be invested by the state treasurer in the same manner as other surplus funds of the state, and disbursements therefrom shall be made under voucher of the medical superintendent as directed by the department of mental health.

There is also created in the state treasury a special trust fund to be known as the "hospital patients' benefit fund" which shall be composed of earnings from investment of the hospital patients' trust fund, unclaimed moneys in the hospital patients' trust fund, and gifts, grants, bequests and other donations for the benefit of patients, not governed by the provisions of sections 36 to 42, inclusive, of this act, as amended, authority for the acceptance and use thereof being hereby expressly conferred upon the department of mental health and the medical superintendents of the various institutions under its jurisdiction. The medical superintendent of each institution shall be authorized to deposit moneys so received in a special patients' benefit fund but the total of deposited moneys shall not exceed a maximum to be established for each institution by the department of mental health and all funds in excess of such limit shall be transmitted by the medical superintendent to the state treasurer. Said hospital patients' benefit fund shall be disbursed under the rules and regulations of the department of mental health for the benefit of patients in the state hospitals and institutions under its jurisdiction.

In case of the discharge of a patient, said patient shall be entitled to receive all personal effects in custody under this act and all moneys to the credit of his account: Provided, That in case conditional donations or gifts have been made for the benefit of a patient and accredited to his account, payment shall be made to the person or persons entitled thereto under the conditions of the donation.

In case of the death of a patient, the medical superintendent shall inform the committing probate judge, or the probate judge of the county wherein the patient died, as to all personal effects in custody, except those items released with the body, and all moneys to the credit of the patient's account. In case such personal property shall not

exceed the value of \$200.00, the probate judge may issue an order that such personal property be turned over to the widow, if any, of such deceased person, or, upon the showing of evidence that funeral expenses have been paid, to the nearest of kin or the person who shall be shown to have paid such funeral expenses, or if there is no widow, no known nearest of kin, or person who has paid the funeral expenses, to the state treasurer for credit to the patients' benefit fund, which order shall authorize the state treasurer to convert all personal property into moneys. In case the estate is over the value of \$200.00, the estate of the patient shall be administered and probated as provided by law. However, in case conditional donations or gifts have been made for the benefit of the patient and credited to his account, payment shall be made to the person or persons entitled thereto under the conditions of the donation.

In the case of an escaped patient whose whereabouts remain unknown for a period of 3 years, the medical superintendent shall inform the committing probate judge, or the probate judge of the county wherein the institution is located, as to all personal effects in custody and all moneys to the credit of the patient's account. In case such personal property shall not exceed the value of \$200.00, the probate judge may issue an order that such personal property shall be turned over to the state treasurer for credit to the patients' benefit fund, which order shall authorize the state treasurer to convert all personal property into moneys.

The department of mental health shall require the bonding of the medical superintendent and such employees of the several state hospitals and institutions under its jurisdiction as said department shall determine will protect the interests of patients.

The provisions of this section shall not be construed to in any way restrict the right of the state to obtain reimbursement from the estate of a patient, as provided in the laws of this state.

The provisions of this section shall not be construed to in any way restrict the powers of a legally appointed guardian concerning the property of a patient.

HISTORY: Add. 1947, p. 198, Act 145, Imd. Eff. May 29;—CL 1948, 330.52a.

CITED IN OTHER SECTIONS: The above section is cited in § 434.152.

330.52b Medical superintendent's accounts for patients; disbursement to state, current needs funds, burial funds, rehabilitation fund.

Sec. 42b. The medical superintendent shall cause a separate account to be established for each patient for whom no guardian has been appointed from all moneys received for said patient not governed by the provisions of sections 36 to 42a of this act, that is to say, all money received for the patient from the veterans administration, social security administration, railroad retirement fund, industrial pension, workmen's compensation, insurance, whether hospitalization, disability, health, annuity or other insurance or type of benefit. The superintendent, within 90 days after having first received benefits for said patient shall first retain and set aside an amount in his discretion up to but not to exceed the sum of \$100.00 for the current needs of the patient, and second, retain and set aside the sum of \$500.00 as a burial fund, and third, pay, to the extent permitted by the law under which the benefits have been received, the balance to the commissioner of revenue to the full amount set by law and owing the state for the care and maintenance of the patient. If any payor listed above, vested with sole discretion as to application of funds transmitted, determines that provision be made primarily for the rehabilitation of a beneficiary, then the superintendent, upon receipt of the determination, shall retain and set aside the amount as directed in the determination and the personal needs account of any such patient may exceed the amount limited for such purpose in order to meet payor's requirement. If the superintendent is satisfied that adequate provision from any source has been made to meet the burial requirement, then he shall transmit all other moneys for such purpose in his possession to the commissioner of revenue. The superintendent shall make further payments

quarterly thereafter, whenever, after the deduction and retention of sufficient money to maintain the 2 funds as hereinabove described, there remains a balance to the patient's credit, and if any amount is then owing the state for the care and maintenance of the patient.

Repayment to patient upon discharge.

Upon proof submitted by or on behalf of a patient, including the recommendation of the medical superintendent, that a patient has been or is about to be discharged and is or will be without means of support, or if he has dependents without means of support, the administrative board may direct the state treasurer to repay to the patient or his dependents such portion of the moneys received under this section as the board may determine.

HISTORY: Add. 1960, p. 42, Act 53, Imd. Eff. Apr. 19;—Am. 1962, p. 128, Act 135, Eff. Mar. 28, 1963.

330.53 Appeal from probate court; bond, stay of proceedings, temporary orders.

Sec. 43. Any person aggrieved by any order, sentence, decree or denial of the probate court, may appeal therefrom to the circuit court for the same county. Such appeal shall be taken within the same time and in the same manner, and the same proceedings shall be had thereon, except as herein otherwise mentioned, as is provided by law for appeals from such court. If the alleged mentally diseased person is an appellee, the notice of the appeal shall be served on him and on the person having him in charge, or his guardian ad litem. The bond to be given on such appeal shall run to the judge of probate of the county for the use and benefit of any person who shall be injured by the allowance of such appeal, in such penalty and with such surety or sureties as the probate court may approve, and it shall be conditioned for the diligent prosecution of such appeal, and the payment of all such damages and costs as shall be awarded to any person on account of the allowance of such appeal in case the person appealing shall fail to obtain a reversal of the decision appealed from. Any person injured by the allowance of such appeal shall have a right of action upon such bond, in case the decision so appealed from is not reversed. Proceedings under an order of admission shall not be stayed, pending an appeal therefrom, except upon special order of the probate court, which may revoke or modify said special order at any time. The court may also, during the pendency of said appeal, make such order for the temporary care or confinement of the alleged mentally diseased person as may be deemed necessary.

HISTORY: CL 1929, 6620;—CL 1948, 330.53.

This section supersedes and merges Sec. 51 of Act 217 of 1903, being CL 1915, 1360; and Sec. 38 of Act 101 of 1909, being CL 1915, 1570; and, with additions, Sec. 35 of Act 173 of 1913, being CL 1915, 1613.

330.54 Hospital act for mentally diseased persons; definitions.

Sec. 44. The terms "mentally ill" or "mentally ill person" as used in this act, include every species of insanity and extend to every mentally deranged person, and to all of unsound mind, other than mentally handicapped, epileptics, and persons who manifest the general deterioration of mental processes, including disorientation, confusion or impairment of memory, associated with senility, but without psychotic implications, and may include persons whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations of either a hetero-sexual or homo-sexual nature, or by the commission of sexual aggressions against children under the age of 16: Provided, That a petition based on sexual behavior shall not be heard during any period when any warrant or prosecution under the criminal laws based upon crimes involving sexual behavior is pending: Provided further, That notwithstanding the provisions of section 11 of this act to the contrary with respect to petitions for the commitment of any person on account of the aforesaid sex-

ual behavior, only the prosecuting attorney, the next of kin over 21 years of age, guardian, or the person covered by the petition or his counsel, shall be a proper person to make such petition. "Institution" may mean any of the hospitals, homes or institutions included in section 1 of this act; a "regional diagnostic and treatment center" shall include any institution as previously defined which is certified as such by the state mental health commission for the reception of persons for intensive treatment and diagnostic study for alleged mentally ill, mentally handicapped and/or epileptics, any private or public hospital accredited by the American board of psychiatry and neurology for the training of psychiatric residents or any other psychiatric hospital which is certified by the state mental health commission as a regional diagnostic and treatment center for alleged mentally ill, and any other private or public institution which is certified by the state mental health commission as a regional diagnostic and treatment center for alleged mentally handicapped or epileptics; the word "estate" includes income, annuity and pension and "indigent person" means one who has not sufficient property to support himself and those who have a moral or legal right to maintenance out of his estate; a word denoting the singular number is to include 1 or many, and every word importing the masculine gender may extend to and include females. The term "mentally handicapped" shall include morons, idiots, imbeciles and those as to whom congenital defects have produced the same deficiency: Provided, That the term "feeble-minded" as used in this act or in any other law of the state shall hereafter be considered mentally handicapped, and whenever reference to "feeble-minded" is made in the laws of this state, reference shall be deemed to be made to "mentally handicapped." The term "convalescent status" shall describe and include any patient who is not discharged, but who is permitted by the medical superintendent to live apart from the state hospital or state home under the special regulations of the medical superintendent. Every provision of this act applies equally to all the institutions mentioned in section 1 of this act, excepting where one or the other is specially designated. In this act, the term "mentally diseased" shall be considered as referring to any person who is either mentally ill, mentally handicapped, or epileptic.

HISTORY: CL 1929, 6921;—Am. 1937, p. 183, Act 104, Imd. Eff. Jul. 1;—CL 1948, 330.54;—Am. 1949, p. 655, Act 313, Eff. Sep. 23;—Am. 1952, p. 174, Act 148, Imd. Eff. Apr. 24;—Am. 1953, p. 240, Act 183, Eff. Oct. 2;—Am. 1956, p. 302, Act 159, Eff. Jan. 1, 1957;—Am. 1957, p. 617, Act 313, Imd. Eff. Jul. 3.

This section as originally enacted superseded Sec. 52 of Act 217 of 1903, being CL 1915, 1361.

INSANE PERSONS: For an additional definition, see Compilers' § 8.3 subd. 7.

CITED IN OTHER SECTIONS: The above section is cited in § 400.14.

330.55 Indigent or aged patients; preference or restriction on admission.

Sec. 45. Preference shall be given to the admission of indigent patients in any of the institutions included within this act so far as the circumstances permit and no discrimination shall be made as to the class of patients received: Provided, however, That no feeble-minded woman above the age of 48 years, nor any feeble-minded man whose condition is due to senility shall be admitted to the Michigan home and training school unless such admission is approved by the state hospital commission.

HISTORY: CL 1929, 6922;—CL 1948, 330.55.

330.56 Construction of act as to appropriations.

Sec. 46. This act shall not be construed as affecting any appropriation heretofore made for the support and maintenance of any of the state institutions embraced within the provisions of this act and all existing appropriations shall continue in effect until the end of the present fiscal year.

HISTORY: CL 1929, 6923;—CL 1948, 330.56.

Sec. 47. (This was a repeal section.)

HISTORY: CL 1929, 6924;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Sec. 48.

HISTORY: CL 1929, 6925;—Rep. 1931, p. 752, Act 328, Eff. Sept. 18.

This section provided penalties for aiding patient to escape. For present law, see Compilers' § 750.187.

330.59 Wayne county mentally ill persons; admission to Eloise, rates, transfers, state liability.

Sec. 49. Mentally ill persons, residents of the county of Wayne, may be admitted to the Wayne county general hospital at Eloise in the same manner and under the same conditions and procedure as is now or may be provided for the admission of mentally ill persons to the state hospitals for the mentally ill by the provisions of this act, and the state shall pay to said Wayne county general hospital at Eloise the cost of the support and maintenance of all public charges so admitted while under treatment in said county hospital on vouchers to be certified by the board of county institutions of said county and the medical superintendent of said Wayne county general hospital, and attested by the state department of mental health that such mentally ill persons received proper care and treatment. The cost of support and maintenance shall not exceed a rate per day to be fixed by the legislature in each annual appropriation act for such purposes. Whenever there are no available facilities at said Wayne county general hospital or at any state hospital for the care of the mentally ill within 50 miles from the nearest boundary of the county of Wayne, the director of the state department of mental health may, in his discretion, temporarily or until state facilities are available, transfer any patient, under his jurisdiction who has been ordered committed as a public charge, to any private hospital, home or institution located within the county of Wayne and duly licensed by the state department of mental health as provided in section 51 of this act, to receive for custody, care and treatment persons who are mentally ill, mentally handicapped or epileptic. The state shall pay for the support and maintenance of any public patient so transferred while the patient remains in a private hospital, home or institution at a per diem rate as shall be fixed annually by the legislature and an appropriation made therefor. The state shall not be liable for any part of the support of any patient during the first year he is under care after commitment.

HISTORY: CL 1929, 6926;—Am. 1937, p. 164, Act 104, Imd. Eff. July 1;—Am. 1943, p. 465, Act 250, Eff. July 30;—Am. 1944, 1st Ex. Ses., p. 82, Act 42, Imd. Eff. Mar. 4;—Am. 1945, p. 330, Act 235, Imd. Eff. May 24;—Am. 1946, 2nd Ex. Ses., p. 14, Act 4, Imd. Eff. July 16;—Am. 1947, p. 145, Act 106, Imd. Eff. May 21;—CL 1948, 330.59;—Am. 1957, p. 180, Act 160, Imd. Eff. May 29.

This section as originally enacted superseded Sec. 54 of Act 217 of 1903, being CL 1915, 1363.

330.60 Feeble-minded or epileptics; admission to Wayne county institutions, maintenance costs, state reimbursements.

Sec. 50. Feeble-minded or epileptic persons, residents of the county of Wayne, may be admitted to any institution owned and operated by Wayne county for the care, custody and treatment of the feeble-minded or epileptic, now in operation or that may be hereafter constructed, in the same manner and under the same conditions and procedure as is now or may be provided for the admission of feeble-minded or epileptics to state institutions, and the state shall pay to such Wayne county institutions the cost of the support and maintenance of all public charges so admitted while under treatment in said county institutions by vouchers to be certified by the board of county institutions of said county and the medical superintendent of such Wayne county institutions, and attested by the department of mental health that such feeble-minded or epileptic persons received proper care and treatment: Provided, That the cost of said support and maintenance shall not exceed a rate per day to be fixed by the legislature in each annual appropriation act for such purposes: And provided further, That the state shall not be liable for any part of the support of any patient during the first year he is under care in such institution.

HISTORY: CL 1929, 6927;—Am. 1937, p. 164, Act 104, Imd. Eff. Jul. 1;—Am. 1943, p. 466, Act 250, Eff. July 30;—CL 1948, 330.60;—Am. 1951, p. 370, Act 247, Eff. Sep. 28.

330.60a Insane persons in county institutions; maintenance costs, state reimbursement.

Sec. 50a. Insane persons, residents of a county in which is maintained a county insane asylum approved by the state hospital commission, may be admitted to such county asylum in the same manner and under like procedure as is or may be provided for the admission of insane persons to the state hospitals by the provisions of this act, and the state shall pay to such county insane asylum, the cost of the support and maintenance of all public charges so admitted while under treatment in said county asylum on vouchers certified by the county department of public welfare and the medical superintendent of a state hospital designated by the state hospital commission, and attested by the state hospital commission that such insane persons received proper care and treatment: Provided, That the costs of said support and maintenance shall be set by the state hospital commission and shall not be less than the per capita cost as established by said state hospital commission as herein provided for the hospital in the district in which such county insane asylum is located, for the care of state patients: And provided further, That the state shall not be liable for any part of the support of any patient during the first year he is under care in such institution.

HISTORY: Add. 1937, p. 164, Act 104, Imd. Eff. July 1;—CL 1948, 330.60a.

CITED IN OTHER SECTIONS: The above section is cited in § 331.652.

330.61 Private hospitals; license, application, fee, renewal, revocation, review.

Sec. 51. It is unlawful for any person to conduct, operate or manage any hospital or residential facility in which mentally diseased persons are regularly accepted for care or treatment, under contract of hire or by commitment of any court without being licensed so to do by the department of mental health, either as a mental hospital or a residential facility for mental patients. The provisions of this section shall not apply to private homes which are caring for state patients under contractual arrangements with the department of mental health. Such license shall be based upon an application filed with the department and upon such form as the department prescribes, and shall be accompanied with a fee of \$10.00 for the use of the state. Any license issued under the provisions of this act shall be renewed annually on application as herein set forth. The department may refuse to issue a license or to renew a license previously issued, whenever after investigation it is satisfied that the best interests of the state and of those detained for custody and treatment in such institution demand. The department may revoke any license issued by them as herein provided, but this can only be done after written charges have been preferred, a copy served on the owner or officer in charge of the hospital or residential facility, and order to show cause made, with date of notice and place of hearing. Any order revoking any license under provisions of this act may be reviewed on certiorari by the circuit court of the county in which such institution is located.

HISTORY: CL 1929, 6928;—Am. 1937, p. 165, Act 104, Imd. Eff. Jul. 1;—CL 1948, 330.61;—Am. 1959, p. 259, Act 182, Eff. Mar. 19, 1960;—Am. 1965, p. 275, Act 174, Imd. Eff. Jul. 15.

CITED IN OTHER SECTIONS: The above section is cited in § 331.652.

330.62 Private hospitals; inspection by mental health department; violations of act, penalties.

Sec. 52. The department of mental health may visit and inspect any mental hospital or residential facility, to the end that the patients in such hospital or facility receive proper care, attention and treatment, in accordance with standards established by the department. The department shall adopt reasonable rules and regulations establishing minimum standards for such hospitals or residential facilities and failure to follow such rules and regulations on the part of such hospitals or facilities will be proper grounds for the revocation of the license under which said hospital or facility is operating. Any

violation of the provisions of this and the preceding sections is a misdemeanor and on conviction thereof the person guilty shall be fined a sum not to exceed \$300.00, or by imprisonment not to exceed 90 days, or both. In the event of a corporation violating such provisions, such corporation shall be fined as herein provided and the officers of such corporation shall be considered the same as though individuals not connected with corporations and fined and imprisoned as herein set forth.

HISTORY: CL 1929, 6929;—CL 1948, 330.62;—Am. 1965, p. 275, Act 174, Imd. Eff. Jul. 15.

CITED IN OTHER SECTIONS: The above section is cited in § 331.652.

330.63 Mental health services; certificate of approval, form, inspection of services, minimum standards.

Sec. 53. No person shall conduct or operate a mental health service as part of an established community mental health center as defined under federal Public Law 88-164 and federal regulations issued thereunder without being certified to do so by the department of mental health. The department shall establish by rules minimum standards governing the operation of community mental health centers. Any person operating a mental health service or services as a part of a community mental health center shall file an application with the department for a certificate of approval upon such form as the department prescribes. The department may refuse to issue a certificate of approval or withdraw a certificate of approval when, after investigation, it is satisfied that any service does not meet the minimum standards. The department may visit and inspect any mental health service applying for or holding a certificate of approval for the purpose of determining whether or not the service is operated in accordance with the minimum standards.

HISTORY: Add. 1967, p. 145, Act 116, Imd. Eff. Jun. 27.

Original section 53 of Act 151 of 1923, p. 218, was a repeal section and was repealed by Act 267 of 1945.

IONIA STATE HOSPITAL

Sec. 54.

HISTORY: Rep. 1927, p. 363, Act 175, Eff. Sept. 5, CL 1929, 17510. This section superseded Sec. 19 of Act 124 of 1893, as Am. 1895, p. 243, Act 119, Eff. Aug. 30, being CL 1897, 1972;—As Am. 1899, p. 118, Act 81, Imd. Eff. May 25;—As Am. 1905, p. 344, Act 238, Eff. Sept. 16;—CL 1915, 1424.

330.65 Repealed. 1966, p. 198, Act 175, Imd. Eff. Jul. 1.

Section authorized commitment to Ionia state hospital of one found to be insane and who had previously been a patient at such hospital.

330.66 Ionia state hospital; insane convicts, transfer.

Sec. 56. Whenever the physician at the state prison at Jackson, or the Michigan reformatory at Ionia, or the state house of correction and branch of the state prison in the Upper Peninsula at Marquette, or any penal institution hereafter erected and conducted by the state, or the Detroit house of correction, shall certify to any warden, or other officer in charge of such penal institution that any inmate therein is insane, it shall be the duty of such officer in charge to make immediately a full examination into the condition of such inmate, and if fully satisfied that he is insane, such officer in charge, where said inmate is confined, shall forthwith cause such inmate to be transferred to the Ionia state hospital, and deliver him to the medical superintendent thereof, who is hereby required to receive him into said hospital provided there is room therein for his accommodation, and retain him there until legally discharged.

HISTORY: CL 1929, 6932;—CL 1948, 330.66;—Am. 1966, p. 197, Act 175, Imd. Eff. Jul. 1.

This section as originally enacted superseded part of Sec. 27 of Act 124 of 1893, being CL 1897, 1980;—Am. 1899, p. 119, Act 81, Imd. Eff. May 25;—CL 1915, 1432.

FORMER ACT: Act 189 of 1877, being CL 1915, 1437-1439.

330.67 Ionia state hospital; patients with homicidal tendencies, transfer.

Sec. 57. The medical superintendent of any hospital, home or institution may, with the approval of the state hospital commission, transfer any or all insane persons under treatment in any of such institutions who have been guilty of an act of homicide previous to admission to such institution, and whose presence is dangerous to others, like-

wise all insane persons who have committed any act of homicide while under treatment in any of such institutions to the Ionia state hospital. In case any patient under treatment in any of such institutions develops unmistakable dangerous or homicidal tendencies, rendering his presence a source of danger to others, proceedings may be instituted as above.

HISTORY: CL 1929, 6933;—Am. 1937, p. 165, Act 104, Imd. Eff. July 1;—CL 1948, 330.67. This section as originally enacted superseded part of Sec. 28 of Act 124 of 1893, being CL 1897, 1961;—As Am. 1899, p. 119, Act 81, Imd. Eff. May 25;—CL 1915, 1433.

TRANSFER: See also Compilers' § 330.38.

330.68 Ionia state hospital; insane convicts, retention after expiration of sentence; recovered convict, parole, discharge.

Sec. 58. In case the insanity of any criminal patient confined in the Ionia state hospital shall continue after the expiration of his or her sentence the medical superintendent shall, within a period of 5 days after the expiration of such person's sentence, make application to the judge of probate of the county in which the institution is situated for an order to retain such person in the hospital until he or she is restored to reason, and shall also send a written notice that he has made such application to 1 or more friends or relatives of the patient if their addresses be known and to the county clerk of the county from which such convict was sent. The judge of probate shall, upon receipt of said application, notify such alleged insane person and the attorney general, fixing the time and place of hearing to be held thereon, and it shall be the duty of such attorney general to act in behalf of the state; said judge of probate shall also call 2 legally qualified physicians, and in his discretion other credible witnesses, and if he certifies that satisfactory proof has been adduced showing the person examined to be insane he shall direct his commitment to the department of mental health for treatment in an appropriate state mental hospital. The probate judge in such examination shall have power to compel the attendance of witnesses and shall file the certificates of the physicians taken under oath, and other papers, and enter the proper order in the journal of the probate court in his office; said probate judge shall report the result of his proceedings to the board of state auditors, whose duty it shall be to audit and allow the expenses of such proceedings, to be paid by the state treasurer on the warrant of the auditor general. Whenever any convict confined in said institution shall have recovered and the medical superintendent of said hospital shall so certify in writing, he shall be forthwith transferred to the penal institution from whence he came, and the officer in charge thereof shall receive the said convict into said penal institution. Any convict whose sentence has expired, and who is still insane, may be paroled by the medical superintendent, under such rules as the state hospital commission adopts, to his relatives or friends who will undertake, with good sureties to be approved by the state hospital commission, for his peaceful behavior, safe custody and comfortable maintenance without further public charge. Any inmate of such Ionia state hospital, other than those classes above referred to, may be discharged or paroled in the same manner as are patients of the other insane hospitals of the state. All of the provisions of section 11 of this act, as amended, pertaining to the commitment of mentally ill persons not in conflict with the provisions of this section shall be applicable to the commitment of mentally ill or insane persons under this section.

HISTORY: CL 1929, 6934;—Am. 1937, p. 165, Act 104, Imd. Eff. July 1;—CL 1948, 330.68;—Am. 1956, p. 247, Act 135, Imd. Eff. Apr. 13;—Am. 1966, p. 197, Act 175, Imd. Eff. Jul. 1.

This section as originally enacted superseded with additions, Sec. 29 of Act 124 of 1893, being CL 1897, 1962;—CL 1915, 1434; and in part, part of Sec. 3 of Act 189 of 1877, being How. 1948;—CL 1897, 1966;—CL 1915, 1439.

330.69 Ionia state hospital; insane convicts, discharge, notices, warrant to sheriff, duties.

Sec. 59. That before discharging any convict at the time of the expiration of his sentence from any of the penal institutions of this state, who may be deemed insane, and so certified by the physician in charge of any such institution, if no relative or friend of

any such convict appears and takes charge of him, the warden or other superintending officer shall first give notice in writing to the county clerk of the county from which such convict was sent, and to 1 or more of the relatives or friends of such convict, if known, and also to the probate judge of the county in which such penal institution is located of the fact of his condition; and on the receipt of such written notice said judge shall, within 20 days, issue his warrant to the sheriff of such county, commanding him to receive such convict at the time of his discharge at the said institution and bring him before such judge.

HISTORY: CL 1929, 6935;—CL 1948, 330.69. This section re-enacts Sec. 1 of Act 172 of 1877, being How. 1949;—CL 1897, 1987;—CL 1915, 1440.

330.70 Ionia state hospital; insane convict, discharge, duty of sheriff.

Sec. 60. Upon the receipt of such warrant it shall be the duty of said sheriff to whom it is directed to execute the same forthwith, and return the same to the probate judge by whom it was issued.

HISTORY: CL 1929, 6936;—CL 1948, 330.70. This section re-enacts Sec. 2 of Act 172 of 1877, being How. 1950;—CL 1897, 1988;—CL 1915, 1441.

330.71 Ionia state hospital; insane convict, discharge, procedure before judge of probate.

Sec. 61. On such discharged convict being brought before the judge of probate aforesaid, such proceedings shall be had and such procedure followed as set forth in this act for the commitment of an insane person to any hospital of this state and the provisions of this act as to payment of expense of maintenance, care and treatment of said persons shall apply.

HISTORY: CL 1929, 6937;—CL 1948, 330.71. This section supersedes Sec. 3 of Act 172 of 1877, as Am. 1879, p. 112, Act 115, Imd. Eff. May 27, being How. 1951;—CL 1897, 1989;—CL 1915, 1442.

REPEAL: For repeal clause of this act, see Sec. 53.

Act 270, 1965, p. 460; Imd. Eff. Jul. 21.

AN ACT to enact and adopt the interstate compact on mental health; to provide the terms of the compact; to prescribe the powers and duties of the governor and other state departments, agencies and officers; and to create the office of compact administrator and to prescribe his powers and duties.

The People of the State of Michigan enact:

330.81 Interstate compact on mental health.

Sec. 1. The interstate compact on mental health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and

mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in re-

gard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances: Provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for

the maintenance of any institution on a joint or cooperative basis whenever the the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

HISTORY: New 1965, p. 460, Act 270, Imd. Eff. Jul. 21.

330.82 Director of department of mental health; duties as compact administrator.

Sec. 2. The director of the department of mental health, or his duly authorized agent designated by him in writing to the governor, shall perform the duties of the compact administrator who, acting jointly with like officers of other states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreements entered into by this state.

HISTORY: New 1965, p. 464, Act 270, Imd. Eff. Jul. 21.

330.83 Supplementary agreements with other states.

Sec. 3. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

HISTORY: New 1965, p. 464, Act 270, Imd. Eff. Jul. 21.

330.84 State financial obligations; discharge.

Sec. 4. The compact administrator, subject to the approval of the department of administration, may arrange for any payments necessary to discharge any financial obli-

gations imposed upon this state by the compact or by any supplementary agreement entered into thereunder from funds appropriated for that purpose.

HISTORY: New 1965, p. 464, Act 270, Imd. Eff. Jul. 21.

330.85 Copies of acts; distribution.

Sec. 5. Duly authenticated copies of this act shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments.

HISTORY: New 1965, p. 464, Act 270, Imd. Eff. Jul. 21.

330.86 Transferring patient to institutions in other states; consent of parent or guardian.

Sec. 6. In the administration of this act the compact administrator shall not transfer any patient to an institution in another state without the prior written consent of the patient's parents, next of kin or guardian. A copy of the consent shall be placed on file in the probate court of the county issuing the order of commitment and admission, or in the case of a voluntary admission, in the probate court of the county where the patient resides.

HISTORY: New 1965, p. 464, Act 270, Imd. Eff. Jul. 21.

Act 229, 1956, p. 726; Imd. Eff. May 17.

AN ACT to make an appropriation to the department of mental health to reimburse counties for hospital care of mentally ill persons committed, but not admitted, to state institutions, and to provide conditions for admissions.

The People of the State of Michigan enact:

330.91 Appropriation to state department of mental health; reimbursement of counties for hospitalization of patients.

Sec. 1. There is hereby appropriated from the general fund the sum of \$100,000.00 to the state department of mental health for the fiscal year ending June 30, 1957, to be used for the reimbursement of counties for expenditures made in the hospitalization of mentally ill residents of such counties who have been lawfully committed to an institution under the control of the state department of mental health prior to admission to such institution.

HISTORY: New 1956, p. 726, Act 229, Imd. Eff. May 17.

330.92 County reimbursement; qualifications.

Sec. 2. In order to qualify for reimbursement the county shall have made provision, by contract or otherwise, for the care of such persons in hospital facilities adequate for the purpose and possessing security factors equivalent to the institution to which the person is committed. Prior to admission to the hospital facilities, the judge of the court in which the person was committed to the state institution shall have granted his approval to such admission and the adequacy of the facilities and before eligibility for reimbursement may be established, the judge shall in each case have made a finding that it is essential and necessary for the safety of the person or the safety of the public that he be so detained.

HISTORY: New 1956, p. 726, Act 229, Imd. Eff. May 17;—Am. 1967, p. 57, Act 38, Eff. Nov. 2;—Am. 1969, p. 499, Act 257, Imd. Eff. Aug. 11.

330.93 County reimbursement; maximum rate and duration, county liability.

Sec. 3. The rate per day of reimbursement to the county shall not exceed \$14.00 and the number of days of reimbursement for each person shall not exceed 21 days or the number of days between the date of admission to the hospital facilities and the date of admission to the state institution, whichever is the lesser. Whenever a county receives reimbursement under the provisions of this act the liability of the county for the care and maintenance of such person as required under Act No. 151 of the Public Acts of 1923, as amended, being sections 330.11 to 330.71, inclusive, of the Compiled Laws of 1948, shall commence as of the last date of eligibility for payments under this act.

HISTORY: New 1956, p. 726, Act 229, Imd. Eff. May 17.

330.94 Appropriation; disbursement; unexpended balance, reversion.

Sec. 4. The amounts hereby appropriated shall be paid out of the treasury at such times and in such manner as may be provided by law. The unexpended or unencumbered balances on June 30, 1957, of the appropriations made under the provisions of this act shall revert to the general fund.

HISTORY: New 1956, p. 726, Act 229, Imd. Eff. May 17.

Act 7, 1901, p. 13; Imd. Eff. Feb. 7.

AN ACT to provide for the payment for maintenance of certain patients in the state asylum at Ionia.

The People of the State of Michigan enact:

330.101 State asylum; maintenance of patients.

Sec. 1. Whenever any patient in the state asylum the expense of whose maintenance has been wholly paid by the county, responsible for his or her maintenance for a period of 1 year, whether such period shall have been continuous or interrupted, shall from and after the close of such period of 1 year, be maintained by the state so long as he or she is retained in said asylum. Any patient recommitted to the asylum, the expense of whose previous maintenance has been paid by any county for a period of 1 year, shall not again be maintained at the expense of any county, but by the state. Any patient received from any asylum in the state whose maintenance has been paid by any county for a period of 1 year or less than 1 year, the time spent in such asylum shall be computed the same as if the patient had been originally committed to the state asylum.

HISTORY: CL 1915, 1443;—CL 1929, 6950;—CL 1948, 330.101.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 1444;—CL 1929, 6951;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 129, 1945, p. 133; Imd. Eff. Apr. 7.

AN ACT to provide for the creation of a state general hospital at Traverse City; to provide for the transfer of certain real property; to provide for the supervision and administration thereof; to provide for the reception and care of patients therein; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

330.161 James Decker Munson hospital; transfer of lands, structures; validity of lease granted to children's fund not affected.

Sec. 1. The general hospital department of the Traverse City state hospital is hereby established as a separate institution to be known as the "James Decker Munson hospital." The land in the S.E. 1/4 of the S.W. 1/4 and in the S.W. 1/4 of the S.E. 1/4 of section 4, T. 27 N.R. 11 W., Garfield township and Traverse City, Grand Traverse county, Michigan, described as commencing at the point of intersection of the center line of Sixth street and the center line of Elmwood avenue; thence S. 1° - 12' - 20" W. along the center line of Elmwood avenue 530.16 feet to a point; thence S. 89° - 47' - 10" W. 2085.25 feet to a point on the line of occupation; thence N. 1° - 53' - 10" E. 492.13 feet along the line of occupation to a point; thence N. 89° - 52' - 50" E. 771.40 feet along the line of occupation to a point on the quarter line of section 4 from which the south quarter post of section 4 bears S. 2° - 09' - 40" W. 723.50 feet; thence N. 2° - 09' - 40" E. 39.50 feet along the quarter line of section 4 to the center line of Sixth street; thence N. 89° - 47' - 10" E. 1307.31 feet to the point of beginning containing 24.645 acres, and all structures and improvements included thereon are hereby transferred to the James Decker Munson hospital: Provided, That the provisions of this act shall in no way affect the validity or terms of the lease granted to the children's fund of Michigan in accordance with Act No. 39 of the Public Acts of 1935, under the terms of which a children's clinic has been constructed on a portion of the property herein described.

HISTORY: CL 1948, 330.161.

CITED IN OTHER SECTIONS: Sections 330.161 to 330.166 are cited in § 330.191.

330.162 Scope of area served.

Sec. 2. The James Decker Munson hospital, as a general hospital for the reception and care of medical and surgical cases, shall serve an area of several counties centering around Grand Traverse county, and the scope of such area shall be fixed by the state hospital commission.

HISTORY: CL 1948, 330.162.

330.163 Superintendent; appointment, local advisory board.

Sec. 3. The state hospital commission shall appoint a superintendent of the James Decker Munson hospital who shall be the chief administrative officer of the hospital and who shall be directly responsible to the commission, and the government and sole and exclusive control of said hospital shall vest in the state hospital commission. The commission shall appoint a local advisory board of 7 members consisting of representation from the hospital area.

HISTORY: CL 1948, 330.163.

330.164 Admission of patient; rates of charge.

Sec. 4. The state hospital commission shall have power to prescribe all rules and regulations for the admission of patients to the James Decker Munson hospital and shall fix rates of charge for hospital services to be paid by patients receiving care therein, and all moneys thus received shall be paid to the state treasurer to be used for the general operation and maintenance of the hospital and for enlarging and improving same. All expenses of said hospital shall be paid from moneys so received and shall not be an obligation of the state.

HISTORY: CL 1948, 330.164.

330.165 Gifts or bequests to hospital.

Sec. 5. The state hospital commission is hereby authorized to receive gifts, bequests and donations for the purpose of improving or expanding the James Decker Munson

hospital: Provided, That no person or persons, association, firm, private corporation or municipal corporation shall be granted any control, interest or ownership of any portion of the James Decker Munson hospital through the acceptance and use by the hospital commission of any such gifts, bequests or donations.

HISTORY: CL 1948, 330.165.

330.166 Land acquired upon expiration of lease between hospital commission and children's fund.

Sec. 6. On the expiration of a lease executed on May 1, 1935 by and between the Michigan state hospital commission and the children's fund of Michigan, the following described properties shall be and become a part of the James Decker Munson hospital:

Parcel of land located on the south side of west Sixth street, 246' No" east of city boundary stake, at the end and center of west Sixth street, at a point where the inside face of curb, if extended, of the service road in rear of the Munson hospital intersects with the center of west Sixth street and from there in an easterly direction 99' 1"; thence in a southerly direction 17' 8 ½"; thence in a westerly direction 32' 1"; thence in a southerly direction 27' 4 ½"; thence in a westerly direction 59' 1" to the road-edge of curb of service road in the rear of the Munson hospital, and from there 163' 0" north to point of beginning, along face of the curb to center of west Sixth street.

HISTORY: CL 1948, 330.166.

Sec. 7. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 33, 1915, CL 1929, 6652-6653.

Act 223, 1947, p. 322; Eff. Oct. 11.

AN ACT to authorize the department of mental health, with the approval of the attorney general, to negotiate and execute a lease or leases of certain property with a non-profit corporation organized under the laws of this state to operate a general hospital in the city of Traverse City; to authorize the execution of a contract or contracts with respect to the furnishing of facilities; and to provide for the insurance of such property.

The People of the State of Michigan enact:

330.171 James Decker Munson hospital; lease; approval of execution; provisions.

Sec. 1. The department of mental health, with the approval of the attorney general, is hereby authorized to enter into and execute a lease or leases of the property described in Act No. 129 of the Public Acts of 1945, known as the James Decker Munson hospital, with a non-profit corporation organized under the laws of the state of Michigan to operate a general hospital in the city of Traverse City. Such lease shall be executed and signed on behalf of the state of Michigan by the director of the department of mental health. Such lease may be executed for a term of not to exceed 50 years, shall contain provisions for an annual rental of \$1.00 and the annual payment of an amount sufficient to defray the premium to be paid to the state insurance fund under the provisions of Act No. 388 of the Public Acts of 1913 to cover the insurance of said property by the state, shall contain a provision prohibiting the assignment of the lease without the consent of the department of mental health and the attorney general, and shall contain a provision that in the event the lessee shall construct new buildings on said property or remodel present buildings, such construction or remodeling shall be made in accordance with plans submitted to and approved by the department of mental health. The lease may also contain provisions for the turning over to the lessee of all

personal property, such as equipment, fixtures, supplies, accounts receivable, endowments and cash balances, now belonging to the James Decker Munson hospital created under Act No. 129 of the Public Acts of 1945.

HISTORY: CL 1948, 330.171.

NOTE: Act 129, 1945, above referred to, is Compilers' § 330.161 et seq.; Act 368, 1913, above referred to, is Compilers' § 550.701 et seq.

CITED IN OTHER SECTIONS: Sections 330.171 to 330.175 are cited in § 330.191.

330.172 Contracts for heat, power and light; approval.

Sec. 2. The department of mental health, with the approval of the attorney general, is hereby authorized to enter into and execute a contract or contracts, to be signed by the director of the department of mental health on behalf of the state, with the corporation described under section 1 of this act for the purpose of furnishing heat, power, light, laundry at cost, and feeding of employees at the state hospital in Traverse City, and such other facilities as shall be agreed upon between the parties.

HISTORY: CL 1948, 330.172.

330.173 Expiration of lease; assignment of lease with Children's Fund of Michigan.

Sec. 3. Upon the completion of the lease described under section 1 of this act, the department of mental health, with the approval of the attorney general, is hereby authorized to assign the lease with the Children's Fund of Michigan provided for under Act No. 39 of the Public Acts of 1935, to the corporation described under section 1 of this act, and such corporation shall be obligated to fulfill the provisions of such lease as written. Such assignment shall be executed by the director of the department of mental health on behalf of the state.

HISTORY: CL 1948, 330.173.

NOTE: Act 39, 1935, above referred to, is Compilers' § 330.181 et seq.

330.174 Execution of other contracts; approval.

Sec. 4. The department of mental health, with the approval of the attorney general, is hereby authorized to enter into and execute such other agreements as may be necessary to carry out the purposes and provisions of this act, and such agreements shall be signed and executed by the director of the department of mental health on behalf of the state.

HISTORY: CL 1948, 330.174.

330.175 Non-liability of state for corporation's acts; invalidity of encumbrances on property.

Sec. 5. The state of Michigan shall have no responsibility for any liabilities incurred by the corporation described under section 1 of this act, in the operation of the James Decker Munson hospital. No encumbrances placed on the property beyond the term of the lease shall be valid or binding.

HISTORY: CL 1948, 330.175.

Act 39, 1935, p. 63; Imd. Eff. May 1.

AN ACT to authorize the state hospital commission to enter into and execute a lease or leases with the children's fund of Michigan for the purpose of erecting a children's clinic center on the grounds of the Traverse City state hospital, and to enter into and execute contracts providing for heat, power, meals, janitor service, cleaning, X-ray pictures, laboratory tests and other facilities.

The People of the State of Michigan enact:

330.181 Children's clinic at Traverse City state hospital; lease of land for construction.

Sec. 1. The state hospital commission, with the approval of the attorney general, is hereby authorized to enter into and execute a lease or leases with the children's fund of Michigan for the purpose of erecting a children's clinic center on the grounds of the Traverse City state hospital, adjacent to and connected with the Munson hospital. Any such lease shall include the following provisions: (a) term of 24 years; (b) upon the termination of the lease the title to the clinic building shall revert to and become the property of the Traverse City state hospital; (c) the lease shall not be assigned without the consent of the lessor, except that the lease may be assigned to the university of Michigan to be used for a university hospital; (d) in the event of serious damage by fire to the clinic building and equipment resulting in the loss of at least 50 per cent of the value thereof the children's fund of Michigan shall have the option of either restoring the building and equipment or of terminating the lease upon sixty days' notice, with the proviso that in the event of such termination the children's fund of Michigan will restore the grounds to their previous condition at its own expense; (e) the building to be constructed thereon will be of fireproof construction, according to plan to be submitted by the children's fund of Michigan and approved by the state hospital commission; (f) the children's fund of Michigan will pay the expense arising from the construction of new driveways; and (g) such other terms, provisions and conditions as shall be agreed upon between the parties.

HISTORY: CL 1948, 330.181.

CITED IN OTHER SECTIONS: Sections 330.181 to 330.183 are cited in § 330.194.

330.182 Children's clinic; contracts for services and supplies.

Sec. 2. The state hospital commission, with the approval of the attorney general, is hereby authorized to enter into and execute a contract or contracts with the children's fund of Michigan for the purpose of furnishing heat and power, at cost, meals for the children cared for in the clinic building, at cost, janitor service and cleaning, if requested, and X-ray pictures and laboratory tests, at cost, and such other facilities as shall be agreed upon between the parties.

HISTORY: CL 1948, 330.182.

330.183 Children's clinic; agreements.

Sec. 3. The state hospital commission, with the approval of the attorney general, is hereby authorized to enter into and execute such other agreements as may be necessary to carry out the purposes and provisions of this act.

HISTORY: CL 1948, 330.183.

Act 48, 1949, p. 39; Imd. Eff. Apr. 7.

AN ACT to authorize the department of mental health, with the approval of the attorney general, to convey certain property to a non-profit corporation organized under the laws of this state to operate a community hospital in the city of Traverse City.

The People of the State of Michigan enact:

330.191 Conveyance of property; authorization.

Section 1. The department of mental health, with the approval of the attorney general, is hereby authorized to convey by quit claim deed, for a consideration of \$1.00, the real property described in Act No. 129 of the Public Acts of 1945, being section [sic] 330.161 to 330.166, inclusive, of the Compiled Laws of 1948, and by bill of sale,

all of the interest of the state of Michigan in the personal property located thereon and used in connection with the operation of said hospital; said conveyances to be made to James Decker Munson hospital, a non-profit corporation, organized and existing under the laws of the state of Michigan, and the lessee of said property under the provisions of Act No. 223 of the Public Acts of 1947, being sections 330.171 to 330.175, inclusive, of the Compiled Laws of 1948. Such instruments of conveyance shall be executed and signed on behalf of the state of Michigan by the director of the department of mental health.

HISTORY: New 1949, p. 39, Act 48, Imd. Eff. Apr. 7.

330.192 Conveyance of property; reversion to state.

Sec. 2. The conveyances of real and personal property hereby authorized shall be upon the express condition, that should the operation of a community hospital on said property cease at any time, then and in that event, title to said real property, together with title to the buildings, equipment, supplies, materials, and other assets, then the property of said community hospital, shall revert to the state of Michigan.

HISTORY: New 1949, p. 40, Act 48, Imd. Eff. Apr. 7.

330.193 Provisions applicable.

Sec. 3. The provisions of Act No. 223 of the Public Acts of 1947 shall be superseded by the provisions of this act only insofar as the conveyances hereby authorized are in lieu of the lease provided for in said act. All other provisions of Act No. 223 of the Public Acts of 1947 shall remain operative.

HISTORY: New 1949, p. 40, Act 48, Imd. Eff. Apr. 7.

330.194 Lease granted to children's fund not affected.

Sec. 4. The provisions of this act shall in no way affect the validity or terms of the lease granted to the children's fund of Michigan in accordance with Act No. 39 of the Public Acts of 1935, being sections 330.181 to 330.183, inclusive, of the Compiled Laws of 1948, under the terms of which a children's clinic has been constructed and maintained on a portion of the property herein conveyed.

HISTORY: New 1949, p. 40, Act 48, Imd. Eff. Apr. 7.

Act 231, 1923, p. 372; Eff. Aug. 30.

AN ACT to provide for the detention of mentally diseased persons for examination in certain cases. Am. 1945, p. 523, Act 301, Eff. Sep. 6.

The People of the State of Michigan enact:

330.201 Detention of mentally diseased persons; procedure.

Sec. 1. The regularly appointed official physician of any municipal corporation of this state who shall find after careful examination that any person in such municipal corporation is mentally diseased and that the immediate detention of such person for examination and proceedings under Act No. 151 of the Public Acts of 1923, as amended, is necessary for the public safety, shall make a certificate to that effect, which shall contain the facts and circumstances showing the mental condition of such person and why such detention is necessary, and deliver the same to any peace officer of such municipal corporation whose duty it shall be forthwith to take such person into custody and transfer him to such hospital or such other place of detention, in case a hospital is not available, as said physician may direct.

HISTORY: CL 1929, 6948;—Am. 1945, p. 523, Act 301, Eff. Sept. 6;—CL 1948, 330.201.

NOTE: Act 151 of 1923, above referred to, is Compilers' §§ 330.11 to 330.71.

CERTIFICATE OF INSANITY: See Sec. 24 of Act 151 of 1923, being Compilers' § 330.20.

330.202 Detention of mentally diseased persons; limitations.

Sec. 2. Any person taken into custody under this act may be detained until such proceedings as are provided in the act aforesaid shall be instituted in the probate court: Provided, however, That the period of such temporary detention shall not exceed 5 days unless the probate court shall by special order enlarge the time: Provided further, That no person arrested under this act shall be confined in a jail or other lock-up, unless such person manifests homicidal or other violent tendencies.

HISTORY: CL 1929, 6949;—CL 1948, 330.202.

TEMPORARY DETENTION: For other provisions regarding temporary detention, see Sec. 9 of Act 151 of 1923, being Compilers' § 330.19.

Act 392, 1921, p. 719; Imd. Eff. May 18.

AN ACT to authorize counties to make provisions for the care, custody and maintenance of feeble-minded and epileptic persons, to authorize the levying and collection of taxes, the borrowing of money and issuing bonds for such purpose and to provide for the care of state patients by counties and the reimbursement of such counties for such care.

The People of the State of Michigan enact:

330.251 Feeble-minded and epileptic persons; county care; bond issue, tax.

Sec. 1. The several counties of the state of Michigan shall have power and authority, by resolution of the board of supervisors, to provide for the care, custody and maintenance of all feeble-minded and epileptic persons within such counties and for this purpose such counties may raise money by tax or by loan and issue the bonds of the county to secure the repayment of any such loan in the manner and within the limits provided by law for the erection of buildings and for the purchase of equipment. Such counties may raise by tax, in the manner and within the limits provided by law, such sum or sums as may be needed, from year to year, for the support, maintenance and care of feeble-minded and epileptic persons committed to the care of any institution maintained by such counties under and by authority of law.

HISTORY: CL 1929, 6938;—CL 1948, 330.251.

REPORTS: Of insane persons receiving county aid, see Compilers' § 330.44.

WAYNE COUNTY: See Compilers' § 330.60.

CITED IN OTHER SECTIONS: Sections 330.251 to 330.255 are cited in § 330.261.

330.252 Feeble-minded and epileptic persons; court commitment, county reimbursement by state.

Sec. 2. The several courts of the state of Michigan having jurisdiction over proceedings relating to feeble-minded and epileptic persons, may commit such feeble-minded and epileptic persons as are by law authorized to be committed to institutions supported by the state of Michigan to the institutions maintained within the counties where such feeble-minded and epileptic persons may be domiciled and the state of Michigan shall reimburse the counties so maintaining such institutions for the care of such patients to an amount equal to the cost of maintaining patients in the institutions maintained and supported by the state.

HISTORY: CL 1929, 6939;—CL 1948, 330.252.

PROBATE COURTS: Jurisdiction as to feeble-minded and epileptic, see Compilers' § 330.21.

330.253 Feeble-minded and epileptic persons; contracts as to patients from other counties, county reimbursement by state.

Sec. 3. Counties maintaining institutions for the care of feeble-minded and epileptic persons as herein provided may make contracts with the state for the care of feeble-

mind and epileptic persons committed to such institutions from other counties and when patients, from other counties, are so committed to institutions, maintained by the several counties of the state under the provisions of law, the state shall pay to such counties the entire cost of the care, custody and maintenance of such patients.

HISTORY: CL 1929, 6940;—CL 1948, 330.253.

330.254 Resolutions; approval by referendum.

Sec. 4. In counties having a population of less than 100,000 inhabitants, the resolution or resolutions of the board of supervisors passed under and by authority of the powers herein granted to counties shall not become effective until approved by the electors of such counties, and whenever any board of supervisors in a county having less than 100,000 inhabitants shall pass such a resolution such board of supervisors shall thereupon provide for the submission of such resolution to the referendum of the electors of the county.

HISTORY: CL 1929, 6941;—CL 1948, 330.254.

330.255 County administrative board; organization, powers.

Sec. 5. In any county in the state of Michigan acting under the provisions of this act, it shall be lawful for the board of supervisors of such county and such board is hereby authorized by ordinance to provide for the appointment of an administrative board or of a superintendent created by such county under the provisions of this act. Such administrative board, if such there be, shall be constituted as provided in such ordinance and upon the passage of such ordinance such board or the superintendent, if there be one, shall have such power and authority as the board of supervisors shall in said ordinance provide.

HISTORY: Add. 1923, p. 367, Act 227, Eff. Aug. 30;—CL 1929, 6942;—CL 1948, 330.255.

Act 148, 1957, p. 170; Imd. Eff. May 29.

AN ACT to authorize counties to establish a day school program for the education and training of mentally handicapped children, other than feeble-minded or epileptic, and to provide for the reimbursement of such counties for such education and training.

The People of the State of Michigan enact:

330.261 Mentally handicapped children; county day school program, appropriations, facilities.

Sec. 1. Any county which operates a facility authorized under Act No. 392 of the Public Acts of 1921, as amended, being sections 330.251 through 330.255 of the Compiled Laws of 1948, shall have the power and authority, by resolution of their respective boards of supervisors, to establish a day school program for the education and training of mentally handicapped children, other than feeble-minded or epileptic children, who cannot profitably or safely be educated by the usual methods or means of instruction in public schools within the county, and for this purpose such counties may enter into reimbursement agreements with school districts within the county or with school districts adjacent to the county for the reimbursement of the cost of education and training of such children, including the cost of transportation of such children. For the purpose of implementing this program, the board of supervisors of any such county may appropriate from the general fund such sums of money as may be necessary and

may utilize all of the facilities which have been authorized to be maintained by counties under Act No. 392 of the Public Acts of 1921, as amended, being sections 330.251 through 330.255 of the Compiled Laws of 1948.

HISTORY: New 1957, p. 170, Act 148, Imd. Eff. May 29.

Act 148, 1927, p. 224; Imd. Eff. May 12.

AN ACT to provide regulations for the commitment of certain persons to the Wayne county hospital and to provide for their release and discharge therefrom and to provide a method for payment for their care, support, maintenance and supervision thereat.

The People of the State of Michigan enact:

330.301 Drug addicts; commitment to Wayne county hospital, time limitations.

Sec. 1. Whenever any person shall have been convicted in this state for a violation of Act No. 92 of the Public Acts of 1923, as amended by Act No. 9 of the Public Acts of 1925, or of any offense cognizable by a justice of the peace and it shall appear to the trial court from evidence or from the statement of the defendant that such person is habitually addicted to the use of habit forming drugs, such court, instead of imposing judgment in said cause for such offense as otherwise provided by law, may commit such defendant to the Wayne county hospital, Wayne county, Michigan, for care and treatment for the use of such habit forming drugs, for a period not to exceed 2 years or for as long a period as shall in the opinion of the court, based upon the report of the medical superintendent of said hospital, be necessary and proper for the benefit of said defendant: Provided, That in no event shall such person be kept in the Wayne county hospital under such commitment for more than 2 years from the date of such commitment.

HISTORY: CL 1929, 6943;—CL 1948, 330.301.

NOTE: Act 92 of 1923 as amended, above referred to, was repealed by Act 310 of 1929, being CL 1929, 9212 to 9234. Act 310, 1929, is superseded by Compilers' § 335.51 et seq.

DRUG ADDICTS: See also Compilers' § 330.18. Treatment at private institutions, see Compilers' § 404.201 et seq.

MENTAL INCOMPETENTS: Commitment to same institution, see Compilers' § 330.59.

OFFENSES: For offenses cognizable by a justice of the peace, see Compilers' § 774.1.

330.302 Patients from other counties; contracts with Wayne county, expenses.

Sec. 2. The board of supervisors of any county in the state shall have full power and authority to enter into an agreement with the board of supervisors of Wayne county to send any person who may be committed to such place from such county to the Wayne county hospital and have such person received and kept in said hospital. Whenever any person shall be committed to the Wayne county hospital, under the provisions of this act, from any county of the state of Michigan other than Wayne county, such county from which such person is committed shall be liable to the county of Wayne for the care, support, maintenance, and supervision of such person while in the Wayne county hospital in an amount to be determined by contract between the board of supervisors of the county of Wayne and the respective boards of supervisors of such other county of the state from which such person may be committed. Such amount shall be computed and based upon the approximate cost necessary for the care, support, maintenance and supervision of such persons committed.

HISTORY: CL 1929, 6944;—CL 1948, 330.302.

330.303 Patients from other counties; conveyance to hospital.

Sec. 3. It shall be the duty of the sheriff of any county from which any person is committed to the Wayne county hospital, as in this act provided, to safely convey and deliver such person forthwith upon commitment to the Wayne county hospital, for which such sheriff shall be paid the same fees and compensation as for conveying persons to a state hospital.

HISTORY: CL 1929, 6945;—CL 1948, 330.303.

330.304 Superintendent of Wayne county hospital; duties.

Sec. 4. It shall be the duty of the superintendent of the Wayne county hospital to receive all persons duly committed to such hospital and keep such persons safely thereat until their lawful release or discharge therefrom and it shall be his further duty to promulgate proper rules and regulations for the government and discipline of the hospital and the persons so committed thereto: Provided, That in cases where no contract exists between the county of Wayne and a county from which any person may be committed to the Wayne county hospital, the superintendent of such hospital shall not be obliged to receive any such person so committed for care and treatment.

HISTORY: CL 1929, 6946;—CL 1948, 330.304.

330.305 Defendant; release, discharge.

Sec. 5. The superintendent of said Wayne county hospital is hereby authorized and directed to release or discharge any such defendant at such time as in the opinion of the court said defendant shall have been cured of the habitual use of any such habit forming drugs, or at such other time within the limit herein provided as it shall appear to the court that such release or discharge is for the best interests of said defendant having due regard for the report of the superintendent of such hospital.

HISTORY: CL 1929, 6947;—CL 1948, 330.305.

Act 85, 1937, p. 116; Imd. Eff. Jun. 17.

AN ACT to transfer to the regents of the university of Michigan the state psychopathic hospital and all of the property thereof; to transfer to other institutions the patients now committed to the psychopathic hospital; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

330.401 State psychopathic hospital; transfer of property and unexpended appropriations to university of Michigan.

Sec. 1. All of the property of the state psychopathic hospital at the university of Michigan is hereby transferred to the board of regents of the university of Michigan to be used by the board as a neuro-psychiatric institute. The unexpended balance of any appropriation made for the psychopathic hospital is hereby transferred to the regents of the university of Michigan to be expended for the maintenance and operation of the neuro-psychiatric institute of the university of Michigan. Any sum hereby transferred shall be paid by the state treasurer upon warrants which shall be issued by the auditor general to the regents of the university of Michigan.

HISTORY: CL 1948, 330.401.

330.402 Patients committed for observation; disposition.

Sec. 2. The patients now committed for observation to the state psychopathic hospital under orders from the probate courts shall, as soon as the director of the state psychopathic hospital can report the results of his observation to such probate courts, be disposed of as follows:

(a) If in the opinion of the director of the psychopathic hospital the patient is not insane, feeble-minded, or epileptic, the probate court shall vacate the order of commitment and discharge the patient.

(b) If in the opinion of the director the patient is insane, feeble-minded, or epileptic, then the judge of probate shall notify the person who made the application for the admission of said person to an institution of the state and such of the relatives of said patient as may be found within the jurisdiction of the court, and may find said person to be insane, feeble-minded, or epileptic, and may order that said person be committed to the state hospital for mental disease of the district of which said patient was a legal resident, or to such hospital or sanitarium, licensed or supported by the state to care for persons having mental disease or who may be feeble-minded, or epileptic, as he may designate in the order of commitment.

HISTORY: CL 1948, 330.402.

330.403 Patients committed as insane, feeble-minded or epileptic; transfer.

Sec. 3. All patients now in the state psychopathic hospital who have already been committed as insane, feeble-minded, or epileptic, shall as soon as possible be transferred to the state hospital for mental disease in the district of which said patient is a legal resident or to such other hospital for mental disease as may have originally transferred said patient to the state psychopathic hospital.

HISTORY: CL 1948, 330.403.

330.404 Purpose and intent of legislature.

Sec. 4. It is the purpose and intention of the legislature, recognizing that the early diagnosis and treatment of mental disorders is of prime importance in the prevention of eventual custodial care of such patients, that the neuro-psychiatric institute of the university of Michigan shall be open so far as facilities are available, and under rules and regulations to be prescribed by the board of regents of the university, for the care and treatment of persons suffering from mental disorders, but who have not been committed by the probate courts as insane, feeble-minded, or epileptic. It is the further purpose and intention to establish a clinic for the study of prevention of mental illness, and for the conduct of training and research in all phases of mental disease. With the approval and under the rules of the board of regents there shall be maintained as a part of the neuro-psychiatric institute a neuro-pathological laboratory, which shall be a central laboratory for the Michigan state hospitals for mental disease.

HISTORY: CL 1948, 330.404.

330.405 Indigent afflicted persons; transfer to neuro-psychiatric institute.

Sec. 5. Indigent afflicted persons who are sent to the general hospital of the university of Michigan pursuant to the provisions of the statutes of this state may, as need arises, be referred or transferred to the neuro-psychiatric institute, provision for which is made by this act.

HISTORY: CL 1948, 330.405.

330.406 State hospital patients; transfer to neuro-psychiatric institute.

Sec. 6. In case the director of the neuro-psychiatric institute of the university of Michigan and the superintendent of any 1 of the state hospitals for mental disease, epilepsy, or feeble-mindedness shall be of the opinion that the disorder of mind of any person who is confined in such hospital may be benefited by a residence and treatment of that person in the neuro-psychiatric institute of the university of Michigan, or if such person is believed to be valuable for clinical or research purposes at said neuro-psychiatric institute, such person may be conveyed to said institute for such time as shall be determined by the said director and superintendent. Whenever any such patient shall be transferred he shall be regarded as remaining in the custody of the hospi-

tal from which he was transferred, but the director of the neuro-psychiatric institute of the university of Michigan shall be responsible to the superintendent of the hospital from which the patient is transferred for his care, custody and treatment. Such transferred patients shall be received back into the hospitals from which they were transferred as soon as the treatment, or the clinical or research work for which they were transferred is concluded. The expenses of transferring such patients and of their care and treatment while in the neuro-psychiatric institute of the university of Michigan shall be paid from the appropriation made for the use and maintenance of said institute.

HISTORY: CL 1948, 330.406.

330.407 Repeal.

Sec. 7. Act No. 207 of the Public Acts of 1927, as amended, being sections 6967 to 6991, inclusive, of the Compiled Laws of 1929, is hereby repealed: Provided, That this repeal shall not be deemed to invalidate or otherwise affect commitments which have heretofore been made to the state psychopathic hospital pursuant to the provisions of the act hereby repealed.

HISTORY: CL 1948, 330.407.

Act 217, 1954, p. 595; Imd. Eff. May 18.

AN ACT providing for the establishment of a combined psychiatric hospital and clinic under the jurisdiction and control of the state department of mental health to be located in Detroit, Michigan.

The People of the State of Michigan enact:

330.421 Lafayette clinic; psychiatric hospital and outpatient clinic, location.

Sec. 1. There shall be maintained by the state of Michigan, under the jurisdiction and control of the department of mental health from appropriations to be made available for such purpose, a combined psychiatric hospital and outpatient clinic located in the city of Detroit in the structure authorized as a neuropsychiatric institute by Act No. 45 of the Public Acts of 1951, and Act No. 212 of the Public Acts of 1952. Said psychiatric hospital and outpatient clinic shall be known as the Lafayette clinic.

HISTORY: New 1954, p. 595, Act 217, Imd. Eff. May 18.

330.422 Lafayette clinic; mental health personnel training program; inpatient and outpatient service, admission; direct commitment prohibited, exception.

Sec. 2. The department of mental health is hereby authorized to establish in the Lafayette clinic a program especially designed to train personnel for the field of mental health, including such specialties as psychiatry, psychiatric social work, clinical psychology, psychiatric nursing and others; and to conduct studies and research into the nature and cause as well as the methods of care, treatment and prevention of emotional and mental disorders and disturbances. The program to be established in the Lafayette clinic shall include both an inpatient and outpatient service for those in need of psychiatric care and treatment. Patients shall be admitted to the inpatient and outpatient service only in accordance with rules and regulations established by the department, it being understood that the number and type of patients to be admitted to the inpatient service shall be controlled and guided to promote and make possible the conduct of a sound and adequate training and research program. Said inpatient service shall at no time be used for the care of long term custodial cases, and no patient shall remain in continuous residence for more than 2 years. The direct commitment of pa-

tients by probate courts to the Lafayette clinic shall not be permitted: Provided, That when, in accordance with the statutes, a petition has been made in a probate court for the commitment of a person to a hospital for the mentally diseased and it appears to the examining physicians and to the judge of probate that the mental disorder of the person is such as to make it inadvisable to adjudge such person to be mentally ill, mentally handicapped or epileptic, the court may continue the hearing of such case to a subsequent date and direct that the mentally disordered person shall be sent to the Lafayette clinic as a person afflicted with a mental disorder to be there confined, observed and treated for a period not to exceed 90 days; except that the admission of such a person shall only take place with the approval of the director of the Lafayette clinic and a determination by him that the patient is of a type appropriate for observation, care and treatment in said clinic. Before the expiration of this period of observation, the director of the Lafayette clinic shall report to the judge of probate the results of the observation and treatment and an opinion stating whether said patient is mentally ill, mentally handicapped or epileptic. The probate court shall, upon receipt of the report from the director of the clinic, vacate the order of confinement in said clinic and either adjudge the person mentally ill, mentally handicapped or epileptic, and order his admission to the appropriate state hospital facility or discharge the original proceedings and order the person released.

HISTORY: New 1954, p. 595, Act 217, Imd. Eff. May 18.

330.422a Lafayette clinic; drug abuse center, purposes, funds.

Sec. 2a. The Lafayette clinic may plan, establish, maintain and operate a drug abuse center and may use donated facilities in connection with the center. The center may provide for the treatment of drug casualties, the training of physicians and ancillary personnel in the clinical area of drug dependence, research on the epidemiology, clinical characteristics, psychological determinants and pharmacology of drug abuse, and the dissemination of drug information to community groups. The Lafayette clinic is authorized to receive federal matching funds available for conducting such a program, however no expenses should be incurred until such program and the availability of such money shall be submitted by the agency to the budget director for recommendation to the legislature and until such program has been authorized by the legislature.

HISTORY: Add. 1969, p. 366, Act 187, Imd. Eff. Aug. 5.

330.423 Lafayette clinic; transfer of patient.

Sec. 3. The department of mental health may transfer, upon the recommendation of the director of the Lafayette clinic and the superintendent of the state hospital involved, a patient committed by a probate court or a patient detained under a temporary detention order of a probate court, as provided in section 11 of Act No. 151 of the Public Acts of 1923, as amended, being section 330.21 of the Compiled Laws of 1948, into the Lafayette clinic from any of the state hospitals for mentally diseased, mentally handicapped or epileptic, or from the Wayne county general hospital or the Wayne county training school, if it is believed that the mental disorder of such person may be benefited by a period of care and treatment in said clinic, or if the study and treatment of such person is believed to be valuable for clinical or research purposes. Such transferred patients shall be received back into the hospitals from which transferred as soon as the treatment or the clinical or research work for which they were transferred is concluded.

HISTORY: New 1954, p. 596, Act 217, Imd. Eff. May 18.

330.424 Lafayette clinic; voluntary admission to inpatient service, procedure.

Sec. 4. Admission of voluntary patients to the inpatient service of the Lafayette clinic shall be in accordance with section 9a of Act No. 151 of the Public Acts of 1923, as amended, being section 330.19a of the Compiled Laws of 1948.

HISTORY: New 1954, p. 596, Act 217, Imd. Eff. May 18;—Am. 1966, p. 107, Act 84, Imd. Eff. Jun. 14.

330.425 Lafayette clinic; care of patients; charge, liability of relatives or county of residence, provisions applicable.

Sec. 5. It shall be the policy of the state to levy a charge for the care of patients in the inpatient service of the Lafayette clinic. The amount to be charged shall be a daily rate equal to and the same as is fixed by the department of mental health for the hospitals for the mentally ill in this state, as provided under section 31 of Act No. 151 of the Public Acts of 1923, as amended, being section 330.41 of the Compiled Laws of 1948. Patients shall be classified as full pay, partial pay, or public charge. The provisions of said Act No. 151 of the Public Acts of 1923 in regard to determination of ability to pay, legal responsibility of relatives, liability of county of residence of the patient for first year of care, and the rights of the state to collect for care and treatment, shall apply to patients admitted to the Lafayette clinic in the same manner as such provisions apply to state hospitals.

HISTORY: New 1954, p. 596, Act 217, Imd. Eff. May 18.

330.426 Lafayette clinic; director, qualifications.

Sec. 6. To more fully implement the objectives of said clinic and to provide an effective utilization of the combined resources of the department and Wayne university, the department of mental health and Wayne university shall jointly appoint and control a director of the Lafayette clinic who shall be a qualified psychiatrist with demonstrated ability as a teacher and administrator, who shall have complete supervision and control of the operation and personnel of the clinic.

HISTORY: New 1954, p. 597, Act 217, Imd. Eff. May 18.

330.427 Lafayette clinic; appropriation.

Sec. 7. There is hereby appropriated from the general fund of the state for the fiscal year ending June 30, 1954, the sum of \$100,000.00 to the state department of mental health for a combined psychiatric hospital and clinic, as follows:

DEPARTMENT OF MENTAL HEALTH

(Combined psychiatric hospital and clinic)

Operating cost (partial operation)

Salaries and wages \$ 75,000.00

Food 7,000.00

Contractual service, supplies and

materials 18,000.00

TOTAL\$ 100,000.00

HISTORY: New 1954, p. 597, Act 217, Imd. Eff. May 18.

Act 5, 1951, p. 5; Imd. Eff. Mar. 8.

AN ACT to authorize the state administrative board, with the approval of the state department of mental health, to contract for the scientific publication, distribution and sale of "the Michigan picture test"; and to provide for the disposition of any revenue received thereunder.

The People of the State of Michigan enact:

330.451 Michigan picture test; contract for publication and distribution.

Sec. 1. The state department of mental health, having through research created a scientific contribution in the field of mental health, known as "the Michigan picture test", the state administrative board is hereby authorized, with the approval of the state department of mental health, to enter into a contract or contracts awarded competitively for the scientific publication and distribution and sale thereof, without any publication cost to the state of Michigan.

HISTORY: New 1951, p. 5, Act 5, Imd. Eff. Mar. 8.

330.452 Contracts; approval by attorney general.

Sec. 2. Any contract or contracts executed under the authority of the provisions of this act shall receive the approval of the attorney general and shall at all times be executed to safeguard the interests of the state of Michigan.

HISTORY: New 1951, p. 6, Act 5, Imd. Eff. Mar. 8.

330.453 Revenue credited to general fund.

Sec. 3. All revenue derived by the state of Michigan under any contract executed under the provisions of this act shall be turned over to the state treasurer and shall be credited to the general fund.

HISTORY: New 1951, p. 6, Act 5, Imd. Eff. Mar. 8.

Act 12, 1951, p. 9; Imd. Eff. Mar. 28.

AN ACT to authorize and provide for the borrowing of \$65,000,000.00 for the purpose of planning, acquiring, constructing and equipping hospitals for the mentally ill and epileptic, training schools for mental defectives, and tuberculosis hospitals; to provide for the issuance of serial bonds, and to create a state hospital building fund; to create a hospital bond redemption fund; to pledge the full faith and credit of the state; to provide for the payment of principal and interest on such serial obligations; and to make such serial bonds exempt from taxation.

The People of the State of Michigan enact:

330.501 Hospital bonds; authority to issue, amount, interest, duration, sale.

Sec. 1. The people of Michigan by constitutional amendment having authorized the state to borrow not to exceed \$65,000,000.00, pledge its full faith and credit and issue bonds therefor, for the purpose of planning, acquiring, constructing and equipping hospitals for the mentally ill and epileptics, and training schools for mental defectives, and tuberculosis hospitals, the state administrative board is hereby authorized and directed to borrow upon the full faith and credit of this state money in the sum of not to exceed \$65,000,000.00, to issue serial bonds of the state in a like amount therefor, and to expend from the general fund a sufficient amount to cover the reasonable cost of the printing and such other expense incident to the issuance of such bonds. Said bonds may at the discretion of the state administrative board be issued at 1 time in 1 series or from time to time in 2 or more separate series with different dates of issuance for each such series. The state administrative board may from time to time determine and by resolution prescribe, the date of each such series, the amount of bonds to be included in such series, the maturities and maximum rate or rates of interest not to exceed 2 ½ per centum per annum, of such bonds so included.

Said bonds shall be known as hospital bonds, shall be coupon bonds, shall bear interest at a rate or rates not exceeding 2 ½ per centum per annum, payable semi-annually,

except that the first coupon may be for any number of months not exceeding 10, shall be in the denomination of \$1,000.00 each, shall be payable to bearer and shall mature serially in annual installments, with the first installment payable not more than 2 years from the date thereof and the last installment not more than 20 years from the date thereof. No annual installment of the first series of bonds issued hereunder payable 3 years from their date or thereafter shall be less than 1/3 the amount of any subsequent installment of the same series of bonds, and as to each additional series issued, the total amount of bonds maturing in any 1 fiscal year in said series and in all previously issued series, shall not be less than 1/3 of the total amount of all such bonds maturing in any subsequent fiscal year. Said bonds or any part thereof may, upon such terms and conditions as may be prescribed prior to their issuance by resolution of said state administrative board, be made callable prior to maturity and/or be made registerable as to principal only. The place or places of payment of said bonds shall be the current fiscal agent of the state.

Said bonds shall be executed for and on behalf of the state of Michigan by the state treasurer and the secretary of state or their deputies and the seal of the state shall be affixed thereto by the secretary of state. Interest coupons evidencing accrued interest to the respective dates of maturity of said bonds shall bear the facsimile signature of the state treasurer. The auditor general shall provide a bond register which shall be kept in the office of the auditor general, in which register shall be recorded the date of each bond, its number, the person or persons to whom originally issued, and the dates of its respective maturity and cancellation.

The bonds herein authorized to be issued shall be sold by the state administrative board at not less than par and accrued interest. Such sale or sales shall be public sales held from time to time at the discretion of said state administrative board after notice by publication at least 7 days before each such sale, in a publication printed in the English language and circulated in the state of Michigan, which carries as a part of its regular service, notices of the sale of municipal bonds. The bonds so sold at each such sale shall be awarded to the bidder whose bid in the opinion of said state administrative board would result in the lowest interest cost to the state. The state administrative board shall have the right to reject any or all bids.

HISTORY: New 1951, p. 10, Act 12, Imd. Eff. Mar. 28.

330.502 Hospital bonds; appropriation for payment; hospital bond redemption fund and state hospital building fund, transfer of surplus, termination.

Sec. 2. For the prompt payment of the principal of and interest upon each bond issued under this act, the faith and credit of the state are pledged, and there is hereby appropriated from the general fund each year during the life of these bonds a sum sufficient to pay the principal and interest requirements for each such year.

There is hereby created in the state treasury a special fund to be known as "hospital bond redemption fund" in which shall be deposited all sums of money appropriated and authorized to be deposited therein by the legislature.

The proceeds of the sale of bonds authorized hereunder shall be deposited in the state treasury and shall constitute a fund to be known as the "state hospital building fund" and shall be expended for no purposes other than reimbursement of the general fund for expenditures made as an incident to the issuance of bonds herein authorized or those set forth in section 1 hereof, and then only in such manner as the legislature may from time to time prescribe. Any unappropriated surplus in the hospital building fund at June 30, 1965 and each year thereafter shall be transferred to the general fund. At the time of the final transfer of such surplus the fund shall be terminated.

HISTORY: New 1951, p. 10, Act 12, Imd. Eff. Mar. 28;—Am. 1965, p. 200, Act 130, Imd. Eff. Jul. 8.

330.503 Hospital bonds; tax exemption.

Sec. 3. All bonds issued under the provisions of this act, and interest thereon, shall be exempt from all taxation by the state or by any municipality or political subdivision thereof.

HISTORY: New 1951, p. 11, Act 12, Imd. Eff. Mar. 28.

330.504 Hospital bonds; mutilation, issuance of new bonds.

Sec. 4. In case any bond issued under the provisions of this act shall become mutilated the state administrative board may, upon such terms and conditions as it may prescribe, provide for the issuance of a new bond with like terms, in exchange and substitution therefor. Such new bond shall be executed in the manner herein provided.

HISTORY: New 1951, p. 11, Act 12, Imd. Eff. Mar. 28.

330.505 Hospital bonds; cancellation.

Sec. 5. All bonds authorized hereunder shall when paid be retained by the state treasurer, who is hereby authorized and directed forthwith to cancel them by perforation and preserve until checked by the auditor general. After such check and upon the preparation of a proper certificate signed by both the state treasurer and auditor general said cancelled bonds may then be cremated. Each said certificate shall be kept with and made a part of the bond register heretofore provided.

HISTORY: New 1951, p. 11, Act 12, Imd. Eff. Mar. 28.

330.506 Declaration of necessity.

Sec. 6. An emergency existing for the reasons among others, that it is necessary immediately to relieve distress among the mentally ill, epileptics and those afflicted with tuberculosis and to enable the state to borrow money for that purpose at the lowest possible interest cost, this act is declared to be necessary for the preservation of the public peace, health and safety.

HISTORY: New 1951, p. 11, Act 12, Imd. Eff. Mar. 28.

Act 1, 1955 (2nd Ex. Ses.), p. 3; Imd. Eff. Dec. 19.

AN ACT to make appropriations and reappropriations to the state department of mental health from the general fund and the hospital building fund for emergency hospitalization of mentally deficient children, and to provide for the disbursement thereof; to authorize the state department of mental health to enter into hospitalization by contract; to authorize the leasing of the Fort Custer post hospital; and to make an appropriation to reimburse the hospital building fund.

The People of the State of Michigan enact:

330.557 Hospitalization of mentally deficient children; contracts with private or local governmental hospitals, approval.

Sec. 7. The state department of mental health is hereby authorized to enter into contracts for a term of not to exceed 1 year, with right of renewal, within an appropriation or appropriations made therefor by the legislature, with private or local governmental hospital operators to provide hospitalization for mentally deficient children. Such contracts shall receive the approval of the attorney general as to their legality.

HISTORY: New 1955, 2nd Ex. Ses., p. 4, Act 1, Imd. Eff. Dec. 19.

330.558 Lease of Fort Custer post hospital, approval.

Sec. 8. The state department of mental health is hereby authorized, with the approval of the attorney general as to legality, to enter into a lease or leases of the Fort Custer post hospital for the purpose of caring for mentally deficient children.

HISTORY: New 1955, 2nd Ex. Sess., p. 4, Act 1, Imd. Eff. Dec. 19.

Act 21, 1963, p. 23; Imd. Eff. Apr. 25.

AN ACT to change the name of the northern state tuberculosis sanatorium; to transfer jurisdiction and control of the institution to the department of mental health; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

330.561 Gaylord state home; control.

Sec. 1. The name of northern state tuberculosis sanatorium at Gaylord is changed to Gaylord state home, and jurisdiction and control of the institution is transferred from the state health commissioner to the department of mental health, effective July 1, 1963. The department of mental health shall control, operate and maintain the institution in the manner provided by law for the treatment of mentally ill, mentally handicapped or epileptic persons.

HISTORY: New 1963, p. 23, Act 21, Imd. Eff. Apr. 25.

330.562 Repeal.

Sec. 2. Act No. 133 of the Public Acts of 1931, being sections 332.91 to 332.94 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1963, p. 23, Act 21, Imd. Eff. Apr. 25.

Act 56, 1969, p. 103; Imd. Eff. Jul. 21.

AN ACT to transfer the Kalamazoo tuberculosis sanatorium to the department of mental health.

The People of the State of Michigan enact:

330.571 Southwest Tuberculosis Sanatorium; transfer to mental health department, use.

Sec. 1. Jurisdiction and control of the Southwestern tuberculosis sanatorium is transferred from the department of public health to the department of mental health effective July 1, 1969. The department of mental health shall control, operate and maintain the institution in a manner provided by law for the treatment of the mentally ill or mentally handicapped persons.

HISTORY: New 1969, p. 103, Act 56, Imd. Eff. Jul. 21.

330.572 Repeal.

Sec. 2. Act No. 166 of the Public Acts of 1951, being sections 332.301 to 332.304 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1969, p. 103, Act 56, Imd. Eff. Jul. 21.

Act 54, 1963, p. 58; Eff. Sep. 6.

AN ACT to provide for the establishment of community mental health service programs; to prescribe the powers of counties and certain cities; to prescribe the powers

and duties of the state department of mental health; and to provide funds for the operation of local community mental health programs.

The People of the State of Michigan enact:

330.601 Community mental health services programs; grants, services.

Sec. 1. The department of mental health may make matching grants to assist cities of 500,000 or more population, or any county or a combination of counties, or a combination of a county and a city therein with a population of not less than 500,000, in the establishment and operation of local mental health programs which provide for the following services:

(a) Diagnosis and treatment of mentally disabled persons by means of appropriate facilities and services including inpatient, outpatient or emergency care.

(b) Habilitation and rehabilitation of persons chronically mentally disabled who have received prior treatment.

(c) Collaboration and consultation with community agencies including but not limited to public and non-public schools, public health, court, police, and welfare agencies addressed to the reduction of the incidence and prevalence of mental disability.

HISTORY: New 1963, p. 58, Act 54, Eff. Sep. 6;—Am. 1968, p. 461, Act 265, Imd. Eff. Jul. 1.

330.602 Establishment by local units; types of services, personnel.

Sec. 2. Any city, of 500,000 or more population, or any county or combination of counties, or a combination of a county and a city therein with a population of not less than 500,000 may elect to establish or participate in a community mental health program by a majority vote of the legislative body of the city or of the board or boards of supervisors of the county or counties, or both, and may establish and administer new, additional and existing child guidance clinics, all purpose psychiatric clinics and adult psychiatric clinics and other services provided for in section 1 to insure continuity of care and treatment, and staff them with personnel who are specially trained in psychiatry and related fields. The services of psychiatrists, and other persons specifically trained in mental health disciplines or disciplines useful to mental health programs, in private practice may be engaged in such programs and clinics.

HISTORY: New 1963, p. 59, Act 54, Eff. Sep. 6;—Am. 1968, p. 461, Act 265, Imd. Eff. Jul. 1.

330.603 Local funds for program.

Sec. 3. In order to provide the necessary funds to establish and operate a mental health service program and to establish and maintain a clinic any city, county or combination described in section 1 may contribute its proportionate share of the cost of the program, to be apportioned on a population basis, by direct appropriation from its general tax fund or by allocating therefor the proceeds of a special tax for the support of the program. The cost shall be deemed for all purposes a proper city or county expense.

HISTORY: New 1963, p. 59, Act 54, Eff. Sep. 6;—Am. 1968, p. 461, Act 265, Imd. Eff. Jul. 1.

330.604 Application for state grant; approval.

Sec. 4. Any city, county or combination described in section 1 which establishes a community mental health board administering a mental health services program may apply for the assistance as provided in this act by submitting annually to the department of mental health its plan and budget for the next fiscal year together with the recommendations of the community mental health board thereon. No program shall be eligible for a grant hereunder unless its plan and budget have been approved by the department.

HISTORY: New 1963, p. 59, Act 54, Eff. Sep. 6;—Am. 1968, p. 461, Act 265, Imd. Eff. Jul. 1.

330.605 Allocation of funds by state department; withdrawal.

Sec. 5. At the beginning of each fiscal year the department of mental health shall allocate available funds to the community mental health programs for disbursement during the fiscal year in accordance with such approved plans and budgets. From time to time during the fiscal year, the department shall review the budgets and expenditures of the various programs and if funds are not needed for a program to which they were allocated, it may withdraw such funds as are unencumbered, after reasonable notice and opportunity for hearing, and reallocate them to other programs. It may withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

HISTORY: New 1963, p. 59, Act 54, Eff. Sep. 6.

330.606 Withdrawal of participating unit; state matching grants.

Sec. 6. No county or city participating in a community mental health program shall withdraw therefrom without 2 years' notice to the other participating city, county or counties unless the other counties consent to an earlier withdrawal. State matching grants for any program shall be 75% of the total expenditures for salaries; contract facilities and services; operation, maintenance and service costs; per diem and travel expense of members of community mental health boards, and other expenditures specifically approved and authorized by the department of mental health. No grants shall be made for capital expenditures. Grants may be made for expenditures for mental health services whether provided by direct administration of a local facility by the community mental health services board, or through contract by the community mental health services board with other public or private agencies.

HISTORY: New 1963, p. 59, Act 54, Eff. Sep. 6;—Am. 1966, p. 14, Act 4, Imd. Eff. Mar. 10;—Am. 1966, p. 462, Act 265, Imd. Eff. Jul. 1.

330.607 Local matching funds.

Sec. 7. When a community mental health program is established pursuant to this act and local funds from any source other than the department of mental health are being used to finance community mental health services prior to the date of adoption of the community mental health services program by the county, such funds shall be used for matching state funds for the continuation or expansion of the existing services if such existing or expanded services conform to the provisions of this act.

HISTORY: New 1963, p. 60, Act 54, Eff. Sep. 6;—Am. 1966, p. 14, Act 4, Imd. Eff. Mar. 10;—Am. 1966, p. 462, Act 265, Imd. Eff. Jul. 1.

330.608 Fees for services.

Sec. 8. All fees for services collected shall be retained by the local mental health board and shall not be a part of the department grant in aid but shall be used for matching such grants unless used for purposes which do not qualify for matching grants.

HISTORY: New 1963, p. 60, Act 54, Eff. Sep. 6.

330.609 Existing clinics; administration.

Sec. 9. In counties where community mental health services programs are established pursuant to this act all existing child guidance clinics, all purpose psychiatric clinics, and adult psychiatric clinics which are under the administration of the department of mental health and are financed in part by state funds shall be administered by existing local clinic boards and shall be approved for contractual services under contract with the community mental health services board, or administered by the community mental health services board, within 4 years after the date that a community mental health services board has been established in the county where the clinic is located. The director of the department of mental health is authorized to extend a 4-year period for a reasonable time for cause shown.

HISTORY: New 1963, p. 60, Act 54, Eff. Sep. 6;—Am. 1966, p. 14, Act 4, Imd. Eff. Mar. 10;—Am. 1966, p. 462, Act 265, Imd. Eff. Jul. 1.

330.610 Community mental health services board; appointment, eligibility; governmental agency.

Sec. 10. Every city, county or combination described in section 1 and establishing a community mental health services program, before it may come within the provisions of this act, shall establish a 12-member community mental health services board. When any city or county singly establishes a program, the board shall be appointed by the chief executive officer of the city or by the chairman of the county board of supervisors. When any combination of counties, cities or counties and cities establish a community mental health services program, the chairman of the board of supervisors of each county in the case of counties or chief executive in the case of cities shall appoint 2 members to a selecting committee which shall select the 12 members of the board. Membership of the community mental health boards shall be representative, wherever possible, of local health departments, medical societies, county welfare boards, general hospital boards, the clergy, educators, the legal profession, lay associations concerned with mental health, labor, business and civic groups and the general public. Nothing in this section shall be construed to preclude the appointment to the community mental health board of individuals who are also members of a county board of supervisors so long as the mental health board retains the representative character indicated above. Not more than 4 members of the board shall be elected or appointed public officials. All members of the community mental health board shall be legal residents of the county, cities or counties on whose board they are appointed. No employee of the department of mental health or of the community mental health programs may serve on community mental health boards established pursuant to this act.

Any board established pursuant to this act shall be an agency of the governmental entity or entities participating in its establishment or operation and shall be subject to the laws and regulations relating to such agencies.

Any city-county community mental health services board established by any city or county prior to the effective date of this amendatory act is hereby declared to be a valid board and all actions taken by such board pursuant to the provisions of this act are hereby declared to be acts of a legally constituted board.

HISTORY: New 1963, p. 60, Act 54, Eff. Sep. 6;—Am. 1966, p. 15, Act 4, Imd. Eff. Mar. 10;—Am. 1968, p. 462, Act 265, Imd. Eff. Jul. 1.

330.610a Community mental health services board; participation by adjoining counties.

Sec. 10a. Once a county or combination of counties have established a community mental health services board, adjacent counties of 75,000 population or less which have not elected to come under the provisions of this act, may elect to join and participate in the established board by majority vote of the adjacent county board of supervisors, subject to approval by the board of supervisors of the county or counties having an established community mental health services board, and final approval by the department of mental health that such joining is consistent with proper programming of mental health services throughout the state. The effective date of the joining shall be January 1 following the date of final approval by the department of mental health. Upon joining an established community mental health services board, the county shall participate in the community mental health services program and board in the same manner as if the joining county were a party to the original establishment of the community mental health services board, including participation in all subsequent appointments of members of the board through a selecting committee as prescribed in section 10, and in addition, the chairman of each joining county board of supervisors with the approval of that county's board of supervisors may appoint 2 legal residents of the county, one of whom may be an elected or appointed public official, who shall serve as additional members of the community mental health services board for terms

of 4 years commencing such January 1, notwithstanding the provisions of section 10 with regard to the size of the community mental health services board and the number of elected or appointed public officials that may be members thereof. Vacancies in such additional positions may be filled by the joining county for the unexpired term in the same manner as original appointments. Upon the expiration of the terms of such additional members, the community mental health services board shall revert to the size prescribed by section 10.

A county having a general population of less than 75,000 not under the provisions of this act may elect to participate in community mental health services by the majority vote of its board of supervisors, subject to the final approval of the department of mental health that such action is consistent with proper programming of mental health services throughout the state, said board to determine the mental health service needs of the county, to secure and receive local funds to be used for matching state funds under the terms of this act, and to enter into contractual or working agreements with the community mental health services board in an adjacent county.

HISTORY: Add. 1968, p. 301, Act 205, Imd. Eff. Jun. 24.

330.611 Community mental health services board; terms, vacancies, removal.

Sec. 11. The term of office of each member of the community mental health board shall be for 4 years from January 1 of the year of appointment, except that of the members first appointed, 4 shall be appointed for a term of 2 years, 4 for a term of 3 years, and 4 for a term of 4 years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

HISTORY: New 1963, p. 60, Act 54, Eff. Sep. 6;—Am. 1966, p. 15, Act 4, Imd. Eff. Mar. 10.

330.612 Community mental health services board; duties, reports.

Sec. 12. Subject to the provisions of this act and the rules and regulations of the department of mental health, each community mental health board shall:

(a) Review and evaluate community mental health service provided pursuant to the provisions of this act, and report thereon to the department of mental health, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities.

(b) Recruit and promote local financial support for the program from private sources, such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources, and promote public support for municipal and county appropriation.

(c) Promote, arrange, execute and implement working or contractual agreements with other social service agencies, both public and private, and with other educational and judicial agencies, including the mental health or clinical services of the courts.

(d) Advise the administrator of the community mental health program on the adoption and implementation of policies to stimulate effective community relations.

(e) Review the annual plan and budget and make recommendations thereon.

(f) When so determined by the governmental entities establishing the program, act as the administrator of the program.

HISTORY: New 1963, p. 60, Act 54, Eff. Sep. 6;—Am. 1966, p. 123, Act 107, Imd. Eff. Jun. 22;—Am. 1968, p. 463, Act 265, Imd. Eff. Jul. 1.

330.612a Community mental health services board; contracts with state institutions.

Sec. 12a. Subject to the provisions of this act and the rules and regulations of the department of mental health, each community mental health board may contract for di-

rect services with state hospitals, home and training schools or other state supported institutions.

HISTORY: Add. 1968, p. 463, Act 265, Imd. Eff. Jul. 1.

330.613 Community mental health services board; participation in state employees' retirement system.

Sec. 13. Any community mental health board may elect to participate in the state employees' retirement system established by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948.

HISTORY: New 1963, p. 61, Act 54, Eff. Sep. 6;—Am. 1966, p. 15, Act 4, Imd. Eff. Mar. 10.

330.614 Department of mental health; powers, duties.

Sec. 14. In addition to the powers and duties already conferred upon it by law the department of mental health shall:

(a) Promulgate rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, governing eligibility criteria for community mental health programs to receive state grants; including the establishment of program priorities and minimum numbers and scope of services and activities; governing eligibility for service so that no persons will be denied service on the basis of race, color or creed, or inability to pay; providing for establishment, subject to the approval of the department of mental health, fee schedules which shall be based on ability to pay; regulating fees for consultation and diagnostic services which services may be provided to anyone without regard to his financial status when referred by the courts, public schools or health or welfare agencies; and such other rules and regulations as it deems necessary to carry out the purposes of this act.

(b) Review and evaluate local programs and make recommendations thereon to community mental health boards and program administrators.

(c) Provide consultative staff service to communities to assist in ascertaining local needs and in planning and establishing community mental health programs.

(d) Employ qualified personnel, including a director of community mental health services, under the supervision of the department.

(e) Prescribe minimum standards for qualification of personnel and quality of professional service in consultation with the psychiatric directors of approved county community mental health services programs.

HISTORY: New 1963, p. 61, Act 54, Eff. Sep. 6;—Am. 1966, p. 15, Act 4, Imd. Eff. Mar. 10;—Am. 1968, p. 463, Act 265, Eff. Jul. 1.

Act 335, 1965, p. 654; Eff. Jan. 1, 1966.

AN ACT relating to the liability of relatives for the care and maintenance of mentally retarded persons and mentally ill children admitted to public institutions; and to prescribe the power and duties of certain public officers. Am. 1969, p. 440, Act 228, Imd. Eff. Aug. 8.

The People of the State of Michigan enact:

330.651 Mentally retarded persons; definition.

Sec. 1. As used in this act, "mentally retarded person" means a mentally handicapped person, including a moron, idiot, imbecile, and any person as to whom congenital defects have produced the same deficiency; and any epileptic admitted to the Caro state hospital for epileptics.

HISTORY: New 1965, p. 654, Act 335, Eff. Jan. 1, 1966;—Am. 1966, p. 100, Act 77, Imd. Eff. Jun. 10.

330.651a Mentally ill child; definition; liability for support.

Sec. 1a. (1) As used in this act, "mentally ill child" means a person under the age of 21 years on the date committed or admitted to an institution under the jurisdiction of the department of mental health whether admitted or committed because of mental illness, emotional disturbance or any other reason, except a person otherwise covered by the provisions of this act as a mentally retarded person.

(2) The provisions of any law to the contrary notwithstanding, the provisions of this act relating to the liability of relatives, to the powers and duties of public officers and to all other matters with respect to mentally retarded persons are deemed also to apply with respect to mentally ill children.

(3) Notwithstanding any other provision of law or any judgment rendered or agreement entered into prior to January 1, 1970, the liability of any relative for the care and maintenance of a mentally ill child shall be imposed and determined only in accordance with this act. However, with respect to the liability of any relative for the care and maintenance of a mentally ill child for any period prior to January 1, 1970, such liability may be imposed and determined only by order of probate court acting under the provisions of law in effect prior to January 1, 1970.

HISTORY: Add. 1966, p. 440, Act 228, Imd. Eff. Aug. 8.

330.652 Care and maintenance; determination of liability.

Sec. 2. Notwithstanding the provisions of sections 9a, 11, 13, 18, 18a or 19 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.19a, 330.21, 330.23, 330.28, 330.28a and 330.29 of the Compiled Laws of 1948, or the provisions of section 2 of chapter 1 of Act No. 146 of the Public Acts of 1925, as amended, being section 401.2 of the Compiled Laws of 1948, or the provisions of Act No. 146 of the Public Acts of 1925, as amended, being sections 401.1 and 401.21 of the Compiled Laws of 1948, the liability of any relative for the care and maintenance of a mentally retarded person shall be imposed and determined only in accordance with the provisions of this act.

HISTORY: New 1965, p. 654, Act 335, Eff. Jan. 1, 1966.

330.653 County of settlement; reimbursement.

Sec. 3. Notwithstanding the provisions of section 11c of Act No. 151 of the Public Acts of 1923, as added, being section 330.21c of the Compiled Laws of 1948, the county of settlement of a committed mentally retarded person shall not receive reimbursement in any other manner than provided in this act. The state shall credit the county with such moneys as it collects under the provisions of this act during the county's first year liability.

HISTORY: New 1965, p. 654, Act 335, Eff. Jan. 1, 1966.

330.654 Relatives liable for care; adopting parent; definitions.

Sec. 4. The husband, wife, father and mother of a mentally retarded person shall jointly and severally be liable to the state for the care and maintenance of the committed mentally retarded person until he is 21 years of age or until he has been a patient in a public institution for a total period of 15 years, whichever first occurs.

For the purposes of this section, in the case of an adopted mentally retarded person, "father" and "mother" mean the adopting father and mother.

HISTORY: New 1965, p. 654, Act 335, Eff. Jan. 1, 1966.

330.655 Voluntary patient; information furnished relatives and department of revenue; previously admitted patients.

Sec. 5. When a mentally retarded person is admitted as a voluntary patient or otherwise to an institution under the jurisdiction of the department of mental health or to the Wayne county training school, the medical superintendent shall furnish any rela-

tive liable for the care and maintenance of the patient under this act with information concerning his liability and copies of forms which shall be filed with the department of revenue. The medical superintendent shall inform the department of revenue of the fact of admission and supply the names of any relatives liable under this act as shown by the records of the hospital. With respect to patients admitted prior to the effective date of this act, the medical superintendent shall supply forms and information in the same manner as if the patient was admitted on the effective date of this act.

HISTORY: New 1965, p. 654, Act 335, Eff. Jan. 1, 1966.

330.656 Complete forms; filing by relatives, additional documents; billing, payments.

Sec. 6. Within 30 days after admission of the patient or the effective date of this act, whichever is later, the relative shall file the signed, completed form with the department of revenue. The form shall be accompanied by a signed copy of the relative's most recent income tax return submitted to the United States internal revenue service. The department of revenue shall bill the relative for the amounts of liability determined under the provisions of this act from the date of admission of the patient or the effective date of this act, whichever is later, through the succeeding June 30. Payments of the amounts shall be made monthly. The first payment shall be made by the end of the month after the mailing of the bill and cover the monthly liability through the end of that month as determined under the provisions of this act.

HISTORY: New 1965, p. 655, Act 335, Eff. Jan. 1, 1966.

330.657 Information to be contained in forms.

Sec. 7. The form shall contain the name of the patient; the name of the institution to which the patient has been admitted; the name and address of the relatives liable for the care and maintenance of the patient under the provisions of this act; the schedule of liability set forth in section 8; the net taxable income of the relative last reported to the United States internal revenue service for federal income tax purposes; the names and ages of dependents of the relative; and such other information as may be required by rules adopted by the department of revenue.

HISTORY: New 1965, p. 655, Act 335, Eff. Jan. 1, 1966.

330.658 Monthly liability; schedules, computation.

Sec. 8. (1) The amount of monthly liability of a relative for the care and maintenance of a mentally retarded person under the provisions of this act shall be originally determined by use of the following schedule:

Net Taxable Income	Monthly Liability	Net Taxable Income	Monthly Liability
\$ 0 to 4,999	0	12,500 to 12,999	95
5,000 to 5,499	20	13,000 to 13,499	100
5,500 to 5,999	25	13,500 to 13,999	105
6,000 to 6,499	30	14,000 to 14,499	110
6,500 to 6,999	35	14,500 to 14,999	115
7,000 to 7,499	40	15,000 to 15,499	120
7,500 to 7,999	45	15,500 to 15,999	125
8,000 to 8,499	50	16,000 to 16,499	130
8,500 to 8,999	55	16,500 to 16,999	140
9,000 to 9,499	60	17,000 to 17,499	150
9,500 to 9,999	65	17,500 to 17,999	160
10,000 to 10,499	70	18,000 to 18,499	170
10,500 to 10,999	75	18,500 to 18,999	180
11,000 to 11,499	80	19,000 to 19,499	190
11,500 to 11,999	85	19,500 to 19,999	200
12,000 to 12,499	90	20,000 and over	210

(2) The number in the family is the same number for which the relative is authorized to take dependency deductions for purposes of computing his federal income tax liability.

(3) If a father and mother are living together and have separate incomes, their net taxable incomes and the number in the family shall be combined for purposes of determining liability under the schedule.

(4) If 2 or more relatives are liable for the care and maintenance of a mentally retarded person under the provisions of this act and if they do not live together as members of the same family, the liability of each relative shall be determined separately under the schedule. If the combined liabilities of the relatives thus computed exceed \$210.00, each responsible relative shall bear that portion of the maximum amount of \$210.00 as his net taxable income bears in proportion to the maximum amount of monthly liability.

(5) For any month in which the mentally retarded person has been a patient for only a portion thereof, the monthly liability of the relative shall be proportionately reduced. For purposes of this subsection, a person will be considered to be a patient from the date of his admission to the institution until his death or discharge excepting any period during which he is placed on convalescent status.

(6) Amounts paid for care and maintenance out of the estate of the patient or out of insurance proceeds payable for the care and maintenance shall reduce the monthly liability of a relative to the extent that they are greater than a sum determined by subtracting \$210.00 from the amount charged a full-pay patient. If 2 or more relatives are liable, any reductions under this subsection shall be apportioned among the liable relatives on the basis of their respective monthly liabilities.

(7) If the relative is liable for the care and maintenance of more than 1 mentally retarded person under the provisions of this act the monthly liability will be that imposed as if only 1 mentally retarded person was involved and the total period of liability with respect to all such mentally retarded persons shall not exceed 15 years.

(8) For purposes of computing the period of liability under section 4 of this act, months in which no payment is required under the schedule or as otherwise determined shall be deemed months in which the liable relative has made payments.

HISTORY: New 1965, p. 655, Act 335, Eff. Jan. 1, 1966.

330.659 Renewal forms; contents, filing returns, reascertainment of liability.

Sec. 9. By May 1 of each year the department of revenue shall send a renewal form to all relatives liable for the care and maintenance of a patient under the provisions of this act. The renewal form shall contain the same information as the original form but shall include the most recent information concerning the net taxable income of the relative and be accompanied by a signed copy of the relative's income tax return submitted to the United States internal revenue service. The renewal form and the signed copy of the return shall be filed with the department of revenue by the succeeding June 1. The department of revenue shall reascertain the amount of liability under the provisions of this act and bill the relative accordingly for the period commencing on the succeeding July 1 and continuing through the following June 30. Payments by the relative shall be made as if the patient were first admitted on July 1.

HISTORY: New 1965, p. 656, Act 335, Eff. Jan. 1, 1966.

330.660 Requests for determination of liability by revenue department; procedure before probate, appeals.

Sec. 10. If the relative believes that the monthly liability as determined by the

schedule does not accurately reflect his current income status or his ability to pay due to changed circumstances or otherwise, the relative may request at any time a determination of liability by the department of revenue. For purposes of the determination, the department of revenue may request the relative to supply all relevant financial information and such additional information as may be provided by rules of the department of revenue. After review of the information, the department of revenue shall establish the monthly liability of the relative. If the relative is dissatisfied with the determination, he may appeal the determination to the probate court of the county of residence of the patient. The probate court shall then determine the liability. In no case may the liability determined by the department or by the probate court exceed that established by the schedule. Appeals from the determination of the probate court may be made as in other cases.

HISTORY: New 1965, p. 656, Act 335, Eff. Jan. 1, 1966.

330.661 Failure to make payments; effect; failure to file form, penalty.

Sec. 11. (1) If a relative liable under this act for the care and maintenance of a patient fails to pay the amount due, the commissioner of revenue may petition the probate court of the county of residence of the patient and thereupon the court may forthwith issue an execution in the amount so stated and the same shall be directed to any sheriff or constable of any county in the state or the commissioner of Michigan state police. An execution shall not be issued by the probate court if an appeal as provided by section 10 is pending before the probate court and shall not be issued until at least 15 days from the final determination of the appeal by the probate court and the final determination of the court is not obeyed by the relative. In addition the commissioner of revenue may bring an action at law wherever the liable relative resides or may be found to recover the amount of payments which the liable relative is delinquent in paying. Before the commissioner of revenue can bring his action of law under this section, he shall be required to show that the relative liable under this act was notified by certified mail of his liability and that a period of at least 15 days has lapsed between the notification date and the date of the commencement of action as provided by this section. The costs of such proceedings shall be assessed against the relative only if the relative is held to be liable under the provisions of this act.

(2) If a liable relative fails to file a form, the monthly liability of the relative is deemed to be \$210.00.

HISTORY: New 1965, p. 657, Act 335, Eff. Jan. 1, 1966.

330.662 Enforcement of liability.

Sec. 12. The attorney general, or at his request a prosecuting attorney, may commence, in the name and on behalf of the people of the state, an action against a person discovered to have real or personal property of a person, or against the estate or the executing administrators or successors in interest of a person, who is liable for the care and maintenance of a mentally retarded person under the provisions of this act.

HISTORY: New 1965, p. 657, Act 335, Eff. Jan. 1, 1966.

330.663 Conveyances and transfers, inadequate consideration; setting aside, procedure.

Sec. 13. (1) Every conveyance of any estate or interest in lands or the rents and profits thereof and the transfer of any personal property without consideration or wherein the consideration thereof was inadequate made by any person legally liable under this act for the care and maintenance of any patient during the time that he was a patient

in an institution hereunder shall be void as against the state, the absence of any order of the probate court determining such liability notwithstanding.

(2) The circuit court is granted jurisdiction to set aside any such conveyances above mentioned, and may decree a lien upon the lands or property conveyed or transferred upon petition of the commissioner of revenue. The petition may be filed with the circuit court for any county wherein the transferor resides or where the property transferred was situated. Notice of the petition and the hearing thereon shall be served on both the transferor and transferee in any county in the state by personal service or by registered mail with return receipt demanded and addressed to the persons at the last known address of the persons.

HISTORY: New 1965, p. 657, Act 335, Eff. Jan. 1, 1966.

330.664 Disbursement of sums collected during first year of patient's commitment.

Sec. 14. All sums collected by the department of revenue under the provisions of this act during the first year of commitment, as a voluntary patient or otherwise, of a mentally retarded person shall be disbursed by the department of revenue to the county liable for the care and maintenance of the patient.

HISTORY: New 1965, p. 657, Act 335, Eff. Jan. 1, 1966.

330.665 Prior laws; judgments or agreements; effect, imposition of liability under effective laws.

Sec. 15. Notwithstanding any other provision of law or any judgment rendered or agreement entered into prior to the effective date of this act, the liability of any relative of a committed mentally retarded person shall be imposed and determined only in accordance with the provisions of this act when it becomes effective. However, with respect to liability of any relative for care and maintenance of a committed mentally retarded person for any period prior to the effective date of this act, such liability may be imposed and determined only by order of probate court under provisions of law in effect prior to the effective date of this act.

HISTORY: New 1965, p. 657, Act 335, Eff. Jan. 1, 1966.

330.666 Effective date.

Sec. 16. This act takes effect January 1, 1966.

HISTORY: New 1965, p. 658, Act 335, Eff. Jan. 1, 1966.

CHAPTER 331. HEALTH—HOSPITALS

JOINT MUNICIPAL HOSPITALS

Act 47 of 1945

- 331.1 Cities, villages and townships; joint hospital authority; bonds, purpose, limitation.
- 331.2 Joint hospital authority; corporate body, powers and authority.
- 331.3 Resolution; contents, tax limitation, payment of bonds, contracts, release from membership, prior actions and proceedings validated.
- 331.4 Tax limitations; capital improvements tax, approval.
- 331.5 Hospital board; medical advisory committee, qualifications, appointment, terms.
- 331.6 Hospital board; meetings, notice, quorum, accounts, treasurer's bond; medical advisory committee, rules, regulations, policies.
- 331.7 Hospital board; budget; apportionments; tax levy, limitation, payment; reports, contents.
- 331.8 Hospital issuance of bonds; referendum; validation of previous acts.
- 331.8a Hospital board; borrowing power, issuance of notes; interest rate, sinking fund, not subject to municipal finance act; notes previously issued validated.
- 331.8b Hospital board; bonds for capital improvements in anticipation of collection of additional tax levy; levy for payment of bonds and interest.
- 331.9 Hospital board; purchasing power; conveyance to non-profit corporation, conditions.
- 331.11 Declaration of necessity.

HOSPITAL FINANCE AUTHORITY ACT

Act 38 of 1969

CHAPTER 1

- 331.31 Hospital finance authority act; short title.
- 331.32 Purpose of act.
- 331.33 Definitions.

CHAPTER 2

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- 331.42 State authority; powers.
- 331.43 Loans to hospitals, conditions and limitations; interest.
- 331.44 State authority; issuance of bonds, renewal notes and refunding bonds; general obligations; authorizing resolution, provisions permitted.
- 331.45 State authority; bond reserve fund, creation, use.
- 331.46 State authority; state treasurer, agent; deposits, payments, security; agreements; system of accounts.

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- 331.52 Local authority; articles of incorporation, adoption, certificate form.
- 331.53 Local authority; articles, contents.
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- 331.62 Local authority; new bonds, issuance conditions.
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CHAPTER 4

- 331.71 Applicability of chapter.
- 331.72 State or local authority; issuance of notes and bonds, authorization by resolution, terms, interest, sale.
- 331.73 Pledges and liens; validity; recording.
- 331.74 Authority members; persons executing notes or bonds; personal liability.
- 331.75 Bond or note holders; vested rights, impairment.
- 331.76 Bonds or notes; approval by municipal finance commission, conditions.
- 331.77 Bonds; approval of hospital facilities by state agency, conditions.
- 331.78 Bonds or notes; negotiability.
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- 331.82 Nondiscrimination provision.
- 331.83 Construction of act as to powers conferred; purpose and intention.
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COUNTY HOSPITALS AND SANATORIA

Act 139 of 1909

- 331.101 County taxation in aid of hospitals; power of supervisors.
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- 331.104 Sanatorium trustees; annual report to county supervisors, contents.
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COUNTY HOSPITALS AND SANATORIA

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- 331.151 County public hospital; contagious diseases; establishment, referendum.
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- 331.165 Insanity; examination room.
- 331.166 Tubercular patients; accommodations, rules, head nurse.
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COUNTY HOSPITALS AND SANATORIA

Act 109 of 1945

- 331.201 Hospitals; definition.
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Act 47, 1945, p. 42; Imd. Eff. Mar. 15.

AN ACT to authorize 2 or more cities, townships and incorporated villages, or any combination thereof, to incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating 1 or more community hospitals and related facilities; to provide for changes in the membership therein; to authorize such cities, townships and incorporated villages to levy taxes for such purpose; to provide for the issuance of revenue bonds; to provide for borrowing money for operation and maintenance and issuing notes therefor; to validate elections heretofore held and notes heretofore issued; to provide for the issuance of bonds; to authorize condemnation proceedings; and to grant certain powers of a body corporate. Am. 1949, p. 57, Act 62, Eff. Sep. 23;—Am. 1952, p. 202, Act 170, Imd. Eff. Apr. 24;—Am. 1960, p. 56, Act 65, Imd. Eff. Apr. 25;—Am. 1967, p. 42, Act 31, Imd. Eff. Jun. 2.

The People of the State of Michigan enact:

331.1 Cities, villages and townships; joint hospital authority; bonds, purpose, limitation.

Sec. 1. Any 2 or more cities, incorporated villages or townships, or any combination thereof, by resolution of their respective legislative bodies, approved by a majority vote of their qualified electors, may join to form a hospital authority and issue revenue bonds for the purpose of planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating, either within or without their limits, 1 or more community hospitals and related facilities, subject to the 4/10 mill limitation hereinafter provided. The power herein granted shall be deemed an enlargement of any power granted to cities, incorporated villages and townships by their respective charters or the laws of the state.

HISTORY: CL 1948, 331.1;—Am. 1952, p. 202, Act 170, Imd. Eff. Apr. 24;—Am. 1960, p. 56, Act 65, Imd. Eff. Apr. 25.

331.2 Joint hospital authority; corporate body, powers and authority.

Sec. 2. Such hospital authority shall be a body corporate with power to sue or be sued in any court of this state and shall have the power to exercise any and all powers necessary and incident to the acquisition, construction, improvement, enlargement, extension, ownership, maintenance and operation of 1 or more community hospitals. It shall have authority to enter into contract with any of the participating cities, villages and townships, or any other city, incorporated village or township, or with any county department of social welfare, for the hospital care of indigent patients and other persons entitled to such care at public expense. It shall also have authority to enter into contracts with any individual, firm or corporation for the furnishing of hospital care to persons at the private expense of such individual, firm or corporation. It shall also have the authority to establish rules and regulations providing for a system of civil service for its employees.

HISTORY: CL 1948, 331.2;—Am. 1952, p. 202, Act 170, Imd. Eff. Apr. 24;—Am. 1960, p. 56, Act 65, Imd. Eff. Apr. 25.

331.3 Resolution; contents, tax limitation, payment of bonds, contracts, release from membership, prior actions and proceedings validated.

Sec. 3. The resolution creating such hospital authority shall designate the cities, villages and townships to be included therein and shall set forth the fact that a sum of money not to exceed 4/10 mill of their assessed valuation as last equalized may be re-

quested and certified by the hospital board annually for the purpose of planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating 1 or more community hospitals and that such sum or any portion thereof may be pledged by the governing body of the hospital authority for the payment of revenue bonds under Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948; it may provide that such hospital authority shall become operative upon adoption by a specified number, not less than 2, of such cities, villages and townships. The resolution may fix a time within which the respective units must act in order to be included in such hospital authority. The resolution shall designate the member or members appointed by the legislative body to serve on the governing body of such hospital authority. It may designate a date for the appointed representatives to convene. Such resolution shall embody an agreement to contract with the hospital authority for the hospital care of indigent or other patients to whom such services are furnished at public expense and make payment for such services. Any city, township or incorporated village may subsequently become a member of any hospital authority, formed under the provisions of this act, upon resolution adopted by the governing body of said municipality approved by a majority vote of their qualified electors and acceptance thereof by resolution adopted by majority vote of the entire governing board of such hospital authority. Any city, township or incorporated village which now or hereafter becomes a member of such hospital authority may, upon request and upon resolution of its governing body, duly accepted by a 2/3 majority vote of the entire governing board of such hospital authority, be released from membership in such hospital authority: Provided, however, That no such city, township or incorporated village may be released from membership in any hospital authority formed under the provisions of this act until all outstanding obligations of said hospital authority that have been incurred after the time of the admission to membership of such city, township or incorporated village and such part of prior obligations as may be agreed to by the board and the governing body of such city, township or incorporated village have been paid, or adequate provision has been made for the payment thereof. All actions and proceedings of any hospital authority relative to the addition of members thereto in manner hereinbefore provided, or as previously provided, prior to the effective date of this act or any amendment thereto are hereby validated, ratified and confirmed with like force and effect as though such actions and proceedings had been fully authorized by statutes existing at such time.

HISTORY: CL 1948, 331.3;—Am. 1949, p. 57, Act 62, Eff. Sep. 23;—Am. 1952, p. 202, Act 170, Imd. Eff. Apr. 24.

331.4 Tax limitations; capital improvements tax, approval.

Sec. 4. The several legislative bodies of the cities, incorporated villages and townships creating such hospital authority may raise annually by a tax, to be levied on the taxable property within their respective jurisdictions, a sum of money to be used to assist in planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating such community hospitals authorized by this act. The annual tax authorized herein shall not exceed 4/10 of 1 mill on each dollar of assessed valuation in each city, incorporated village or township. In addition, an annual tax at a rate of not to exceed 2 mills may be levied for not more than 10 years for capital improvements when submitted by the several legislative bodies at any general or special election and approved by a majority vote of the total qualified electors voting thereon in all member cities, villages and townships. In any election held under this or any other section of this act, where the result on any proposition is determined by the total number of votes cast in all the member units of government, the electors in a member village lying entirely within 1 or more member townships shall vote in the election held in the township or townships and no separate election in the village shall

be required. No previous election held under the provisions of this act shall be deemed to be invalid if the same was conducted in accordance with the foregoing provision. If for any reason separate elections must be held in a member township and in a member village lying wholly or partly therein, then in the township election, only electors residing outside the village shall be entitled to vote.

HISTORY: CL 1948, 331.4;—Am. 1952, p. 203, Act 170, Imd. Eff. Apr. 24;—Am. 1966, p. 225, Act 200, Imd. Eff. Jul. 11;—Am. 1967, p. 42, Act 31, Imd. Eff. Jun. 2.

331.5 Hospital board; medical advisory committee, qualifications, appointment, terms.

Sec. 5. The hospital authority authorized herein shall be directed and governed by a hospital board consisting of 1 member for the first 20,000 population and one for each additional 40,000, or fraction thereof, according to the latest or each succeeding federal decennial census for each city, village or township participating in the hospital authority to be appointed by their respective legislative bodies, and 7 members at large selected by the appointed members. On the date appointed in the adopting resolutions, or within 30 days after the creation of the hospital authority, the members appointed by the respective cities, villages and townships, shall convene, elect a temporary chairman and secretary, and thereupon proceed to select the members at large by a majority vote. The appointed members shall be freeholders and electors of the respective appointing cities, villages or townships and may, but need not, be members of the legislative bodies thereof. The members at large shall be electors and freeholders of the territory served by such community hospitals. The members at large shall be elected for staggered terms so that no more than 2 memberships shall expire each year and succeeding appointments shall be for a term of 4 years. The appointed members shall serve during the pleasure of the appointing authority. As soon as possible the full hospital board shall hold its first meeting and organize by electing a chairman and vice-chairman, who must be members of the board, and a secretary and treasurer who need not be such members. The board shall also appoint an executive committee, consisting of the chairman and 2 other members, to carry on the active administrative duties of the hospital authority, which executive committee shall hold office during the pleasure of the hospital board. The hospital board shall also appoint a medical advisory committee whose duty shall be to advise the hospital board in regard to technical problems of hospital operation and in regard to surgical and medical policies. The members of such committee shall be duly licensed physicians and surgeons practicing in the territory served by such community hospitals. The hospital board shall also select and employ such other officers and employees and contract for such services as shall be deemed necessary to effectuate its purposes.

HISTORY: CL 1948, 331.5;—Am. 1952, p. 203, Act 170, Imd. Eff. Apr. 24;—Am. 1960, p. 56, Act 65, Imd. Eff. Apr. 25.

331.6 Hospital board; meetings, notice, quorum, accounts, treasurer's bond; medical advisory committee, rules, regulations, policies.

Sec. 6. After organization the hospital board shall hold meetings at the call of the chairman, who shall give 3 days' personal or written notice of the time and place of such meeting. The chairman shall call a meeting at any time upon written request of 3 members of the board. A majority of all members shall constitute a quorum. The board shall cause to be kept a written or printed record of every meeting, which record shall be public. The board shall also provide for a system of accounts to conform to any uniform system required by law and for the auditing at least once yearly of the accounts of the treasurer by a competent certified public accountant. The board shall require of the treasurer a suitable bond by a responsible bonding company, such bond to be paid for by the board. The medical advisory committee shall, with the approval of the hospital board, adopt rules, regulations and policies governing the professional work of such hospitals and the eligibility and qualifications of their medical staffs, which may

conform, as nearly as practicable, to the applicable standards recommended by the American college of surgeons.

HISTORY: CL 1948, 331.6;—Am. 1952, p. 204, Act 170, Imd. Eff. Apr. 24.

CITED IN OTHER SECTIONS: The above section is cited in § 331.9.

331.7 Hospital board; budget; apportionments; tax levy, limitation, payment; reports, contents.

Sec. 7. Not later than April 1 of each year the hospital board shall cause a budget to be prepared containing an itemized statement of the estimated current expenses and the expenses for capital outlay, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing prior to the time of the following year's tax collection or which have previously matured and are unpaid, and an estimate of the estimated revenue of the hospital authority from all sources for the ensuing fiscal year. The board shall adopt such budget as shall be deemed necessary and shall ascertain what, if any, amount is required to be raised by taxation from the several cities, townships and villages to meet their respective shares of the amount of such budget in excess of the estimated other revenues. The share of each city, village and township shall be determined on the basis of their respective valuations as finally equalized. The assessed valuation of a township for such purpose shall be exclusive of the property within any village which, as a corporate entity, is a member of the authority, and the assessed valuation of a member village shall be computed in accordance with the township assessment roll so as to afford a uniform assessment basis. Any member township containing in whole or in part a member village shall levy taxes under this act only against property located outside the village. The board shall certify to each participating city, township and village the amount to be raised by them and the respective cities, townships and villages shall include such amounts in their next ensuing budgets, and shall pay the amount so certified from any funds they have available or from the proceeds of a tax which they are authorized to levy, in an amount sufficient therefor, but in any event not exceeding 4/10 of a mill exclusive of any amount voted for capital improvements under section 4 or necessary to pay principal and interest on bonds issued under section 8b. Payment of such sums so certified shall be due and payable to such hospital authority 120 days subsequent to the date upon which local taxes become due and payable in cities, villages and townships participating in said hospital authority. Each city, township and village shall be liable for the amount so certified. The board shall also render to each participating city, township and village, on each July 1 and January 1 during the operation of the hospital or hospitals, a certified report thereof. Each report shall state the condition of the finances, the amount of money expended, the moneys received from all sources, the moneys owing to such board for hospital and medical services and such other information as the board may consider expedient. The board shall also file a copy of such report with the municipal finance commission of the state of Michigan together with such other information as said commission may require. Within 30 days after the formation of any new hospital authority, and annually on July 1 thereafter, the hospital board shall file with the secretary of state such report as the secretary of state may require, showing the date of formation, the names of the member communities and such other information as the report may call for.

HISTORY: CL 1948, 331.7;—Am. 1949, p. 58, Act 62, Eff. Sep. 23;—Am. 1952, p. 204, Act 170, Imd. Eff. Apr. 24;—Am. 1967, p. 43, Act 31, Imd. Eff. Jun. 2.

331.8 Hospital issuance of bonds; referendum; validation of previous acts.

Sec. 8. The hospital board may issue self-liquidating bonds of the authority in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, for the purpose of acquiring, purchasing, constructing, improving, enlarging or repairing community

hospitals or refunding any outstanding bonds theretofore issued or for the joint purposes of refunding any outstanding bonds together with the issuance of additional bonds for any of the other purposes authorized. Such bonds shall not impose any liability upon the cities, villages and townships included in the hospital authority, other than on the amounts which are assessed against the respective municipalities as provided for herein, which amounts or any portion thereof may be pledged by the governing body of the hospital authority for the payment of said bonds for a period not exceeding 30 years. The amount herein required to be paid by any municipality under the provisions of this act shall be considered to be a part of the revenues of the hospital authority as that term is defined in section 3, subsection (f) of Act No. 94 of the Public Acts of 1933, as amended. Such bonds shall be sold for not less than par and shall bear interest at a rate not in excess of 6%; in the event a petition for referendum is filed with the secretary of the hospital authority in accordance with the provisions of section 33 of said Act No. 94 of the Public Acts of 1933, as amended, the governing body of the hospital authority shall adopt a resolution establishing the date of such election which shall be not less than 60 days nor more than 90 days after the adoption of such resolution. The secretary of the authority shall, within 5 days after the adoption of such resolution, transmit a certified copy thereof to the governing body of each member community. The governing bodies of the member communities shall forthwith provide for an election in accordance with the resolution so passed, in which the question of issuing such bonds and pledging the authority's revenues, including all or any part of the amounts assessed against the respective municipalities as provided for herein, shall be submitted. The ballots for use in such election shall be provided by the authority and the elections shall be conducted in the same manner as all special elections are required to be conducted in the respective communities except that where any part or all of a village belonging to such authority is located in a township belonging to the same authority, the township election shall include that part of the village located in it and the village shall not be required to hold such an election except in that portion of the village not located in a township belonging to such authority. The governing bodies of such member communities shall act as a board of canvassers and shall certify the results of such election to the hospital board, within 5 days after the date of the election, on forms provided by the hospital authority. The hospital board shall compile and tabulate the vote as received from the member communities and certify the result of such election by resolution upon the records of such authority, and a majority of the total valid votes cast at such an election voting "yes" on the question submitted shall constitute an approval. Any hospital authority, heretofore organized and operating pursuant to the provisions of this act, shall have all the authority and rights granted under the provisions of this act or any amendments thereto, relative to the construction of community hospitals, operation of same, issuance of bonds therefor, and pledging of income and revenues therefor, including the amounts assessed to the various member communities. Any action of the hospital board of any hospital authority in the adoption of any ordinance for the issuance of bonds and any proceedings taken under the ordinance and law in relation thereto prior to the effective date of this amendatory act is hereby validated, ratified and confirmed, and the hospital board of any such hospital authority may issue, sell and deliver the bonds authorized by such actions and proceedings in the manner prescribed by law.

HISTORY: CL 1948, 331.8;—Am. 1952, p. 205, Act 170, Imd. Eff. Apr. 24;—Am. 1959, p. 18, Act 19, Imd. Eff. Apr. 30.

331.8a Hospital board; borrowing power, issuance of notes; interest rate, sinking fund, not subject to municipal finance act; notes previously issued validated.

Sec. 8a. The hospital board operating any community hospital under the provisions of this act may, by resolution adopted by a majority vote of the entire governing

board, borrow money and issue notes therefor, maturing in not to exceed 1 year from the date of their issuance and bearing interest at not to exceed 6 per cent per annum for the purpose of meeting current expenses of operation and maintenance of said hospital, and said resolution shall provide for the pledging of income and revenues of said hospital authority for the payment of such notes, and shall also provide for a special sinking fund into which there shall first be paid, as collected, a sufficient sum from the revenues of said hospital authority pledges therefor to retire both the principal and interest of said notes at maturity and said resolution may also provide for the pledging of other assets of said hospital authority as additional security for the payment of such notes. Notes issued under the provisions hereof shall not be subject to the provisions of the municipal finance act (Act 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive). Any notes heretofore issued by such hospital authority prior to the effective date of this act or any amendment thereto are hereby validated, ratified and confirmed with like force and effect as though such notes and the proceedings relating to their issuance had been fully authorized by statutes existing at the time of their issuance.

HISTORY: Add. 1949, p. 59, Act 62, Eff. Sep. 23.

331.8b Hospital board; bonds for capital improvements in anticipation of collection of additional tax levy; levy for payment of bonds and interest.

Sec. 8b. If the authority desires to issue bonds for capital improvements in anticipation of the collection of any additional tax levy not exceeding 2 mills, voted by the electors as provided in section 4, the hospital board may provide for their issuance in accordance with section 8 of this act but the last maturity date thereof shall not extend beyond 1 year after the expiration of the voted increase and no annual installment of principal and interest on the bonds shall exceed an amount equal to the voted increase computed on the basis of the last equalized tax assessment roll prior to the issuance of the bonds. Each year there shall be levied by the member units and paid to the authority an amount sufficient to pay the annual interest and principal on the bonds and no limitation in this or any other statute or in any charter shall prevent the levy and collection of the full amount of taxes required for the payment of the bonds and the interest thereon as they shall become due.

HISTORY: Add. 1987, p. 44, Act 31, Imd. Eff. Jun. 2.

331.9 Hospital board; purchasing power; conveyance to non-profit corporation, conditions.

Sec. 9. For the purposes of the authority defined in this act the hospital board may purchase, lease, accept by gift or devise, or condemn private property. It may sell, exchange, lease, hold, manage and control such property. It may convey its property or any part thereof without monetary consideration to a non-profit corporation organized for the purpose of owning, maintaining and operating a public hospital, or permit the use of such property by such corporation: Provided, That such conveyance or permission for use be upon condition that such corporation maintain and operate a hospital upon any land so conveyed or use of which is permitted, and that such corporation shall conform to the professional rules and standards provided in section 6 of Act No. 47, Public Acts of 1945, being section 331.6 of the Compiled Laws of 1948: Provided further, That no land or portion thereof may be sold for other than hospital purposes unless advertised for sale at public auction and the money so received to be retained by the hospital authority. If by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the

Compiled Laws of 1948, or such other appropriate provisions therefor as exist or shall be made by law, may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings.

HISTORY: CL 1948, 331.9;—Am. 1951, p. 109, Act 79, Imd. Eff. May 28.

Sec. 10. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

331.11 Declaration of necessity.

Sec. 11. This act is necessary for the protection of the public welfare, health and safety.

HISTORY: CL 1948, 331.11.

Act 38, 1969, p. 73; Imd. Eff. Jul. 14.

AN ACT to create a state hospital finance authority to lend money to nonprofit hospitals for capital improvements; to provide for the incorporation of local hospital authorities with power to construct, acquire, reconstruct, remodel, improve, add to, enlarge, repair, own, lease and sell hospital facilities; to authorize the authorities to borrow money and issue obligations and to enter into loans, contracts, leases, mortgages and security agreements which may include provisions for the appointment of receivers; to exempt obligations and property of the authorities from taxation; and to provide other rights, powers and duties of the authorities. Am. 1970, p. 469, Act 142, Imd. Eff. Aug. 1.

The People of the State of Michigan enact:

CHAPTER 1

331.31 Hospital finance authority act; short title.

Sec. 1. This act shall be known and may be cited as the "hospital finance authority act".

HISTORY: New 1969, p. 73, Act 38, Imd. Eff. Jul. 14.

331.32 Purpose of act.

Sec. 2. It is declared that, for the benefit of the people of the state and the improvement of their health, welfare and living conditions, it is essential that hospitals within the state be provided with appropriate means to expand, enlarge and establish health care, hospitals and other related facilities; and that it is the purpose of this act to provide a method to enable hospitals in the state to provide the facilities and structures which are sorely needed to accomplish the purposes of this act, all to the public benefit and good, to the extent and manner provided herein.

HISTORY: New 1969, p. 73, Act 38, Imd. Eff. Jul. 14.

331.33 Definitions.

Sec. 3. As used in this act:

- (a) "State authority" means the hospital finance authority created by this act.
- (b) "Local authority" means a public municipal corporation incorporated under the provisions of this act.
- (c) "Incorporating unit" means the county, city, village or township or any combination thereof incorporating a local authority pursuant to this act.
- (d) "Governing body" means the board, by whatever name known, charged with the governing of the incorporating unit.
- (e) "Hospital" means a nonpublic corporation, association, institution or establishment, located within the state, for the care of the sick or wounded or of those who re-

quire medical treatment, operated without profit to any individual corporation or association. It also includes nonprofit corporations or other organizations engaged solely in some phase of hospital activity or in providing a hospital supporting service.

(f) "Hospital facilities" means any building or structure suitable and intended for, or incidental or ancillary to, use by a hospital and shall include, but is not limited to, outpatient clinics, laboratories, laundries, nurses, doctors or interns residences, administration buildings, facilities for research directly involved with hospital care, maintenance, storage or utility facilities, parking lots and garages and all necessary, useful or related equipment, furnishings and appurtenances and all lands necessary or convenient as a site for the foregoing.

(g) "Hospital loan" means a loan made by the state authority to a hospital.

(h) "Project costs" means the sum total of all reasonable or necessary costs incurred for carrying out all works and undertakings for the acquisition or construction of hospital facilities under this act. These shall include but are not necessarily limited to all of the following costs: studies and surveys; plans, specifications, architectural and engineering services; legal, organization, marketing or other special services; financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair or remodeling of existing buildings; interest and carrying charges during construction and before full earnings are achieved and operating expenses before full earnings are achieved or a period of 1 year following the completion of construction whichever occurs first.

HISTORY: New 1969, p. 73, Act 38, Imd. Eff. Jul. 14;—Am. 1970, p. 469, Act 142, Imd. Eff. Aug. 1.

CHAPTER 2

331.41 State hospital finance authority; creation, members, terms, vacancies, deputies, quorum, action, compensation and expenses, status.

Sec. 11. The state hospital finance authority is created. The state authority is a public body and politic of the state and shall consist of the director of the department of public health, the state treasurer, 3 members from the comprehensive state health planning advisory council and a chairman. The latter 4 shall be appointed by the governor by and with the advice and consent of the senate and shall serve terms of 4 years. Of the members first appointed by the governor, 2 shall be designated to serve for a term of 3 years and 2 for 4 years from the dates of their appointments. Vacancies shall be filled for the unexpired term. The director of the department of public health and the state treasurer may each appoint a deputy to serve as a member of the state authority in their absences which deputy shall be a person in the office of the director of the department of public health or the state treasurer and shall serve at his pleasure. A majority of the members constitute a quorum for the purpose of conducting business and exercising its powers. Action may be taken by the state authority upon the vote of the majority of its members or by written instrument signed by each of the members or his deputy. Members of the state authority shall receive no compensation for services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. Any payments for compensation and expenses shall be paid from the funds of the authority. The state authority shall be within the department of treasury and shall exercise its prescribed statutory powers, duties and functions independently of the head of the department.

HISTORY: New 1969, p. 74, Act 38, Imd. Eff. Jul. 14;—Am. 1970, p. 470, Act 142, Imd. Eff. Aug. 1.

331.42 State authority; powers.

Sec. 12. The state authority shall have all the powers necessary to carry out and effectuate the purposes and provisions of this act, including but not limited to the following:

(a) To sue and be sued, to have a seal and alter the same at pleasure, to have perpetual succession, to make, execute and deliver contracts, conveyances and other instruments necessary or convenient to the exercise of its powers and to make and amend bylaws.

(b) To solicit and accept gifts, grants, loans and other aids from any person, corporation or governmental agency.

(c) To make loans, to participate in the making of loans, to undertake commitments to make loans and mortgages, to sell loans and mortgages at public or private sale, to modify or alter loans and mortgages, to discharge loans and mortgages, to foreclose on any such mortgage or commence any action to protect or enforce any right conferred upon it by any law, mortgage, loan, contract or other agreement and to bid for and purchase property which was the subject of such mortgage at any foreclosure or at any other sale and to acquire or take possession of any such property and in such event complete, administer, pay the principal and interest on any obligations incurred in connection with such property, dispose of, and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interests of the state authority therein. The loans made by the authority may be secured by mortgages or not, as the authority shall determine.

(d) To charge, impose and collect fees and charges in connection with its loans, commitments and servicing including but not limited to reimbursement of costs of financing by the authority, service charges, insurance premiums and an allocable share of the operating expenses of the authority and to make provision for increasing the same, if necessary, as the state authority shall determine to be reasonable and as shall be approved by the state authority.

(e) To acquire, hold and dispose of real or personal property as convenient for the accomplishment of the purpose of this act.

(f) To procure insurance against any loss in connection with its property, assets or activities.

(g) To borrow money and issue its bonds or notes therefor and provide for the rights of the holders thereof and to secure such bonds by mortgage, assignment or pledge of any or all of its properties including any part of the security for its hospital loans. The state shall not be liable on any bonds of the state authority and the bonds and notes shall not be a debt of the state and each bond and note shall contain on its face a statement to such effect.

(h) To invest any funds not required for immediate use or disbursement, at its discretion, in obligations of the state or the United States, in obligations the principal and interest of which are guaranteed by the state or the United States or in certificates of deposit of any bank which is a member of the federal reserve system.

(i) To engage such personnel as is necessary and the services of private consultants for rendering professional and technical assistance and advice.

(j) To make rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 74, Act 38, Imd. Eff. Jul. 14.

331.43 Loans to hospitals, conditions and limitations; interest.

Sec. 13. The state authority may lend money to hospitals for the acquisition, construction, improvement or alteration of hospital facilities. A hospital loan shall not be made unless the state authority is reasonably satisfied that there will be made available to the hospital from the hospital loan and other sources all the funds necessary to pay

all project costs and that the hospital facility and other revenues pledged will produce sufficient revenues to meet the principal and interest on the hospital loan and other costs, expenses and charges in connection therewith and other charges or obligations of the hospital which may be prior or equal thereto promptly as the same becomes due and is otherwise soundly financed. The hospital loan may be secured by a mortgage of property of the hospital including the hospital facility and may provide for the appointment of a receiver to operate the hospital facilities in case of default. The hospital loan shall not exceed the project costs as determined by the state authority. A loan shall be secured in a manner, be repaid in a period not exceeding 50 years and bear interest at a rate, all as determined by the authority, which rate may be decreased or increased so that it is not less than the rate paid by the authority on notes, renewal notes or bonds issued to fund the loan.

HISTORY: New 1969, p. 75, Act 38, Imd. Eff. Jul. 14;—Am. 1970, p. 470, Act 142, Imd. Eff. Aug. 1.

331.44 State authority; issuance of bonds, renewal notes and refunding bonds; general obligations; authorizing resolution, provisions permitted.

Sec. 14. (1) The state authority from time to time may issue its negotiable bonds and notes in such principal amount, as, in the opinion of the state authority, shall be necessary to provide sufficient funds for the making of hospital loans, including temporary loans during construction of hospital facilities, and for the payment of interest on bonds and notes of the state authority during construction of hospital facilities for which the hospital loan was made and for a reasonable time thereafter and for the establishment of reserves to secure such bonds and notes.

(2) The state authority, from time to time, may issue renewal notes, may issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(3) Except as may otherwise be expressly provided by the state authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any properties, revenues or moneys of the state authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular properties, revenues or moneys.

(4) Any resolution authorizing any notes or bonds or any issue thereof under this chapter may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) Pledging and creating a lien on all or any part of the fees and charges made or received or to be received by the state authority, all or any part of the moneys received in payment of hospital loans and interest thereon and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist.

(b) Pledging and creating a lien on all or any part of the assets of the state authority, including notes, mortgages and obligations securing the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist.

(c) Pledging and creating a lien on any loan, grant or contribution to be received from the federal, state or local government or other source.

(d) The use and disposition of the income from hospital loans and mortgages owned by the state authority and payment of principal and interest of mortgages and loans owned by the state authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(f) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof.

(g) Limitations on the issuance of additional notes or bonds and the terms upon which additional notes or bonds may be issued and secured.

(h) The procedure by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto and the manner in which such consent may be given.

(i) Vesting in a trustee or trustees such property, rights, powers, remedies and duties as the state authority may deem necessary or convenient.

HISTORY: New 1969, p. 75, Act 38, Imd. Eff. Jul. 14;—Am. 1970, p. 470, Act 142, Imd. Eff. Aug. 1.

331.45 State authority; bond reserve fund, creation, use.

Sec. 15. The state authority shall create and establish a special fund or funds to secure the notes and bonds or any issue thereof, referred to as a bond reserve fund, and shall pay into the bond reserve fund any proceeds of sale of notes or bonds or any issue to the extent provided in the resolution of the authority authorizing the issuance thereof and any other moneys which may be made available to the state authority for the purpose of such fund from any other source or sources. All moneys held in any bond reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of the bonds or notes for which the fund was established as the same mature, the purchase of bonds or notes for which the fund was established, the payment of interest on the bonds or notes for which the fund was established or the payment of any redemption premium required to be paid when the bonds or notes are redeemed prior to maturity. Moneys in the bond reserve fund shall not be withdrawn therefrom at any time except for the purpose of paying principal of and interest on the bonds or notes for which the fund was established maturing and becoming due and for the payment of which other moneys of the state authority are not available. Any income or interest earned by, or increment to, the bond reserve fund due to the investment or reinvestment thereof shall remain in the bond reserve fund. Any hospital loan shall provide that when the money in the bond reserve fund produced by the hospital loan is sufficient to pay the principal and interest to maturity or earlier redemption date and redemption premiums on bonds of the state authority issued in connection with the hospital loan, the moneys in the bond reserve fund shall be applied to such payment and that payments on the hospital loan by the hospital may be correspondingly reduced.

HISTORY: New 1969, p. 76, Act 38, Imd. Eff. Jul. 14.

331.46 State authority; state treasurer, agent; deposits, payments, security; agreements; system of accounts.

Sec. 16. (1) All moneys of the state authority, except as otherwise authorized or provided in this section, shall be paid to the state treasurer, as agent of the state authority, who shall not commingle such moneys with any other moneys. The moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the state treasurer on requisition of the chairman of the state authority or of such other officer or employee as the state authority shall authorize. If required by the state treasurer or the state authority, all deposits of such moneys shall be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

(2) Notwithstanding the provisions of this section, the state authority, subject to the approval of the state treasurer, may contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the state authority and any moneys held in trust or otherwise for the payment of notes or bonds. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the state authority and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to agreements with noteholders and bondholders and the approval of the auditor general, the authority shall prescribe a system of accounts for the state authority.

HISTORY: New 1960, p. 77, Act 38, Imd. Eff. Jul. 14.

CHAPTER 3

331.51 Local hospital authority; incorporation, purpose.

Sec. 21. Any incorporating unit thereof may incorporate a local hospital authority under the provisions of this act for the purpose of constructing, acquiring, reconstructing, remodeling, improving, adding to, enlarging, repairing, owning and leasing hospital facilities for the use of any hospital within or without the boundaries of the incorporating unit.

HISTORY: New 1960, p. 77, Act 38, Imd. Eff. Jul. 14.

331.52 Local authority; articles of incorporation, adoption, certificate form.

Sec. 22. The incorporation of a local hospital authority shall be accomplished by the adoption of articles of incorporation by the governing body of the incorporating unit. The affirmative vote of the majority of the members-elect of the governing body of the incorporating unit is required for such adoption. The articles of incorporation shall be executed for and on behalf of the incorporating unit by the chief executive officer and clerk. The clerk of each incorporating unit shall also affix to the articles of incorporation, following the signatures thereto, a certificate in form substantially as follows:

"The foregoing articles of incorporation were adopted by the of the of, County of, Michigan, at a meeting duly held on the day of, 19..... . Dated:, 19..... .

.....
..... Clerk"

HISTORY: New 1960, p. 77, Act 38, Imd. Eff. Jul. 14.

331.53 Local authority; articles, contents.

Sec. 23. The articles of incorporation shall set forth the name of the local authority, which name shall include the word [sic] "hospital"; the name of the incorporating unit; the purpose for which the local authority is created; the number, terms and manner of selection of the local authority's officers, including its governing board which shall be known as the "commission"; the powers and duties of the local authority and of its officers; the date upon which the articles of incorporation shall become effective and the local authority shall be established; the name of the newspaper in which the articles of incorporation shall be published and the name of the person responsible for the publication and filings required by this act; and any other matters necessary or expedient to be included therein.

HISTORY: New 1960, p. 78, Act 38, Imd. Eff. Jul. 14.

331.54 Local authority; articles, execution, filing, publication; validity of incorporation.

Sec. 24. The articles of incorporation shall be executed in duplicate and delivered to the county clerk of the county in which the local authority is located, who shall file 1

duplicate in his office and the other with the recording officer of the hospital authority when selected. The county clerk shall publish a copy of the articles of incorporation once in a newspaper designated in the articles of incorporation and circulating within the county. He shall file 1 printed copy of the articles of incorporation with the secretary of state and 1 in his office, attached to each shall be his certificate setting forth that the same is a true and complete copy of the original articles of incorporation on file in his office and also the date and place of the publication thereof. The local authority shall be established at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

HISTORY: New 1909, p. 78, Act 38, Imd. Eff. Jul. 14.

331.55 Local authority; articles, amendment.

Sec. 25. Amendments may be made to articles of incorporation if adopted by the governing body of the incorporating unit. No amendment shall impair the obligation of any bond or other contract. Each amendment shall be adopted, executed and published and certified printed copies filed, in the same manner as the original articles of incorporation.

HISTORY: New 1909, p. 78, Act 38, Imd. Eff. Jul. 14.

331.56 Local authority; body corporate, general powers.

Sec. 26. Each local authority is a public body corporate, having such succession and term as may be provided in its articles of incorporation. It may adopt and amend by-laws for the regulation of its affairs and the conduct of its business; adopt an official seal and alter it at its discretion; maintain offices at such places as it may designate; sue and be sued in its own name in any court of this state; and generally do and suffer to be done all things necessary for and convenient and incident to the carrying out of the purposes of its incorporation. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

HISTORY: New 1909, p. 78, Act 38, Imd. Eff. Jul. 14.

331.57 Local authority; specific powers.

Sec. 27. Any local authority may:

(a) Construct, acquire by gift, purchase, lease or condemnation, reconstruct, remodel, improve, add to, enlarge, repair, own and lease hospital facilities, and acquire a site or sites therefor. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute. The governing body of any incorporating unit by majority vote of the members-elect thereof, may transfer any real property, except cemetery property, owned by the incorporating unit to a local authority established pursuant to this act.

(b) Issue revenue bonds to finance all or any part of the project costs of any hospital facilities.

(c) Enter into lease or lease-purchase agreements with any hospital for the use of the hospital facilities. The agreement shall provide that the rents to be charged for such use shall be fixed and revised from time to time so as to produce income and revenues sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable therefrom after provision has been made for the payment of operation and maintenance costs.

(d) Mortgage the hospital facilities in favor of the holders of the bonds issued therefor.

(e) Sell and convey the hospital facilities and site, or any part thereof, subject to the approval of the state authority, including without limitation the sale and conveyance thereof subject to a mortgage, for such price and at such time as the local authority may determine. No sale or conveyance shall be made in any manner as to impair the rights or interests of the holders of any bonds.

(f) Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment and fix their compensation.

(g) Receive and accept from any public or private agency loans or grants for or in aid of any project undertaken, or any portion thereof, and receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made.

(h) Charge and collect fees and charges from the lessees of the hospital facilities sufficient to meet operation and maintenance expenses of the authority.

(i) Exercise any of its powers and undertake any project for the benefit of a single hospital or the joint benefit of a group or association of 1 or more hospitals.

HISTORY: New 1969, p. 78, Act 38, Imd. Eff. Jul. 14.

331.58 Local authority; borrowing power, issuance of bonds, repayment, limitations.

Sec. 28. For the purpose of defraying the project costs of hospital facilities, any local authority may borrow money and issue its negotiable bonds. The principal and interest of the bonds shall be payable solely from the net revenues derived from the hospital facilities, from gifts or grants, or from amounts derived from the disposition of hospital facilities mortgaged or otherwise pledged as security for payment of the bonds. No bond or coupon issued pursuant to this act shall be a general obligation of nor constitute a debt of the local authority or any of the incorporating units within the meaning of any constitutional, charter or statutory limitation.

HISTORY: New 1969, p. 79, Act 38, Imd. Eff. Jul. 14.

331.59 Local authority; bond resolution, contents.

Sec. 29. Any resolution authorizing any bonds or any issue thereof under this chapter may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) The use and disposition of the rentals received under the agreement, including the creation and maintenance of reserves.

(b) The issuance of other or additional bonds of equal standing with bonds of the local authority already issued, payable from the income and revenues from the hospital facilities and equally secured by any mortgage or other security pledge of the hospital facilities, for the purpose of completing hospital facilities already undertaken, or for the purpose of making additions, extensions and improvements to existing hospital facilities.

(c) The maintenance and repair costs of the hospital facilities, which costs may be assumed by the lessee hospital, in which event no provision need be made for rental payments to meet the costs.

(d) The insurance to be carried thereon and the use and disposition of insurance moneys.

(e) The terms and conditions upon which the holder of the bonds, or any portion thereof, or any trustees therefor, shall be entitled to the appointment of a receiver by any court which has jurisdiction in such proceedings, and which receiver may enter and take possession of the hospital facilities and lease and maintain it, prescribe rent-

als, and collect, receive and apply all income and revenues thereafter arising therefrom in the same manner and to the same extent as the hospital authority might do.

HISTORY: New 1969, p. 79, Act 38, Imd. Eff. Jul. 14.

331.60 Local authority; bonds, security for payment.

Sec. 30. Any resolution authorizing the issuance of bonds under this act may provide that the principal of and interest on any bonds issued shall be secured by a mortgage or deed of trust covering the hospital facilities for which the bonds are issued and may include any additions, improvements or extensions thereafter made. The mortgage or deed of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing the bonds but not inconsistent with this act and shall be executed in the manner provided in the resolution. The resolution may provide for the appointment of 1 or more trustees for bondholders and any such trustee may be an individual or corporation domiciled or located within or without the state and may be given appropriate powers whether with or without the execution of a mortgage or deed of trust covering the hospital facilities or site.

HISTORY: New 1969, p. 80, Act 38, Imd. Eff. Jul. 14.

331.61 Local authority; bonds, enforcement of payment, validity, publication.

Sec. 31. (1) The provisions of this act and any resolution and any mortgage or deed of trust shall continue in effect until the principal and interest on the bonds has been fully paid and the duties of the hospital authority and its commission and officers under this act and any resolution and any mortgage or deed of trust shall be enforceable by any bondholder by mandamus, foreclosure of the mortgage or deed of trust or other appropriate action in any court of competent jurisdiction.

(2) The resolution authorizing the bonds shall provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(3) Any resolution authorizing the issuance of bonds under this act shall not be effective until publication once in a newspaper of general circulation within the incorporating unit.

HISTORY: New 1969, p. 80, Act 38, Imd. Eff. Jul. 14.

331.62 Local authority; new bonds, issuance conditions.

Sec. 32. The local authority may issue new bonds to provide funds for the payment of all or any outstanding bonds in accordance with the procedure prescribed in this act. The new bonds shall be secured to the same extent and shall be payable from rentals of the same hospital facilities and site, or any replacements thereof, as the bonds refunded.

HISTORY: New 1969, p. 80, Act 38, Imd. Eff. Jul. 14.

331.63 Local authority; conveyance of hospital facilities.

Sec. 33. When all bonds issued pursuant to the provisions of this chapter have been retired, then the local authority may convey the title to the hospital facilities to the lessee hospital or organization authorized to operate a hospital in accordance with any agreement executed between the local authority and the lessee hospital.

HISTORY: New 1969, p. 80, Act 38, Imd. Eff. Jul. 14.

CHAPTER 4

331.71 Applicability of chapter.

Sec. 41. The state authority and each local authority shall be subject to and governed by the provisions of this chapter of this act except as to those matters which are specifically or by necessary implication provided for in chapter 2 for the state authority and chapter 3 for the local authority.

HISTORY: New 1969, p. 80, Act 38, Imd. Eff. Jul. 14.

331.72 State or local authority; issuance of notes and bonds, authorization by resolution, terms, interest, sale.

Sec. 42. The notes and bonds authorized by the state authority or local authority shall be authorized by resolution adopted by a majority vote of the members-elect of the authority; shall be serial bonds, term bonds or term and serial bonds; in the case of serial bonds, shall be payable annually or semiannually; shall bear such date or dates and shall mature at such time or times, in the case of any note, or any renewal thereof, not exceeding 5 years, from the date of issue of such original note, and in the case of any bond not exceeding 50 years from the date of issue, as the resolution may provide. The notes and bonds shall bear interest at such rate or rates not exceeding 7%, be in such denominations, be in such form, either coupon or registered or both, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as the resolution may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine. The bonds may be sold at a discount not exceeding 10%. The bonds shall not be sold at a price which would make the interest costs on the money borrowed exceed 7% after taking into account any discount.

HISTORY: New 1969, p. 80, Act 38, Imd. Eff. Jul. 14;—Am. 1970, p. 471, Act 142, Imd. Eff. Aug. 1.

331.73 Pledges and liens; validity; recording.

Sec. 43. Any pledge made by an authority shall be valid and binding from the time the pledge is made. The moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

HISTORY: New 1969, p. 81, Act 38, Imd. Eff. Jul. 14.

331.74 Authority members; persons executing notes or bonds; personal liability.

Sec. 44. Neither the members of any authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

HISTORY: New 1969, p. 81, Act 38, Imd. Eff. Jul. 14.

331.75 Bond or note holders; vested rights, impairment.

Sec. 45. The state pledges and agrees with the holders of any notes or bonds issued under this act, that the state will not limit or alter the rights vested in any authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the notes or bonds, together with the

interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. Any authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

HISTORY: New 1969, p. 81, Act 38, Imd. Eff. Jul. 14.

331.76 Bonds or notes; approval by municipal finance commission, conditions.

Sec. 46. Any bonds or notes issued by any authority shall be approved by the municipal finance commission prior to their issuance but shall not otherwise be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948. Before approving the issuance of the bonds or notes the municipal finance commission shall determine that the amount of the proposed issue is sufficient but not excessive, that the revenue and properties pledged for the payment thereof are sufficient and that the bonds or notes and the proceedings authorizing the same comply with this act and other applicable law.

HISTORY: New 1969, p. 81, Act 38, Imd. Eff. Jul. 14.

331.77 Bonds; approval of hospital facilities by state agency, conditions.

Sec. 47. Before any authority adopts a resolution authorizing the issuance of bonds or notes and as a condition precedent to the authority to issue the bonds or notes, approval in writing of the health facilities to be financed shall be obtained from the agency or agencies designated by the governor by executive order filed with the secretary of state, or in lieu thereof by any state agency or agencies specifically authorized and directed by law so to do. Before approving the hospital facilities an agency acting pursuant to this section, shall find that the proposed hospital facilities will not result in unnecessary duplication of existing facilities; have been well planned; are consistent with an orderly development and provision of hospital services in the area; and accord with any plan adopted by the agency relating to hospital facilities for utilization, planning, orderly development or provision for hospital services in an area. An agency acting pursuant to this section, may require submission of such proofs and may take such testimony as it deems necessary and relevant in order to make the determinations.

HISTORY: New 1969, p. 81, Act 38, Imd. Eff. Jul. 14;—Am. 1970, p. 472, Act 142, Imd. Eff. Aug. 1.

331.78 Bonds or notes; negotiability.

Sec. 48. Whether or not the notes or bonds are of such form or character as to be negotiable instruments under the uniform commercial code, the notes or bonds authorized to be issued by this act are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

HISTORY: New 1969, p. 82, Act 38, Imd. Eff. Jul. 14.

331.79 Bonds and notes; legal investments.

Sec. 49. The notes and bonds of any authority are securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

HISTORY: New 1969, p. 82, Act 38, Imd. Eff. Jul. 14.

331.80 Tax exemption.

Sec. 50. The property of any authority and its income and operation is exempt from all taxation.

HISTORY: New 1909, p. 82, Act 38, Imd. Eff. Jul. 14.

331.81 Bonds and notes; tax exemption, exception.

Sec. 51. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued pursuant to this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds issued pursuant to this act and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds at all times shall be free and exempt from all state, city, county or other taxation provided by the laws of the state, except for estate, inheritance and gift taxes and taxes on transfers.

HISTORY: New 1909, p. 82, Act 38, Imd. Eff. Jul. 14.

331.82 Nondiscrimination provision.

Sec. 52. The authority shall require that use of hospital facilities assisted under this act shall be open to all regardless of race, religion or creed and that contractors and subcontractors engaged in the construction or alteration of such facilities shall provide an equal opportunity for employment, without discrimination as to race, religion or creed. The hospital to which any hospital loan is made shall covenant with the authority that the nondiscrimination provision shall be enforced.

HISTORY: New 1909, p. 82, Act 38, Imd. Eff. Jul. 14.

331.83 Construction of act as to powers conferred; purpose and intention.

Sec. 53. This act shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither the powers nor any bonds or notes issued hereunder shall be affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided in this act, it being the purpose and intention of this act to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds are issued hereunder.

HISTORY: New 1909, p. 82, Act 38, Imd. Eff. Jul. 14.

331.84 Declaration of necessity; liberal construction.

Sec. 54. This act, being necessary for and to secure the public health, safety, convenience and welfare of the citizens of the state, shall be liberally construed to effect the public purposes hereof.

HISTORY: New 1909, p. 82, Act 38, Imd. Eff. Jul. 14.

Act 139, 1909, p. 299; Eff. Sep. 1.

AN ACT relative to the maintenance and construction of hospitals and sanatoria within the counties of this state and to provide a tax to raise moneys therefor.

The People of the State of Michigan enact:

331.101 County taxation in aid of hospitals; power of supervisors.

Sec. 1. The several boards of county supervisors of this state may raise by a tax to be levied on the property of said county, subject to taxation for county purposes, a sum of money to be used for constructing or maintaining or assisting to construct or maintain any hospital or sanitarium within said county. The said board of supervisors shall designate the hospital or sanitarium for which the moneys so raised are to be used: Provided, That any county not having within its boundary a hospital or sanitarium or any

county though having a hospital or sanitarium within its boundary wishing to act in conjunction with any other county or counties for the purposes herein provided, may, in the judgment of the board of supervisors, use said moneys so raised in such combined undertaking of said several counties.

HISTORY: CL 1915, 10854;—CL 1929, 7058;—CL 1948, 331.101.

331.102 County taxation; apportionment, collection, limit.

Sec. 2. The tax provided for herein shall be apportioned and collected as other taxes for county purposes. Said tax shall not exceed $\frac{2}{10}$ of 1 mill on each dollar of assessed valuation of said county, unless the same shall have been submitted to a vote of the qualified electors of such county: Provided, That in counties having a population of 25,000 or more it shall be lawful to assess and levy a tax of not to exceed 1 mill on each dollar of assessed valuation of said county for a period of not exceeding 2 years for the purpose of constructing or assisting to construct a hospital or sanitarium within said county.

HISTORY: Am. 1915, p. 125, Act 74, Imd. Eff. April 21;—CL 1915, 10855;—Am. 1917, p. 505, Act 237, Eff. Aug. 10;—Am. 1919, p. 57, Act 31, Eff. Aug. 14;—CL 1929, 7059;—CL 1948, 331.102.

GENERAL TAX LAW: See Compilers' § 211.1.

331.103 County taxation; payment to institution, expenditures.

Sec. 3. When the tax herein provided for shall be collected it shall be paid to the institution for which the same is raised, upon the warrant of the president and secretary thereof from time to time as vouchers are presented, and shall be expended by said board for the use of said institution within the limits prescribed by this act.

HISTORY: CL 1915, 10856;—CL 1929, 7060;—CL 1948, 331.103.

331.104 Sanatorium trustees; annual report to county supervisors, contents.

Sec. 4. It shall be the duty of the trustees or other officers of any hospital or sanitarium receiving any such assistance, to report once a year to the board of supervisors of the county granting such assistance. Such report shall set forth in detail the number of the patients cared for during the year, the average cost per person, the amount of money received from all sources, the amount of money expended and to whom paid, and a tabulated statement of the number of persons admitted, the disease, or other cause of their admission, and the disposition made of each case, which said report shall be included and made a part of the record of said board of supervisors.

HISTORY: CL 1915, 10857;—CL 1929, 7061;—CL 1948, 331.104.

331.105 Sanatorium; placement on approved list; annual report, state aid.

Sec. 5. Any sanatorium, established under the provisions of this act solely for the treatment of tuberculosis and which shall have expended at least 10,000 dollars in buildings and equipment, may, upon application to the state board of health, be placed upon the approved list of county sanatoriums, and once entered upon said approved list, may remain listed and be entitled to state aid so long as the scope and character of its work are maintained in such manner as to meet the approval of the state board of health. On the first day of July of each year the secretary of the board of said sanatorium on the approved list, shall report under oath to the state board of health, the character of the work done and the treatment given, the number and names of the persons employed and patients treated and on said date remaining in such sanatorium, the amount contributed by said county or counties for the support of such sanatorium, and such other matters as may be required by the state board of health. Upon the receipt of such report, if it shall appear that the sanatorium has been maintained in a satisfactory manner, the secretary of the state board of health shall make a certificate to that effect, together with the cost of maintenance for the year and the amount actually contributed by each county therefor, and file it with the audi-

tor general. Upon receiving such certificate the auditor general shall draw his warrant payable to the treasurer of each county contributing toward the maintenance of such sanatorium, for a sum equal to 1/2 the amount actually contributed by said county for the support of such sanatorium for the preceding year: Provided, That the total sum so paid as state aid shall not exceed the sum of 3,000 dollars for any 1 sanatorium in any 1 year. The auditor general shall annually, beginning in the year 1918, include and apportion in the state tax such sums as shall have been so paid.

HISTORY: Add. 1917, p. 505, Act 237, Eff. Aug. 10;—CL 1929, 7062;—CL 1948, 331.105.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

Act 350, 1913, p. 659; Eff. Aug. 14.

AN ACT to enable counties to establish and maintain public hospitals, levy a tax and issue bonds therefor, borrow money and issue bonds and notes therefor, elect hospital trustees, maintain training schools for nurses, maintain nursing home facilities, provide suitable means for the care of tuberculous persons, and to make possible the ultimate establishment of an adequate supply of hospitals. Am. 1933, p. 346, Act 219, Eff. Oct. 17;—Am. 1964, p. 336, Act 242, Eff. Aug. 28.

The People of the State of Michigan enact:

331.151 County public hospital; contagious diseases; establishment, referendum.

Sec. 1. Any county board of supervisors may establish a public hospital when approved by the electors of the county. The hospital, when established, shall offer among its services the treatment of contagious and infectious diseases. The question of establishing a hospital shall be presented to the county electors at a special or regular county election. The election proceedings hereunder shall be conducted in accordance with Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Compiled Laws of 1948.

HISTORY: CL 1915, 10858;—Am. 1917, p. 491, Act 231, Eff. Aug. 10;—Am. 1923, p. 309, Act 198, Eff. Aug. 30;—CL 1929, 7063;—CL 1948, 331.151;—Am. 1960, p. 34, Act 43, Imd. Eff. Apr. 19.

331.151a Repealed. 1960, p. 34, Act 43, Imd. Eff. Apr. 19.

Section related to county hospitals and sanatoria and provided for exercise of powers in absence of bond issue.

331.152 Referendum; election procedure, ballots.

Sec. 2. Said election shall be held at the usual places in such county for the election of county officers, the vote to be canvassed in the same manner as that for county officers. The ballots to be used at any election at which the said question is submitted shall be printed with a statement substantially as follows:

Shall the county of establish a county hospital in accordance with the terms of Act No. 350 of the Public Acts of 1913, as amended?

Yes ☐ No ☐

HISTORY: CL 1915, 10859;—CL 1929, 7064;—CL 1948, 331.152;—Am. 1960, p. 34, Act 43, Imd. Eff. Apr. 19.

331.153 County public hospital board of trustees; qualifications, temporary appointment, election, terms.

Sec. 3. If a majority of all the votes cast upon the question are in favor of establishing such county public hospital, the board of supervisors shall proceed at once to appoint 7 trustees chosen from the citizens at large with reference to their fitness to such office, 3 of whom may be women, all residents of the county, not more than 4 of the trustees to be residents of the city, township or village in which the hospital is to be located, who shall constitute a board of trustees for the public hospital. The trustees

shall hold their offices until the next following November election, when 7 hospital trustees shall be elected and hold their offices, 2 for 2 years, 2 for 4 years, 3 for 6 years, and who shall by lot determine their respective terms. At each subsequent November election the offices of the trustees whose terms of office are about to expire shall be filled by the nomination and election of hospital trustees in the same manner as other officers are elected, none of whom shall be practicing physicians. The board of supervisors of any county where a county public hospital is established, may, by a majority vote of all members elect, provide for election of the trustees by the board of supervisors instead of choosing them by election at the November election as herein provided.

HISTORY: CL 1915, 10860;—Am. 1917, p. 492, Act 231, Eff. Aug. 10;—CL 1929, 7065;—CL 1948, 331.153;—Am. 1963, p. 94, Act 81, Eff. Sep. 6.

331.154 Board of trustees; oath, organization, compensation, powers, interests in contracts.

Sec. 4. The said trustees shall within 10 days after their appointment or election qualify by taking the oath of civil officers, and organize as a board of hospital trustees by the election of 1 of their number as chairman, 1 as secretary, and by the election of such other officer as they may deem necessary, but no bond shall be required of them. The county treasurer of the county in which such hospital is located shall be treasurer of the board of trustees. The treasurer shall receive and pay out all the moneys under the control of the said board as ordered by it, but shall receive no compensation from such board. Each trustee may receive not to exceed \$15.00 per day for his services in attending meetings of the board, and not to exceed 7 cents per mile for each mile necessarily traveled in going to and returning from the place of meeting each day the board is in session, when the rate of compensation and mileage as herein provided is approved by the board of supervisors, and such other necessary expenses as shall be allowed by the board of supervisors. The board of hospital trustees shall make and adopt such by-laws, rules and regulations for its own guidance and for the government of the hospital as may be deemed expedient for the economic and equitable conduct thereof not inconsistent with this act, and the ordinances of the city or town wherein such public hospital is located. It shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund, and of the purchase of a site or sites, the purchase or construction of any hospital building or buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose. All moneys received for such hospital shall be deposited in the treasury of the county to the credit of the hospital fund, and paid out only upon warrants drawn by the auditor of said county or by the county clerk in counties not having a county auditor upon the properly authenticated vouchers of the hospital board. Said board of hospital trustees shall have power to appoint a suitable superintendent or matron, or both, and necessary assistants, and fix their compensation; and shall also have power to remove such appointees; and shall in general carry out the spirit and intent of this act in establishing and maintaining a public county hospital with equal rights to all and privileges to none. Such board of hospital trustees shall hold meetings at least once each month, shall keep a complete record of all its proceedings, and 4 members of said board shall constitute a quorum for the transaction of business. One of said trustees shall visit and examine said hospital at least twice each month, and the board shall, during the first week in October of each year, file with the board of supervisors of said county a report of its proceedings with reference to such hospital, and a statement of all receipts and expenditures during the year; and shall at such times certify the amount necessary to maintain and improve said hospital for the ensuing year. No trustee shall have a personal pecuniary interest either directly or indirectly in the purchase of any supplies for said hospital, unless the same are purchased by competitive bidding.

Body corporate; borrowing power; state aid.

Each said board shall constitute a body corporate and may sue and be sued. It shall be lawful for said board to borrow a sum of money equal to 3/4 the amount due or owing said county from the state in accordance with section 9 of Act No. 177 of the Public Acts of 1925, as amended, being section 7052 of the Compiled Laws of 1929, and to issue bonds or notes therefor to be repaid from the receipt from the state of such amount due or owing said county.

HISTORY: CL 1915, 10681;—Am. 1923, p. 18, Act 11, Imd. Eff. March 28;—CL 1929, 7066;—Am. 1933, p. 346, Act 219, Eff. Oct. 17;—Am. 1945, p. 356, Act 251, Eff. Sep. 6;—CL 1948, 331.54;—Am. 1961, p. 65, Act 68, Eff. Sep. 8.

NOTE: CL 1929, § 7052 above referred to, is CL 1948, § 332.159 and was last amended by Act No. 43 of the Public Acts of 1960.

NOTE: Sec. 9, Act 177, 1925, above referred to, is Compilers' § 332.159.

331.155 Board of trustees; filling of vacancies.

Sec. 5. Vacancies in the board of trustees occasioned by removals, resignations or otherwise shall be reported to the board of supervisors and be filled in like manner as original appointments, appointees to hold office until the next following November election, when such vacancy shall be filled by election in the usual manner.

HISTORY: CL 1915, 10662;—CL 1929, 7067;—CL 1948, 331.155.

331.156 Board of trustees; bond issuance, referendum.

Sec. 6. If the board of supervisors determines that the establishment, equipping and construction of such hospital and the purchase of land therefor must be financed through the issuance of bonds, then such bonds shall be issued in accordance with Act No. 118 of the Public Acts of 1923, as amended, being sections 141.61 to 141.66 of the Compiled Laws of 1948. The bonding proposal may be presented at the election authorized under sections 1 and 2 of this act.

HISTORY: CL 1915, 10663;—CL 1929, 7068;—CL 1948, 331.156;—Am. 1960, p. 34, Act 43, Imd. Eff. Apr. 19.

This act had no section 7.

COUNTY BONDS: See Act 202 of 1943, being Compilers' § 131.1 et seq.

331.158 State board of health; approval of building plans; bids, advertisement.

Sec. 8. No hospital building shall be erected or constructed under the plans and specifications made therefor and adopted by the board of hospital trustees, until approved by the state board of health, and bids advertised for according to law for other county public buildings.

HISTORY: CL 1915, 10664;—CL 1929, 7069;—CL 1948, 331.158.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

331.159 Annual appropriation.

Sec. 9. In counties exercising the rights conferred by this act the board of supervisors may appropriate each year in addition to tax for the original hospital construction, equipping and site a sum not exceeding 5% of its general fund for the improvement and maintenance of any public hospital so established.

HISTORY: CL 1915, 10665;—CL 1929, 7070;—CL 1948, 331.159;—Am. 1960, p. 34, Act 43, Imd. Eff. Apr. 19.

331.160 County hospital; admission, payment of compensation, regulations, nonresidents.

Sec. 10. Every hospital established under this act shall be for the benefit of the inhabitants of such county and of any person falling sick or being injured or maimed within its limits; but every such inhabitant or person who is not a pauper shall pay to such board of hospital trustees or such officer as it shall designate for such county public hospital, a reasonable compensation for occupancy, nursing, care, medicine, or attendants, according to the rules and regulations prescribed by said board, such hospital always being subject to such reasonable rules and regulations as said board may adopt in order to render the use of said hospital of the greatest benefit to the greatest number; and said board may exclude from the use of such hospital any and all inhabit-

ants and persons who shall wilfully violate such rules and regulations. And said board may extend the privileges and use of such hospital to persons residing outside of such county, upon such terms and conditions as said board may from time to time by its rules and regulations prescribe.

HISTORY: CL 1915, 10666;—CL 1929, 7071;—CL 1948, 331.160.

RECORD OF INMATES: As to duty of person in charge of institution to keep; also contents, see Compilers' § 404.32.

ALIEN INMATES: Report by person in charge of institution to U.S. immigration service, and release for deportation, see Compilers' § 404.31.

331.161 Board of trustees; hospital operation rules, records, denial of privileges to physicians.

Sec. 11. When such hospital is established, the physicians, nurses, attendants, the persons sick therein and all persons approaching or coming within the limits of same, and all furniture and other articles used or brought there shall be subject to such rules, regulations and policies as said board, with the advice of the medical staff, may prescribe governing the operation of the hospital and the professional work, surgical privileges, conduct and maintenance of proper medical records of and by the physicians and surgeons using said hospital facilities. The board of trustees of the hospital may deny hospital privileges and facilities to any physician or surgeon who violates any of the provisions of this act or any rules, regulations or policies adopted under the provisions of this act.

HISTORY: CL 1915, 10667;—CL 1929, 7072;—CL 1948, 331.161;—Am. 1958, p. 113, Act 105, Eff. Sep. 13.

331.162 Board of trustees; acceptance of donations.

Sec. 12. Any person, or persons, firm, organization, corporation or society desiring to make donations of money, personal property or real estate for the benefit of such hospital, shall have the right to vest title of the money or real estate so donated in said county, to be controlled, when accepted by the board of hospital trustees according to the terms of the deed, gift, devise or bequest of such property.

HISTORY: CL 1915, 10668;—CL 1929, 7073;—CL 1948, 331.162.

GIFTS, GRANTS OR DEVISES: Indefiniteness, see Act 280 of 1915, being Compilers' §§ 554.351 to 554.353; in perpetuity, see Act 373 of 1925, being Compilers' § 554.381.

SALE OF LANDS: See Act 258 of 1925, being Compilers' §§ 554.401 to 554.404.

331.163 County hospitals; physician's right to treat patients, right to employ physicians or nurse.

Sec. 13. All physicians and surgeons licensed under the laws of Michigan shall have the privilege of treating patients in the hospital, subject always to such rules and regulations as shall be established by the board of trustees under the provisions of this act. The patient shall have the right to employ at his own expense his own physician or nurse, and when acting for any patient in such hospital the physician employed by the patient shall have charge of the care and treatment of such patient.

HISTORY: CL 1915, 10669;—CL 1929, 7074;—CL 1948, 331.163;—Am. 1958, p. 113, Act 105, Eff. Sep. 13.

331.164 Nurses' training school; establishment.

Sec. 14. The board of trustees of such county public hospital may establish and maintain in connection therewith and as a part of said public hospital, a training school for nurses.

HISTORY: CL 1915, 10670;—CL 1929, 7075;—CL 1948, 331.164.

331.164a Nursing home facilities; establishment.

Sec. 14a. Any public hospital established under this act may establish and maintain nursing home facilities as an integral part of its hospital operations.

HISTORY: Add. 1964, p. 336, Act 242, Eff. Aug. 28.

331.165 Insanity; examination room.

Sec. 15. The said board of trustees shall at all times provide a suitable room for the detention and examination of all persons who are brought before the commissioners of

insanity for such county: Provided, That such public hospital is located at the county seat.

HISTORY: CL 1915, 10871;—CL 1929, 7076;—CL 1948, 331.165.

331.166 Tubercular patients; accommodations, rules, head nurse.

Sec. 16. The board of trustees of said hospital is hereby authorized to provide, as a department of said public hospital but not necessarily attached thereto, suitable accommodations and means for the care and treatment of persons suffering from tuberculosis, and to formulate such rules and regulations for the government of said persons, and for the protection from infection of other patients and nurses and attendants in such public hospital as it may deem necessary. And it shall be the duty of all persons in charge of or employed at such hospitals, or residents thereof to faithfully obey and comply with any and all rules and regulations. Said board of hospital trustees shall, if practicable, employ as head nurse to be placed in charge of said public tuberculosis sanatorium one who has had experience in the management and care of tuberculous persons.

HISTORY: CL 1915, 10872;—CL 1929, 7077;—CL 1948, 331.166.

COUNTY SANATORIUM: For care of tubercular cases, see Act 177 of 1925, being Compilers' § 332.151 et seq.

331.167 Charity patients; determination; compensation for care.

Sec. 17. The board of hospital trustees shall have power to determine whether or not patients presented at said public hospital for treatment are subjects for charity, and shall fix such compensation for care of patients other than those unable to assist themselves, as the said board may deem proper, the receipts therefor to be paid to the treasurer of said county and credited by him to the hospital fund.

HISTORY: CL 1915, 10873;—CL 1929, 7078;—CL 1948, 331.167.

331.168 Indigent tubercular patients; contracts for care.

Sec. 18. The board of supervisors of any county where no suitable provision has been made for the care of its indigent tuberculous residents, may contract with the board of hospital trustees of any public hospital for the care of such persons in the sanatorium department of said hospital upon such reasonable terms as may be agreed upon.

HISTORY: CL 1915, 10874;—CL 1929, 7079;—CL 1948, 331.168.

331.169 Dependent children; accommodations and care.

Sec. 19. The board of trustees of said hospital is hereby authorized to provide or establish as a department of said hospital, but not attached thereto, suitable accommodations and means for the care of dependent children. And said department shall be under the care and supervision of the trustees aforesaid of the county hospital in like manner as heretofore described in connection therewith.

HISTORY: CL 1915, 10875;—CL 1929, 7080;—CL 1948, 331.169.

DISEASED AND CRIPPLED CHILDREN: See Compilers' § 722.401 et seq.

Act 109, 1945, p. 110; Imd. Eff. Apr. 19.

AN ACT to protect and promote the public health and welfare and to enable boards of supervisors of certain counties to acquire, own, construct, establish, maintain and operate hospitals, county general hospitals, sanatoria and other institutions for the treatment of persons suffering from contagious and infectious diseases and for the treatment of indigent persons suffering from any physical ailment or impairment, and for temporary detention of mentally ill patients, both non-indigent and indigent, to authorize emergency treatment for emergency cases, to levy a tax therefor, appoint hospital trustees, authorize operation of hospitals by boards of county institutions, provide suitable means for the care of such afflicted persons, to limit the liability of counties maintaining such hospitals in respect to such cases, and to repeal acts inconsistent

herewith. Am. 1955, p. 88, Act 55, Imd. Eff. May 10;—Am. 1956, p. 321, Act 168, Imd. Eff. Apr. 16.

The People of the State of Michigan enact:

331.201 Hospitals; definition.

Sec. 1. The term "hospitals" as used in this act shall include hospitals, sanatoria and other institutions operated for the purposes mentioned in section 2 of this act.

HISTORY: CL 1948, 331.201.

331.202 County hospitals for contagious diseases, indigent and mentally ill; board of supervisors, construction, appropriation.

Sec. 2. Hereafter it shall be competent and lawful for the board of supervisors of any county in this state now or hereafter having a population of more than 100,000 as determined by the last federal decennial census or by any federal decennial census hereafter taken, to acquire, own, construct, establish, maintain and operate a hospital for the treatment of persons suffering from contagious and infectious diseases and for the treatment of indigent persons suffering from any physical ailment or impairment, and may contain a psychiatric ward for mentally ill patients, both non-indigent and indigent, provided that such a ward has been approved by the state department of mental health. Said board of supervisors, in the case of construction of such hospital, shall designate the site on which such hospital shall be placed. The board of supervisors shall also determine the sum or sums of money to be appropriated for the acquisition, ownership, construction, establishment, maintenance, operational and equipment purposes.

HISTORY: CL 1948, 331.202;—Am. 1956, p. 322, Act 168, Imd. Eff. Apr. 16.

331.203 County levy, hospitals; tax limitation, special fund.

Sec. 3. The board of supervisors of any county coming within the provisions of section 2 of this act, is hereby authorized and empowered to raise by taxation necessary funds for the purpose of acquiring, owning, constructing, equipping, maintaining and operating a hospital for the treatment of contagious or infectious diseases and for the treatment of indigent persons suffering from any physical ailment or impairment, and for temporary detention of mentally ill patients, both non-indigent and indigent. In no case shall a tax for the original acquisition and construction exceed in any 1 year 1 mill on each dollar of the assessed valuation of said county. If deemed expedient by said board, moneys for acquisition or construction purposes hereunder may be raised by taxation during successive years, and said board of supervisors may also appropriate from any unexpended moneys in the general fund of the county for such purposes. All money raised by taxation within the county, and all moneys appropriated by said board of supervisors for such purposes, shall constitute a special fund for acquisition or construction and equipment of the hospital. Moneys raised by taxation or appropriated by the board of supervisors for acquisition or construction purposes, and subsequently found not to be needed therefor, may be used to defray the expenses of operation and maintenance.

HISTORY: CL 1948, 331.203;—Am. 1956, p. 322, Act 168, Imd. Eff. Apr. 16.

331.204 Board of trustees; appointment, terms, oath; cooperation with state health commissioner; management and control vested in board.

Sec. 4. A board of trustees for the management of any hospital created hereunder shall be appointed by the board of supervisors of the county in which such hospital is to be acquired, maintained and operated. Said trustees shall be residents and freeholders of the county and may be members of the board of supervisors. Said board shall consist of 5 members to be appointed for terms of 3 years each: Provided, That of the

members first appointed 1 shall be appointed for a term of 3 years, 2 for terms of 2 years each, and 2 for terms of 1 year each. Thereafter, each trustee shall hold office for a period of 3 years beginning on the first day of January next ensuing and until a successor is appointed and qualified. Each such trustee shall file with the county clerk the constitutional oath of office. It shall be the duty of said board of trustees to cooperate and advise with the state health commissioner and with the board of supervisors of the county, or with any committee selected thereby, in the equipping of the hospital. As soon as such hospital or institution is completed and equipped, the management and control thereof shall vest in said board of trustees, subject to the provisions of this act and subject to any direction or resolution of the board of supervisors of the county or any committee of said board of supervisors selected for that purpose.

HISTORY: CL 1948, 331.204.

331.205 Board of supervisors; advertising for bids and letting of contract.

Sec. 5. Contracts for the acquisition or construction and the equipment of any hospital to be acquired, erected, operated and maintained under the provisions of this act shall be let by the board of supervisors of the county. In the case of construction, such work may be let as an entirety or in sections, whichever may be deemed most advantageous. In all cases where the cost of construction or the purchasing of equipment exceeds the sum of \$500.00, bids shall be advertised for in 1 or more newspapers published or circulated within the county concerned not less than 2 weeks prior to the date when bids are to be received. The board of supervisors may adopt reasonable rules and regulations concerning the manner of advertising for bids and the letting of contracts. In all cases the right to reject any and all bids presented shall be reserved. Each contract let hereunder shall provide, that the work shall be done or the material purchased subject to the approval of the board of supervisors of the county or by any committee of said board of supervisors selected for that purpose.

HISTORY: CL 1948, 331.205.

331.206 Board of trustees; medical staff, employment, rules, qualification standards.

Sec. 6. Subject to the provisions of this act each such board of trustees shall operate the hospital or institution under its charge and may employ, within appropriations made by the board of supervisors of the county, a medical superintendent, physicians, nurses, and such other employees as may be necessary. The medical staff of the hospital shall with the approval of the board of trustees adopt rules, regulations and policies governing the professional work of the hospital and the eligibility and qualifications of its medical staff, which may conform, as nearly as practicable, to the applicable standards recommended by the American College of Surgeons. Money to defray the expenses of maintenance and operation subject to audit as in section 8 provided shall be paid by the county treasurer having such funds in its custody on the warrant of the president of the board of trustees of the hospital, countersigned by the secretary.

HISTORY: CL 1948, 331.206.

331.207 Contagious disease patients; admission upon certificate of county health officer.

Sec. 7. Any person afflicted with a contagious or infectious disease, for whose treatment and care the county maintaining such hospital or institution is responsible, shall be admitted to such hospital or institution upon the certificate of the health officer of such county.

Indigents, admittance upon order of social welfare board.

Any indigent person suffering from any physical ailment or impairment for whose treatment and care the county maintaining such hospital or institution, or any town-

ship or city therein, is responsible, shall be admitted to such hospital or institution upon the order of the social welfare board of said county.

Admittance of others; temporary detention of mentally ill, terms.

If the facilities of the hospital or institution will permit, the board of trustees, in its discretion, may accept other persons afflicted with contagious or infectious diseases and other indigent persons suffering from any physical ailment or impairment, and for temporary detention of mentally ill patients, both non-indigent and indigent, and upon such terms and conditions as may be fixed by the board of supervisors of the county.

Regulations.

The board of trustees may make regulations governing the conduct of patients and may exclude any person or persons wilfully violating such regulations.

HISTORY: CL 1948, 331.207;—Am. 1956, p. 322, Act 168, Imd. Eff. Apr. 16.

331.208 Board of trustees; compensation and expenses; claims, claims submitted to board; vacancies; body corporate.

Sec. 8. No member of the board of trustees of any hospital established or maintained hereunder shall be entitled to receive compensation for his services. Any such trustee, however, shall be reimbursed on account of any expense necessarily incurred by him in the performance of his official duties. All claims against the hospital shall be submitted to the board of trustees thereof, and, if approved, shall be subject to audit by the board of supervisors, and shall be paid in the manner other claims against the county are paid. Any vacancy occurring on the board of trustees shall be filled for the remainder of the term by the board of supervisors of the county. Any trustee may be summarily removed by the board of supervisors for misfeasance or malfeasance in office or for failure to follow any direction or resolution of the board of supervisors or any committee of said board of supervisors empowered to make such direction or resolution. Said board of trustees for the purpose of this act shall constitute a body corporate.

HISTORY: CL 1948, 331.208.

331.209 Gifts, devises, bequests and donations.

Sec. 9. Any person or persons, firm, organization, corporation or society may make donations of money, personal property or real estate for the benefit of such hospital, and shall have the right to vest title of the property so donated in the county. Such gifts, when accepted, shall be used in accordance with the terms of the deed, gift, devise or bequest of such property, if any; otherwise, the same shall be used in such manner as the board of supervisors shall direct for the benefit of said hospital or institution.

HISTORY: CL 1948, 331.209.

331.210 Board of trustees; report to supervisors; estimate of necessary funds; appropriations; referendum.

Sec. 10. Prior to the regular October session of the board of supervisors in each year, it shall be the duty of the board of trustees of the hospital or institution to make and present to the board a full and detailed report of the operations during the preceding year and of the receipts and disbursements. Said board of trustees shall present to said board of supervisors any information said board of supervisors may request concerning said hospital or institution. Said board of trustees shall present to the board of supervisors an estimate of the funds necessary to be raised in such county for the ensuing year. Thereupon, the board of supervisors, subject to the provisions of this act, shall vote such amount as it shall deem necessary to be raised by taxation. No moneys shall be expended by the board of trustees, except as appropriated by the board of supervisors. In case it is deemed expedient by any board of supervisors to raise in any 1 year, either for acquisition, construction, maintenance or operation purposes, an amount in excess of 1 mill on each dollar of assessed valuation of said county, the question of raising by taxation or borrowing such amounts as may be deemed necessary, shall be sub-

mitted to the electors of the county at any general election or at a special election called for that purpose. Said question shall be submitted and election held and conducted and returns thereof canvassed and declared in the same manner as is or may be provided by the general election law for the submission and determination of the question of issuing county bonds. If a majority of the electors of the county voting thereon authorize the raising of such additional sum or sums, the board of supervisors shall by resolution direct the raising of the same by taxation.

HISTORY: CL 1948, 331.210.

331.211 Construction of act as to tuberculosis patient care.

Sec. 11. No part of this act shall be construed to affect, alter or be in derogation of any statute of this state pertaining to the care, treatment, reporting, isolation, commitment or hospitalization of persons afflicted with tuberculosis.

HISTORY: CL 1948, 331.211.

331.212 Transfer of hospital control to board of trustees.

Sec. 12. Any hospital now owned by a county may be transferred by the board of supervisors of said county to the control of a board of trustees created under this act, and thereafter maintained and operated under the provisions of this act.

HISTORY: CL 1948, 331.212.

331.212a County general hospital; establishment and operation by board of supervisors, purpose, site, appropriation, control; out-patient facilities; claims against board, estimate of funds.

Sec. 12a. It shall be competent and lawful for the board of supervisors of any county in this state now or hereafter having a population of more than 1,000,000 as determined by the latest of each succeeding federal decennial census to acquire, own, construct, establish, maintain and operate, in the same manner and by the same means as is provided by this act for the acquisition, construction, establishment, maintenance and operation of other hospitals authorized by this act, a county general hospital for the treatment of persons suffering from contagious and infectious diseases and for the treatment of indigent persons suffering from any physical ailment or impairment, and for the emergency treatment of any person who, in emergency, through accident or illness, would ordinarily be in danger of loss of life or serious bodily impairment, including persons hospitalized under the provisions of Act No. 267 of the Public Acts of 1915, as amended, being sections 404.101 to 404.112, inclusive, of the Compiled Laws of 1948. The board of supervisors, in the case of construction of such county general hospital, shall designate the site on which such county general hospital shall be placed. The board of supervisors shall also determine the sum or sums of money to be appropriated for the acquisition, ownership, construction, establishment and maintenance of said county general hospital, and for operational and equipment purposes. In any county having a population of more than 1,000,000, as determined by the latest of each succeeding federal decennial census, maintaining or which shall hereafter maintain a county infirmary, county hospital or institution operated by a board of county institutions appointed pursuant to the provisions of section 55 of Act No. 280 of the Public Acts of 1939, as amended, being section 400.55 of the Compiled Laws of 1948, the said board of county institutions shall have and exercise direction, control and supervision over such county general hospital or institution, subject to any direction, ordinance or resolution of the board of supervisors: Provided, That in counties having a population of more than 1,000,000, as determined by the latest of each succeeding federal decennial census, where Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.427, inclusive, of the Compiled Laws of 1948, is in force, such medical superintendent, physicians, nurses and other employees shall be employed pursuant to the provisions of said act. There may also be maintained by said

county general hospital, under the direction and control of the board of supervisors, out-patient facilities for the treatment of indigent persons suffering from contagious and infectious diseases and other types of illness, upon such terms and conditions as shall be fixed by the said medical superintendent, with the approval of the board of county institutions.

All claims against the hospital shall be submitted to the board of county institutions, and, if approved, shall be subject to audit by the board of supervisors, or by the board of county auditors in counties having a board of county auditors. Said board of county institutions shall present to the board of supervisors, or in counties having a board of county auditors, to the board of county auditors, an estimate of the funds necessary to be raised in such county for the ensuing year.

HISTORY: Add. 1955, p. 88, Act 55, Imd. Eff. May 10.

331.213 Repeal.

Sec. 13. All acts and parts of acts inconsistent with the provisions hereof are hereby repealed: Provided, however, That this act shall not be construed to amend or repeal Act No. 177 of the Public Acts of 1925, as amended, and any tuberculosis hospital or sanatorium under the jurisdiction of said board of trustees shall be operated by said board under and in compliance with the provisions of said Act No. 177 of the Public Acts of 1925, as amended.

HISTORY: CL 1948, 331.213.

NOTE: Act 177, 1925, above referred to, is Compilers' § 332.151 et seq.

Act 236, 1943, p. 389; Imd. Eff. Apr. 22.

AN ACT to permit the board of supervisors, in any county now or hereafter having a population of 500,000 or more and having located within it a publicly owned university with a college of medicine, to appropriate not to exceed \$2,000,000.00 to defray the costs of constructing and equipping a university county hospital; to provide for a board of trustees to construct, equip, operate and maintain such hospital; and to permit the governing board of the school district operating such university to appropriate funds for the construction and equipping of said hospital. Am. 1945, p. 15-16, Act 17, Eff. Sep. 6.

The People of the State of Michigan enact:

331.251 University county hospital; board of supervisors, powers; size and service limitation.

Sec. 1. The board of supervisors of any county now or hereafter having a population of 500,000 or more as determined by the last federal decennial census or by any federal decennial census hereafter taken in which there is or may be located a publicly owned university having a college of medicine may appropriate not to exceed \$2,000,000.00 for the purpose of defraying the cost of constructing and equipping a university county hospital for teaching and research. The size of said hospital shall not exceed 350 beds and the services of said hospital shall be limited to indigent patients.

HISTORY: Am. 1945, p. 15-16, Act 17, Eff. Sept. 6;—CL 1948, 331.251.

331.252 Board of trustees; appointment, members, terms.

Sec. 2. The construction, equipment, operation and maintenance of such hospital shall be under the supervision and control of a board who shall constitute a body corporate and be known as the board of trustees of the university county hospital. The board of trustees shall consist of 7 members, 3 of whom shall be chosen by the board of education of the county, not more than 1 of whom shall be a doctor of medicine, and 3 of whom shall be chosen by the governing board of the university referred

to in section 1 hereof, not more than 1 of whom shall be a doctor of medicine. The ranking executive officer of the college of medicine of said university shall be an ex officio member of said board of trustees. The appointed trustees shall serve without salary for such term or terms as the appointing power shall determine at the time of such appointment.

HISTORY: CL 1948, 331.252.

331.253 Governing body of school district; appropriation.

Sec. 3. The governing body of the school district or board of education operating any such publicly owned university may appropriate from its funds such amounts as it may deem advisable for the purpose of assisting in defraying the cost of the constructing and equipping of said hospital.

HISTORY: CL 1948, 331.253.

331.254 Board of trustees; land holding powers.

Sec. 4. It shall be competent for the board of trustees of said hospital to take, by gift, devise or bequest, and hold in perpetuity any land or other property in trust for any purpose not inconsistent with the objects and purposes of said hospital.

HISTORY: CL 1948, 331.254.

331.255 University county hospital act; short title.

Sec. 5. This act shall be known and may be referred to as the university county hospital act.

HISTORY: CL 1948, 331.255.

Act 1, 1912 (1st Ex. Ses.), p. 7; Imd. Eff. Mar. 8.

AN ACT to authorize the construction or purchase of detention hospitals, or for the securing of the care and treatment of persons afflicted with contagious or communicable diseases, in cities within this state having a population of not less than 5,000 inhabitants.

The People of the State of Michigan enact:

331.301 City detention hospital; borrowing power of city, limitations.

Sec. 1. Hereafter it shall be lawful for any city within this state, having a population of not less than 5,000 inhabitants, to borrow any sum of money to be used exclusively for the purpose of purchasing grounds, rights, privileges, materials, and in making improvements connected with, and for the sole purpose of providing such city, and the inhabitants thereof, with a detention hospital or hospitals, or for the care and treatment of persons afflicted with contagious or communicable diseases: Provided, That the total sum borrowed and raised by tax by any such city for such purposes shall not exceed 3 mills on the dollar of the assessed valuation of such city, as contained in the last preceding assessment roll of the same: Provided further, That the rate of interest shall not exceed 5 per centum per annum upon any such indebtedness contracted under the provisions of this act.

HISTORY: CL 1915, 10878;—CL 1929, 7081;—CL 1948, 331.301.

CITY HOSPITALS: As to fourth class cities, see Compilers' § 94.6; as to home rule cities, see Compilers' § 117.4e.

TOWNSHIP HOSPITALS: See Compilers' § 327.35 et seq.

VILLAGE HOSPITALS: See Compilers' § 67.52.

MUNICIPAL BONDS: See Act 202 of 1943, being Compilers' § 131.1 et seq.

331.302 Bond issue; payment of principal and interest; referendum.

Sec. 2. The common council of any city availing itself of the provisions of this act, shall have the power to fix the time and place of payment of the principal and interest voted under the provisions of this act, and to issue the bonds or other evidences of in-

debtedness of such city: Provided, That it shall not be lawful for the common council of any such city to borrow any portion of said sum of money unless the question of borrowing the same shall have been first submitted to the electors of such city at its annual election, or at a special election called for that purpose by the common council of such city, and shall have been adopted by a 3/5 vote of the electors voting at such election.

HISTORY: CL 1915, 10877;—CL 1929, 7082;—CL 1948, 331.302.

331.303 Bond issue; tax levy for payment.

Sec. 3. It shall be the duty of the common council of any city availing itself of the provisions of this act, from time to time, as it may be necessary, to levy and collect such sums of money as may be required to pay the principal and interest of any bonds or other evidences of indebtedness voted by such city under this act.

HISTORY: CL 1915, 10878;—CL 1929, 7083;—CL 1948, 331.303.

331.304 Construction of act as to city charter provisions.

Sec. 4. Nothing in this act shall be construed to affect the special provisions in the charter of any city already authorizing the construction or purchase of detention hospitals, or for the securing of the care and treatment of persons afflicted with contagious or communicable diseases.

HISTORY: CL 1915, 10879;—CL 1929, 7084;—CL 1948, 331.304.

CHARTER PROVISIONS: See Compilers' § 117.4e.

331.305 Declaration of necessity.

Sec. 5. It is hereby declared that this act is immediately necessary for the preservation of the public health.

HISTORY: CL 1915, 10880;—CL 1929, 7085;—CL 1948, 331.305.

Act 263, 1913, p. 490; Eff. Aug. 14.

AN ACT to prohibit the conducting, establishing, maintaining or carrying on, without a license, of any maternity or lying-in hospital for the receiving, caring for or treating of females during pregnancy, or during or after delivery, and to provide for the licensing and regulation of the same for the physical and social protection of new born children. Am. 1951, p. 342, Act 231, Eff. Sep. 28.

The People of the State of Michigan enact:

331.401 Maternity or lying-in hospital; license required.

Sec. 1. It shall be unlawful for any person, society, association, organization or corporation, to conduct, establish, maintain or carry on any maternity or lying-in hospital where females may be received, cared for, or treated during pregnancy, or during or after delivery, without having in full force a license therefor, as hereinafter provided, from the state health commissioner.

HISTORY: CL 1915, 10881;—CL 1929, 7086;—CL 1948, 331.401;—Am. 1951, p. 343, Act 231, Eff. Sep. 28.

FORMER ACT: Act 105 of 1901, as amended by Act 106 of 1911.

BOARD OF CORRECTIONS AND CHARITIES: Abolished; powers and duties transferred to the state department of social welfare, see Compilers' § 400.19.

RECORD OF INMATES: As to duty of person in charge of institution to keep; also contents, see Compilers' § 404.32.

ALIEN INMATES: Report by person in charge of institution to U.S. immigration service, and release for deportation, see Compilers' § 404.31.

331.402 State health commissioner; authority; maternity or lying-in hospital, definition, exception.

Sec. 2. The state health commissioner is hereby authorized to grant licenses to conduct, establish, maintain or carry on any maternity or lying-in hospital, under such rules and regulations as he may prescribe. The term maternity or lying-in hospital as

used in this act shall be held to include any house or other place maintained or conducted by any person, society, association, organization or corporation, who advertises himself or itself, or holds himself or itself out or is known as having or conducting any house or other place in which females are received, cared for, or treated during pregnancy, or during or after delivery: Provided, That this definition shall not be deemed to include a physician's office in respect to services before or after delivery if no over-night care is given an expectant mother or a mother after delivery of her child.

HISTORY: CL 1915, 10882;—CL 1929, 7087;—CL 1948, 331.402;—Am. 1951, p. 343, Act 231, Eff. Sep. 28.

See note under Sec. 1 of this act.

331.403 License; application, contents, term, revocation, renewal; provisional license; records transferred; fees, rules and regulations.

Sec. 3. Any person, society, association, organization or corporation desiring to obtain such license shall file with the state health commissioner a written application endorsed by 6 or more persons of good moral character who are resident taxpayers of the county where such maternity or lying-in hospital is to be located, and who shall certify to the respectability of the applicant, and that such hospital shall be used only for legitimate, moral and charitable purposes. If after due inquiry the said commissioner is satisfied that the applicant is a person qualified to operate a maternity hospital and the premises are suitably and properly arranged for such purpose, he shall grant a license for the purpose or purposes above mentioned. Such license shall continue in force for a period of 1 year, subject, however, to be revoked by the commissioner upon the violation of any of the provisions of this act, or any of the rules and regulations established by him for the government of such hospitals. The renewal application need not be endorsed. A provisional license may be issued, and renewed for a total period not to exceed 3 years, to an applicant whose services are needed in the community, but who is temporarily unable to comply with all the rules and regulations established under this act. Every license issued hereunder shall specify the name and residence of the person, society, association or corporation so undertaking the care of such females, the place where the service is to be given and the number of female patients thereby allowed to be received or kept therein at any 1 time. All records of the state department of social welfare regarding the licensing and inspection of hospitals under this act are hereby transferred to the state health commissioner. Five dollars shall be paid to the said state health commissioner for each license so issued, and \$5.00 for each renewal thereof. The state health commissioner is hereby expressly authorized after consultation with the department of social welfare to make and prescribe all such rules and regulations, not inconsistent with the provisions of this act, as shall be deemed necessary or advisable to carry out the intents and purposes of this act for the physical and social protection of newborn children.

HISTORY: CL 1915, 10883;—Am. 1929, p. 753, Act 289, Imd. Eff. May 23;—CL 1929, 7088;—CL 1948, 331.403;—Am. 1951, p. 343, Act 231, Eff. Sep. 28.

331.404 Licensee; register; memorandum; placement of child in home, unlawful activities of employee or officer, enforcement.

Sec. 4. Every licensee shall keep a register wherein shall be entered the full name and address of each person admitted, the date of admission, the date of birth of every child born on said premises, and such other information as the state health commissioner may require. Every licensee shall also keep a memorandum of the name, age, color and sex and other social information the mother wishes to divulge of every child whose mother has indicated to the licensee or his agent a desire to place such child in foster care, or of a child who was born to an unmarried mother, and shall cause a correct copy of such memorandum to be sent to the judge of probate of the county wherein such hospital is located, if he so requests, and to the state health commissioner within 48 hours after such child or its mother leaves the hospital. The state

health commissioner after consultation with the state department of social welfare shall prescribe and furnish each licensee with the forms of records and memoranda herein mentioned. In no case shall any child be placed in any home for foster care or adoption, on trial or otherwise, by any licensee under the provisions of this act, nor in any case unless licensed to do so under the provisions of Act No. 47 of the Public Acts of the First Extra Session of 1944, being sections 722.101 to 722.108, inclusive, of the Compiled Laws of 1948. No employee or officer and no member of a governing body of any such hospital shall engage in any activity in connection with placing a child for adoption nor shall such person give out any information about unmarried mothers or their children to any unauthorized person to assist in placing a child for adoption. The state department of social welfare shall assist in the enforcement of this section and for this purpose may review the said registers and memoranda required by this section.

HISTORY: CL 1915, 10884;—CL 1929, 7089;—CL 1948, 331.404;—Am. 1951, p. 343, Act 231, Eff. Sep. 28.

See note to Sec. 1 of this act.

INDENTURING OF CHILDREN: See also Compilers' § 722.557 et seq.

331.405 Inspection of hospital and records; privileged records, enforcement.

Sec. 5. Each maternity or lying-in hospital and its records shall be subject to inspection and examination at any reasonable time by the state health commissioner or his agent, and it shall be the duty of the licensee to furnish all reasonable facilities for a thorough inspection of the premises, records and reports. Except as provided in section 4, such records shall be accessible only to the state health commissioner or his agent, and no person having access to these records shall divulge or disclose the contents of the records or any of the particulars entered therein, and said records shall not be used in evidence in any civil or criminal action against any patient in said hospitals named herein.

HISTORY: CL 1915, 10885;—CL 1929, 7090;—CL 1948, 331.405;—Am. 1951, p. 344, Act 231, Eff. Sep. 28.

See note under Sec. 1 of this act.

331.406 Violation of act; misdemeanor, penalties.

Sec. 6. Any person, society, association, organization or corporation who shall violate any of the provisions of this act, or any person, society, association, organization or corporation who shall conduct, establish, maintain or carry on any maternity or lying-in hospital as aforesaid, without a license, as provided for in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof for the first offense, shall be punished by a fine not exceeding \$100.00, or by imprisonment not exceeding 3 months in the county jail or house of correction, and upon conviction thereof for the second or subsequent offense shall be punished by a fine of not less than \$100.00, nor exceeding \$200.00, or by imprisonment not less than 3 months nor exceeding 1 year in the county jail or house of correction, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 10886;—CL 1929, 7091;—CL 1948, 331.406;—Am. 1951, p. 344, Act 231, Eff. Sep. 28.

331.407 Repealed. 1951, p. 344, Act 231, Eff. Sep. 28.

Section provided for printing of blank forms for hospitals.

Sec. 8. (This was a repeal section.)

HISTORY: CL 1915, 10888;—CL 1929, 7093;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 105, 1901.

Act 17, 1968, p. 29; Eff. Nov. 15.

AN ACT to protect the public health; to provide for the licensing of hospitals; to create the state health facilities council and prescribe its duties; to provide for standards, rules and regulations for the maintenance and operation of hospitals; to prescribe the powers and duties of the state director of public health and other state officials; to

prescribe certain duties of hospital governing bodies; and to provide penalties for violations.

The People of the State of Michigan enact:

331.411 Hospital licensing; director, definition, powers and duties.

Sec. 1. The state director of public health, referred to in this act as the "director", shall establish a comprehensive system of licensing for all hospitals in the state in order to protect the public through the assurance that hospitals provide the facilities and the ancillary supporting services necessary to enable a high quality of patient care by licensed physicians. All hospitals not only shall meet the minimum standards authorized by this act, but also shall be encouraged by the director to carry out such practices as will further protect the public health, prevent the spread of disease, alleviate pain and disability and prevent premature death. The director shall coordinate all functions within state government affecting hospitals and cooperate with other state agencies which establish standards or requirements for health care institutions in order to assure necessary, equitable and consistent state supervision of all institutions without duplication of inspection or services. The director may enter into agreements with such other state agencies as may be helpful in accomplishing this purpose.

HISTORY: New 1968, p. 29, Act 17, Eff. Nov. 15.

331.412 Hospital; definition.

Sec. 2. For the purposes of this act, a hospital is an establishment offering inpatient services for observation, diagnosis, active treatment and overnight care of persons with obstetrical, medical, surgical, tubercular, alcoholic, chronic or rehabilitative conditions requiring the daily direction or supervision of physicians licensed to practice in the state. The director, by rule, with the concurrence of the state health facilities council, shall further define hospitals and hospital services to clearly differentiate between the active intensive care expected in hospitals and that which is characteristically expected in long-term extended care facilities or in nursing or convalescent homes.

HISTORY: New 1968, p. 29, Act 17, Eff. Nov. 15.

331.413 State health facilities council; creation, duties, members, expenses, meetings.

Sec. 3. There is created within the state department of public health a state health facilities council to advise and consult with the director in carrying out provisions of this act and to advise and consult with the director concerning his responsibilities in implementing Public Law 88-443 and Act No. 299 of the Public Acts of 1947, as amended, being sections 331.501 to 331.516 of the Compiled Laws of 1948. The governor shall appoint the members of the council with the advice and consent of the senate. The council shall consist of 12 members designated in conformance with the requirements of Public Law 88-443. In appointing the first members of the council the governor shall designate 3 members for a term of 1 year, 3 members for a term of 2 years, 3 members for a term of 3 years and 3 members for a term of 4 years. Thereafter members shall be appointed for terms of 4 years. All vacancies occurring on the council shall be filled by appointment by the governor with the advice and consent of the senate for the unexpired term. The members of the council shall receive no per diem but shall be reimbursed for actual expenses incurred in the performance of their official duties. Seven members constitute a quorum for the transaction of business. The chairman shall be elected annually by the members of the council. The council shall meet at the call of the director or at its own discretion and in any case at least once a year. The director or his designee shall serve as secretary.

HISTORY: New 1968, p. 29, Act 17, Eff. Nov. 15.

CITED IN OTHER SECTIONS: The above section is cited in § 331.77.

331.414 Director; administration of act.

Sec. 4. The director shall be responsible for the administration of this act and shall carry out his responsibilities, including the establishment of necessary procedures, after obtaining consultation and advice from the state health facilities council and from professional organizations concerned with the operation and use of hospitals.

HISTORY: New 1968, p. 30, Act 17, Eff. Nov. 15.

331.415 Standards, rules and regulations; adoption, promulgation.

Sec. 5. The director, after seeking advice and consultation from professional organizations concerned with the operation and use of hospitals, and after seeking advice and consultation and obtaining concurrence from the state health facilities council, shall adopt and enforce such standards, rules and regulations for the maintenance and operation of hospitals as shall be necessary to accomplish the purposes of this act, and shall adopt such standards, rules and regulations as are necessary to enable the state or individual hospitals or both to qualify for federal funds provided to assist with patient care or for construction or remodeling of facilities. The standards, rules and regulations for the operation and maintenance of hospitals shall be not less than is required for the certification of hospitals under Public Law 89-97 and standards, rules and regulations relating to the construction or remodeling shall be not less than those required for federal assistance under Public Law 88-443. The standards, rules and regulations shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 30, Act 17, Eff. Nov. 15.

331.416 Licenses; issuance, term, temporary permits, provisional licenses.

Sec. 6. A hospital shall not be established or maintained in this state nor shall the term hospital be used without first obtaining a license. Nontransferable licenses shall be granted for a period of 1 year from date of issue, except as otherwise provided in this act. The director may issue unrenovable temporary permits for a period not to exceed 6 months in situations where additional time is needed to make the proper investigation or to undertake remedial action. Temporary permits shall not be issued to cover deficiencies in physical facility requirements. A provisional license for a total not to exceed 3 years may be issued to an applicant whose services are needed in the community but who is temporarily unable to comply with all the rules and regulations relating to the physical plant. On a proper showing of need, an applicant may receive a 1-year extension of such 3-year period. A provisional license shall not be issued in the case of hospitals constructed, established or changing corporate ownership or management after the effective date of this act, unless it is shown that unusual hardship would result to the public or to the applicant for the provisional license.

HISTORY: New 1968, p. 30, Act 17, Eff. Nov. 15.

331.417 State fire marshal; inspection, approval.

Sec. 7. Prior to the issuance of the original and each annual license, each hospital shall be inspected by the state fire marshal or his designated representative and no full license shall be issued until he approves the hospital.

HISTORY: New 1968, p. 30, Act 17, Eff. Nov. 15.

331.418 License fees.

Sec. 8. The director shall charge \$50.00 for temporary permits, provisional licenses and construction permits and \$2.00 per patient bed per hospital, maximum of \$500.00 per hospital, for original and annual licenses with a minimum of \$50.00 per hospital.

HISTORY: New 1988, p. 31, Act 17, Eff. Nov. 15.

331.419 Director and state fire marshal; right of entry.

Sec. 9. The director, the state fire marshal and their designated agents may enter upon the premises of any applicant or licensee at any reasonable time for the purpose of determining whether the licensee or applicant meets the requirements of this act.

HISTORY: New 1988, p. 31, Act 17, Eff. Nov. 15.

331.420 Inspections and reports; patient records, contents, confidentiality.

Sec. 10. The director shall have inspections made and require reports or access to information to the extent necessary to carry out the intent of this act and the rules and regulations. The director shall not regulate the medical or surgical treatment provided a patient in a hospital by licensed medical personnel. Each licensee shall see that there is duly recorded on each patient's chart a full and complete record of the purpose or purposes of hospitalization, of all tests and examinations performed, and of all observations made and all treatments provided. Representatives of the state department of public health shall respect the confidentiality of all records having to do with patient care and shall not divulge or disclose the contents of any of the records in a manner so as to identify any individual except upon court order.

HISTORY: New 1988, p. 31, Act 17, Eff. Nov. 15.

331.421 Certification of non-discrimination.

Sec. 11. Each hospital licensed under this act shall have a governing body which shall certify to the state department of public health that all phases of the hospital's operation shall be without discrimination against individuals or groups of individuals on the basis of race, creed, color or national origin and shall direct the hospital's administrator to take such action as is necessary to assure that this facility shall in fact be so operated. The governing body is the board of trustees or the board of directors of the hospital.

HISTORY: New 1988, p. 31, Act 17, Eff. Nov. 15.

331.422 Governing body of hospital; duties, review of hospital practices, record confidentiality, cooperation by director.

Sec. 12. (1) The governing body of each hospital shall be responsible for the operation of the hospital, the selection of the medical staff, and for the quality of care rendered in the hospital. The governing body shall cooperate with the director of public health in the enforcement of this act; insure that all physicians and other personnel for whom a state license or registration is required are currently licensed or registered; insure that physicians admitted to practice in the hospital are granted hospital privileges consistent with their individual training, experience and other qualifications; and insure that physicians admitted to practice in the hospital are organized into a medical staff in such a manner as to effectively review the professional practices of the hospital for the purposes of reducing morbidity and mortality and for the improvement of the care of patients provided in the institution. This review shall include but shall not be limited to the quality and necessity of the care provided and the preventability of complications and deaths occurring in the hospital. The plan and procedures concerning the operation of 1 or more review mechanisms may be submitted to the director for review at least annually and if he finds that the plan and procedures will reasonably accomplish the purposes stated in this act, he shall provide a certification to that effect.

(2) All records, data and knowledge collected for or by individuals or committees assigned this review function after the certification by the director are confidential and shall be used only for the purposes provided in this act, shall not be public records and shall not be available for court subpoena.

(3) The director shall cooperate and consult with the governing body of each hospital in carrying out its responsibilities under this act and upon the specific request of said governing body he shall provide it with professional advice and consultation concerning the quality of health care in that hospital.

HISTORY: New 1968, p. 31, Act 17, Eff. Nov. 15.

331.423 Noncompliance with act; license revocation, denial or suspension; notice, hearing.

Sec. 13. The director, after notice to the applicant or licensee, may suspend, deny or revoke a license if he finds that there has been a substantial failure to comply with the requirements of this act as set forth by law. The notice shall be by certified mail or by personal service, setting forth the particular reasons for the proposed action and the fixing a date, not less than 30 days from the date of service, on which the applicant or licensee shall be given the opportunity for a hearing before the director or his designee. The proceedings governing the hearings authorized by this section shall be in accordance with rules and regulations adopted by the director in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. A full and complete record shall be kept of all proceedings and shall be transcribed when requested by an interested party who shall pay the cost of preparing the transcripts. On the basis of any hearing or on the default of the applicant or licensee, the director shall make a decision to issue, deny or revoke a license. A copy of the determination shall be sent by certified mail or served personally upon the applicant or licensee. A decision revoking or suspending the license or application shall become final 30 days after it is mailed or served, unless the applicant or licensee within the 30-day period appeals the decision to the circuit court in the county of jurisdiction. The director shall not have authority to suspend, deny or revoke a license on the basis of a failure to show a need for the hospital.

HISTORY: New 1968, p. 32, Act 17, Eff. Nov. 15.

331.424 Appeals to circuit court.

Sec. 14. Any person aggrieved by a decision of the director or state fire marshal may appeal to the circuit court in the county of jurisdiction, requesting an order reversing the decision. The appeal shall be based upon the record. The court shall consider whether the decision is authorized by law and whether the decision is supported by competent evidence on the whole record.

HISTORY: New 1968, p. 32, Act 17, Eff. Nov. 15.

331.425 Institutions exempt from act.

Sec. 15. The following are exempt from this act:

(a) Private homes, hospitals or institutions or portions of homes, hospitals or institutions licensed by the state department of mental health.

(b) Hospitals operated by the state department of mental health or by the federal government.

(c) Facilities operated by child welfare agencies or county medical care facilities licensed by the state department of social services.

(d) Nursing homes and homes for the aged licensed by the state department of public health.

HISTORY: New 1968, p. 32, Act 17, Eff. Nov. 15.

331.426 Hospital; use of term, restriction.

Sec. 16. The term hospital shall not be used to describe or refer to any institution unless it is licensed by the director in accord with the provisions of this act except that this restriction shall not apply to hospitals operated by the state department of mental health or the federal government or veterinary hospitals.

HISTORY: New 1968, p. 32, Act 17, Eff. Nov. 15.

331.427 Construction of act.

Sec. 17. Nothing contained herein shall be construed to franchise the construction or operation of hospitals.

HISTORY: New 1968, p. 32, Act 17, Eff. Nov. 15.

331.428 Infectious disease; authority of director.

Sec. 18. Nothing in this act shall be deemed to interfere with the authority of the director to control the spread of infectious disease or to take such immediate action as he believes necessary to protect the public health.

HISTORY: New 1968, p. 33, Act 17, Eff. Nov. 15.

331.429 Actions to restrain establishment, management or operation of hospital; authority of director.

Sec. 19. Notwithstanding the existence and pursuit of any other remedy the director, in the manner provided by law, may maintain action in the name of the people of the state to restrain or prevent the establishment, management or operation of a hospital without a license.

HISTORY: New 1968, p. 33, Act 17, Eff. Nov. 15.

331.430 Violation of act; misdemeanor.

Sec. 20. Any person convicted of violating any provision of this act or the standards, rules or regulations adopted hereunder is guilty of a misdemeanor.

HISTORY: New 1968, p. 33, Act 17, Eff. Nov. 15.

Act 299, 1947, p. 468; Eff. Oct. 11.

AN ACT to provide for an inventory of existing hospitals, for a survey of the need for additional hospital facilities, and for the development and administration of a hospital construction program which will, in conjunction with existing facilities, afford hospitals adequate to serve all the people of the state; to provide for compliance with the requirements of the federal hospital survey and construction act and regulations thereunder; to create an office of hospital survey and construction, and to prescribe its powers and duties; to create the Michigan advisory hospital council, and to prescribe its powers and duties; to prescribe penalties; and to make appropriations to carry out the provisions of this act. Am. 1948, Ex. Ses., p. 23, Act 14, Imd. Eff. Apr. 28.

The People of the State of Michigan enact:

PART A—GENERAL

331.501 Michigan hospital survey and construction act; short title.

Sec. 1. This act may be cited as the "Michigan hospital survey and construction act."

HISTORY: CL 1948, 331.501.

CITED IN OTHER SECTIONS: Sections 331.501 to 331.516 are cited in §§ 325.141 and 331.413.

331.502 Michigan hospital survey and construction act; definitions.

Sec. 2. As used in this act:

(a) "The federal act" means Public Law 725 of the 79th Congress, approved August 13, 1946, known as the hospital survey and construction act.

(b) "The surgeon general" means the surgeon general of the public health service of the United States.

(c) "Hospital" includes public health centers and general, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, out-patient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

(d) "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.

(e) "Non-profit hospital" means any hospital owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

HISTORY: CL 1948, 331.502.

331.503 Office of hospital survey and construction; establishment; director, appointment, salary; purposes.

Sec. 3. There is hereby established in the executive branch of the state government an office of hospital survey and construction, which shall be administered by a full-time salaried director appointed by the governor, to serve at the pleasure of the governor. This office shall constitute the sole agency of the state for the purpose of (1) making an inventory of existing hospitals, surveying the need for construction of hospitals, and developing a program of hospital construction as provided in Part B of this act, and (2) developing and administering a state plan for the construction of public and other non-profit hospitals as provided in Part C of this act.

HISTORY: CL 1948, 331.503.

331.504 Office of hospital survey and construction; authority of director.

Sec. 4. In carrying out the purposes of this act, the director is authorized and directed:

(a) To require such reports, make such inspections and investigations and prescribe such regulations as he deems necessary;

(b) To provide such methods of administration and personnel, and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;

(c) To procure in his discretion the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(d) To the extent that he considers desirable to effectuate the purposes of this act, to enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public or private. Insofar as is practical, the services of the buildings and construction division of the state administrative board shall be used in the performance of the duties as set forth by this act.

(e) To make an annual report to the governor and to the legislature on activities and

expenditures pursuant to this act, including recommendations for such additional legislation as the director considers appropriate to furnish adequate hospital, clinic, and similar facilities to the people of this state.

HISTORY: CL 1948, 331.504.

331.505 Office of hospital survey and construction; application for federal funds, deposit, expenditure, repayment of unexpended funds; gifts, grants.

Sec. 5. The state budget director is authorized to make application to the surgeon general for federal funds to assist in carrying out the survey and planning activities herein provided. Such funds shall be deposited in the state treasury and shall be available to the office of hospital survey and construction for expenditure in carrying out the purposes of this act in such manner as is or may be provided by law. Any such funds received and not expended for such purposes shall be repaid to the treasury of the United States. The state budget director is further authorized to accept on behalf of the state and to deposit with the state treasurer, to be credited to the hospital construction and planning fund, any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of this act.

History: CL 1948, 331.505.

331.506 Michigan advisory hospital council; creation, appointment, duties, qualifications, terms, expenses, quorum, chairman.

Sec. 6. The Michigan advisory hospital council is created to advise and consult with the director in carrying out the provisions of this act. The governor shall appoint the members of the council, with the advice and consent of the senate. The council consists of 12 members, designated in conformance with the requirements of Public Law 443, 88th congress. The first appointments shall be made as far as possible from current members of the Michigan advisory hospital council. In appointing the first members of the council the governor shall designate 3 members for a term of 1 year, 3 members for a term of 2 years, 3 members for a term of 3 years, and 3 members for a term of 4 years. Thereafter, members shall be appointed for a term of 4 years. All vacancies occurring on the council shall be filled by appointment by the governor for the unexpired term.

The members of the council shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their official duties. Seven members shall constitute a quorum for the transaction of business. The chairman shall be elected by the members of the council. The chairman shall be an ex officio member of the state council of health with the right to vote. The advisory council shall meet at the call of the chairman or at its own direction, and in any case at least once a year.

HISTORY: CL 1948, 331.506;—Am. 1951, p. 376, Act 249, Eff. Sep. 28;—Am. 1965, p. 199, Act 129, Imd. Eff. Jul. 8.

331.507 Appropriation of state and federal funds.

Sec. 7. For the purposes of administering the provisions of this act, there is hereby appropriated from the general fund of the state the sum of \$25,000.00, and also such funds as may be received from the federal government and other sources for such purposes.

HISTORY: CL 1948, 331.507.

PART B—SURVEY AND PLANNING

331.508 Inventory and survey of hospitals; construction program.

Sec. 8. The director is authorized and directed to make an inventory of existing hospitals, including public, non-profit and proprietary hospitals, to survey the need for construction of hospitals, and, on the basis of such inventory and survey, to develop a program for the construction of such public and other non-profit hospitals as will, in

conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital, clinic and similar services to all the people of the state.

HISTORY: CL 1948, 331.508.

331.509 Hospital construction program; adequate facilities.

Sec. 9. The construction program shall provide, in accordance with regulations prescribed under the federal act, for adequate hospital facilities for the people residing in this state and insofar as possible shall provide for their distribution throughout the state in such manner as to make all types of hospital service reasonably accessible to all persons in the state.

HISTORY: CL 1948, 331.509.

PART C—HOSPITAL CONSTRUCTION PROGRAM

331.510 Hospital construction program; state plan, contents, submission to surgeon general, hearing, approval, publication, review, modification.

Sec. 10. The director shall prepare and submit to the surgeon general a state plan which shall include the hospital construction program developed under Part B of this act, and which shall provide for the establishment, administration, and operation of hospital construction activities in accordance with the requirements of the federal act and regulations thereunder. The director shall, prior to the submission of such plan to the surgeon general, give adequate publicity to a general description of all the provisions proposed to be included therein, and hold a public hearing at which all persons or organizations with a legitimate interest in such plan may be given an opportunity to express their views. After approval of the plan by the surgeon general, the director shall publish a general description of the provisions thereof in at least 1 newspaper having general circulation in each county in the state, and shall make the plan, or a copy thereof, available upon request to all interested persons or organizations. The director shall from time to time review the hospital construction program and submit to the surgeon general any modifications thereof which he may find necessary and may submit to the surgeon general such modifications of the state plan, not inconsistent with the requirements of the federal act, as he may deem advisable.

HISTORY: CL 1948, 331.510.

331.511 Hospital construction program; minimum standards for maintenance and operation of hospitals receiving federal aid; medical personnel.

Sec. 11. Any hospital which shall hereafter receive federal aid under the provisions of Public Law 725, known as the "hospital survey and construction act," enacted by the 79th Congress, shall hereafter comply with the minimum standards of maintenance and operation which the state department of health with the advice of the advisory hospital council, shall promulgate and administer. This section shall not be construed so as to authorize any regulation of medical personnel.

HISTORY: Am. 1948, Ex. Ses., p. 23, Act 14, Imd. Eff. April 28;—CL 1948, 331.511.

331.511a Minimum standards violation; penalty.

Sec. 11a. Any such hospital or person acting in behalf of such hospital violating these minimum standards of maintenance and operation shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$100.00 for the first offense and not more than \$200.00 for each subsequent offense, and each day of a continuing violation after conviction shall be considered a separate offense.

HISTORY: Add. 1948, Ex. Ses., p. 23, Act 14, Imd. Eff. April 28;—CL 1948, 331.511a.

331.512 Construction projects; relative needs, federal regulations, priority.

Sec. 12. The state plan shall set forth the relative need for the several projects included in the construction program determined in accordance with regulations prescribed pursuant to the federal act, and provide for the construction, insofar as finan-

cial resources available therefor are certified by the state budget director, and for maintenance and operations and make possible in the order of such relative need.

HISTORY: CL 1948, 331.512.

331.513 Construction projects; application, submittance to director, conformity with federal or state requirements.

Sec. 13. Applications for hospital construction projects for which federal funds are requested shall be submitted to the director and may be submitted by the state or any political division thereof or by any public or non-profit agency authorized to construct and operate a hospital. Each application for a construction project shall conform to federal and state requirements.

HISTORY: CL 1948, 331.513.

331.514 Construction projects; hearing on application, approval, recommending and forwarding to surgeon general.

Sec. 14. The director shall afford to every applicant for a construction project an opportunity for a fair hearing. If the director, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of section 13 of this act and is otherwise in conformity with the state plan, he shall approve such application and shall recommend and forward it to the surgeon general.

HISTORY: CL 1948, 331.514.

331.515 Construction projects; inspection, certification, federal installment payments.

Sec. 15. From time to time the director shall inspect each construction project approved by the surgeon general, and, if the inspection so warrants, the director shall certify to the surgeon general that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant.

HISTORY: CL 1948, 331.515.

331.516 State budget director; authorization to receive federal funds; hospital construction planning fund, deposit, disbursement.

Sec. 16. The state budget director is hereby authorized to receive federal funds in behalf of applicants and to authorize the director of the division of hospital survey and construction to transmit them to such applicants. There is hereby established, separate and apart from all public moneys and funds of this state, a hospital construction and planning fund. Money received from the federal government for a construction project approved by the surgeon general shall be deposited to the credit of this fund and shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects.

HISTORY: CL 1948, 331.516.

Act 270, 1967, p. 527; Imd. Eff. Jul. 20.

AN ACT to provide for the release of information for medical research and medical education purposes; to limit the liability with respect thereto; and to safeguard the confidential character thereof.

The People of the State of Michigan enact:

331.531 Medical information; release, liability.

Sec. 1. Any person, hospital, sanatorium, nursing or rest home or other organization may provide information, interviews, reports, statements, memoranda or other data re-

lating to the medical condition and medical treatment of any person to any medical staff committee of any officially constituted health facility or agency or county or state medical society or medical specialty society committee to be used in the course of any study for the purpose of evaluation and improvement of the quality of care rendered in such facilities. No liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such staff committees or county or state medical society or medical specialty society committee to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

HISTORY: New 1967, p. 527, Act 270, Imd. Eff. Jul. 20;—Am. 1969, p. 371, Act 190, Eff. Mar. 20, 1970.

331.532 Medical information; publication, use; summaries.

Sec. 2. Any county or state medical society committee or medical specialty society committee shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such committee for general publication.

HISTORY: New 1967, p. 527, Act 270, Imd. Eff. Jul. 20;—Am. 1969, p. 371, Act 190, Eff. Mar. 20, 1970.

331.533 Medical information; patient's name deemed confidential.

Sec. 3. The identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed, and this section shall apply to sections 1 and 2. The patient's name and address shall be removed from the record before the record is given to the medical staff society committee, or county or state medical society.

HISTORY: New 1967, p. 527, Act 270, Imd. Eff. Jul. 20;—Am. 1969, p. 371, Act 190, Eff. Mar. 20, 1970.

Act 154, 1949, p. 164; Eff. Sep. 23.

AN ACT to authorize any city or incorporated village, having a population of over 500,000 according to the latest or each succeeding federal decennial census, to establish a medical center commission and prescribe its duties, to acquire and dispose of real property in a medical center district, to prescribe the methods of finance and exercise of these powers, and to declare the effect of this act.

The People of the State of Michigan enact:

331.601 Medical center commission; declaration of necessity.

Sec. 1. It is hereby found and declared that inadequate and insufficient facilities exist, both governmental and non-governmental, for research into the causes of physical and mental disease, for the training of students in medicine, psychiatry, dentistry, and nursing; that the lack of these facilities makes it difficult, if not impossible, to secure enough competent personnel for these professions; that the centralization of the resources of a number of institutions, governmental and non-governmental, into a medical center district would create better conditions for research and training; that in order to secure a centralization of facilities a medical center commission is necessary to interest the needed institutions in such an arrangement and to acquire the land needed for a medical center district; that in order to select the most favorable location it is necessary for cities and villages to exercise their power of eminent domain to acquire land for the use of both governmental and non-governmental medical institutions; that, since medical institutions find it difficult to finance the acquisition of land or the construction of buildings, a medical center commission is necessary as a central-

ized method of obtaining funds from whatever sources may be available; and the necessity in the public interest for provisions herein enacted is hereby declared as a matter of legislative determination to be a public purpose and a public use.

HISTORY: New 1949, p. 164, Act 154, Eff. Sep. 23.

331.602 Medical commission; definitions.

Sec. 2. The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context.

The term "commission" as hereinafter used shall mean medical center commission.

The term "district" shall mean medical center district.

"Governmental institutions" shall mean hospitals, clinics, medical schools, medical research institutes, and related institutions which are governmentally owned and operated.

"Private institutions" shall mean hospitals, clinics, medical schools, medical research institutes, and related institutions which are privately owned and operated and are not for profit.

HISTORY: New 1949, p. 164, Act 154, Eff. Sep. 23.

331.603 Medical commission; creation.

Sec. 3. Any city or incorporated village, meeting the requirements of this act, is hereby authorized to create by ordinance a commission with power to accomplish the purposes of this act.

HISTORY: New 1949, p. 164, Act 154, Eff. Sep. 23.

331.604 Medical commission; district boundaries, development plan.

Sec. 4. The commission shall establish the boundaries of the district and shall draw up a development plan, subject to the approval of the local planning commission, if any, and of the local legislative body. The commission shall administer the plan for the district and shall be responsible for its effectuation.

HISTORY: New 1949, p. 164, Act 154, Eff. Sep. 23.

331.605 Medical commission; membership, term, appointment, vacancies.

Sec. 5. The membership and the terms of office of said commission shall be established at the discretion of the local legislative body. The number of commissioners, however, shall not exceed 9. The terms of office shall be alternated in such a manner that they do not expire at the same time. The members of the commission shall be appointed by the mayor or the village president. The commissioners shall serve without compensation. Any vacancies in office shall be filled by the mayor or the village president for the remainder of the unexpired term.

HISTORY: New 1949, p. 164, Act 154, Eff. Sep. 23.

331.606 Medical commission; meetings, rules, record, quorum; officers, appointment, compensation.

Sec. 6. The commission shall meet at regular intervals. It shall adopt its own rules of procedure, and shall keep a record of its proceedings. At least 1/2 of the members shall be present to constitute a quorum for the transaction of business. A president and vice-president shall be elected by the commission. The commission may appoint a director who may also serve as secretary, and such other officers and employees as may be necessary. The commission shall prescribe the duties of all its officers and employees and may, with the approval of the local legislative body, fix their compensation. All meetings, records, and accounts of the commission shall be public.

HISTORY: New 1949, p. 165, Act 154, Eff. Sep. 23.

331.607 Medical commission; acceptance of grants or loans.

Sec. 7. To finance the purposes of this act, the commission may accept grants or loans from the local, state, or federal government; or may obtain funds through the sale of revenue bonds.

HISTORY: New 1949, p. 165, Act 154, Eff. Sep. 23.

331.608 Medical commission; property, purchase, condemnation, sale or lease.

Sec. 8. The commission may, with the approval of the local legislative body, take and hold, by purchase, gift, devise, bequest or otherwise, such real and personal property as may be proper for carrying out the intent and purpose of this act. It shall recommend to the local legislative body the institution of condemnation proceedings whenever, in its judgment, private property should be taken in the name of the municipality for the purposes of the commission. Any land acquired by the municipality for the purposes of this act shall be held in fee simple title by the commission. The commission may sell or lease land, so acquired, to either governmental or non-governmental institutions, or may convey it for a public purpose.

HISTORY: New 1949, p. 165, Act 154, Eff. Sep. 23.

331.609 Medical commission; powers as to governmental institutional buildings.

Sec. 9. The commission may make funds available for the erection of governmental institutional buildings in the district, and for the operation and maintenance of said governmental institutional buildings. The commission may assist non-governmental institutions in the raising of funds from any available source for the purchase of land in the district, and for the erection, operation and maintenance of institutional buildings in said district. It shall have those powers as stated in this act and such further powers as may be necessary to carry out the purposes and objectives of this act: Provided, however, That these powers are not inconsistent with charter provisions and state law. The powers granted in this act shall be in addition to powers granted to municipalities, the local legislative bodies thereof and other officials and bodies thereof under the statutes and local charters.

HISTORY: New 1949, p. 165, Act 154, Eff. Sep. 23.

Act 139, 1956, p. 251; Eff. Aug. 11.

AN ACT to protect the public health and the welfare of the people of this state while receiving care in nursing homes, or in homes for the aged; to define a nursing home; to define a home for the aged; and to provide for licenses and permits for nursing homes and homes for the aged. Am. 1965, p. 236, Act 151, Imd. Eff. Jul. 12.

The People of the State of Michigan enact:

331.651 Nursing home and home for the aged licensing act; short title.

Sec. 1. This act shall be known and may be cited as "the nursing home and home for the aged licensing act".

HISTORY: New 1956, p. 251, Act 139, Eff. Aug. 11.

331.652 Nursing home and home for the aged licensing act; definitions.

Sec. 2. As used in this act:

(a) "Nursing home" shall be defined as an establishment or institution other than a hospital having as one of its functions the rendering of healing, curing or nursing care for periods of more than 24 hours to individuals afflicted with illness, injury, infirmity, or abnormality;

(b) "Home for the aged" shall be defined as an establishment or institution other than a hospital, hotel, or nursing home which provides room and board to non-transient unemployed individuals 65 years of age or older;

(c) "Hospital" shall be defined as an establishment which is either:

(1) Licensed by the department of mental health under the terms of sections 50a, 51 and 52 of Act No. 151 of the Public Acts of 1923, as added or amended, being sections 330.60a, 330.61 and 330.62, respectively, of the Compiled Laws of 1948; or is

(2) A county infirmary or county medical care facility; or is

(3) Approved for the care of children by the rules and regulations of the Michigan crippled children commission under section 7 of Act No. 283 of the Public Acts of 1939, as amended, being section 722.307 of the Compiled Laws of 1948; or is

(4) Defined as a hospital by the state health commissioner under section 7 of Act No. 146 of the Public Acts of 1919, as amended, being section 325.7 of the Compiled Laws of 1948;

(d) "Person" shall be defined as any individual, copartnership, corporation, or association, and includes any receiver, trustee, assignee or similar representative thereof.

HISTORY: New 1956, p. 251, Act 139, Eff. Aug. 11.

331.653 State health commissioner; administration of act; licenses, rules and regulations, hearings, reports, inspections.

Sec. 3. The state health commissioner shall be responsible for the administration of this act. He is hereby authorized and directed in the manner hereinafter prescribed to issue, review, suspend and revoke licenses; to make such rules and regulations, with the advice and consent of the state council of health, as shall be required to protect the public health, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948; to provide for hearings, and to otherwise carry out the intent of this act; to require such reports, establish such administrative procedures, and make such inspections as are necessary to carry out the requirements of this act and the rules and regulations authorized thereunder; and to provide material for the guidance of nursing homes and of homes for the aged in complying with the requirements of this act and rules and regulations adopted hereunder.

HISTORY: New 1956, p. 252, Act 139, Eff. Aug. 11.

331.654 Nursing homes; licenses, provisional licenses; permits; fees, terms.

Sec. 4. (a) No person acting individually or jointly with any other person or unit of government shall establish, conduct or maintain a nursing home or a home for the aged, for a valuable consideration for 4 or more people without a license. The state health commissioner in determining the number of people receiving care in a nursing home or in a home for the aged shall not include any relative within the second degree of the proprietor or manager of the home or a person similarly related to the spouse of said proprietor or manager, nor, in the case of a home for the aged, any individual under 65 years of age. Licenses shall continue in force for 1 year from the date of issue, subject to being sooner revoked by the state health commissioner for cause. Provisional licenses may be issued for a total period not to exceed 3 consecutive years to an applicant temporarily unable to comply with all the rules and regulations established under this act.

(b) After December 31, 1965, no person acting individually or jointly with any other person or unit of government shall establish, conduct or maintain a nursing home or a home for the aged for a valuable consideration for less than 4 people without a permit. The fee for a permit is \$3.00 and the permit shall show the name of the proprietor of the home, the location of the home and the maximum number of persons to receive

care at any one time. A permittee is not deemed to be a licensee under this act. A permit continues in force for 1 year from the date of issue.

HISTORY: New 1956, p. 252, Act 139, Eff. Aug. 11;—Am. 1960, p. 113, Act 106, Eff. Aug. 17;—Am. 1965, p. 236, Act 151, Imd. Eff. Jul. 12.

331.655 Nursing homes; licenses, application, fees, exceptions; inspection by health commissioner, fire marshal; books and records.

Sec. 5. Application for license shall be upon such forms and shall contain such reasonable information as may be required by rules established by the commissioner and shall authorize the commissioner or his representative to obtain from any source information regarding the ability of the applicant to comply with the terms of this act and rules and regulations established under it. Each application shall state the maximum number of persons to receive care at any one time. A license fee of \$1.00 per bed, not to exceed a total of \$20.00, shall accompany the application. In any case where the commissioner delegates the duty of inspections for such licensing upon a local health department, the state shall reimburse the local health department the full amount of the fees collected as reimbursement for cost of the inspection on vouchers certified by the director of the local health department and approved by the state commissioner of health. No fee will be required to accompany the application for a license from such a nursing home or home for the aged or infirm operated by a regularly organized church or a religious or fraternal organization or a nonprofit charitable corporation incorporated under the laws of the state of Michigan, when the income from the operation does not inure, in whole or in part, to the benefit of any individuals or private shareholders, directly or indirectly. The state health commissioner shall issue a license if he finds that the applicant has complied with the requirements of this act and rules and regulations established under it. No such nursing home or home for the aged or infirm shall be licensed until inspected by the state fire marshal or an organized fire department and approved by the fire marshal's office, except that a temporary, unrenovable permit may be issued for a period of not to exceed 6 months. The health commissioner, the fire marshal, or their agents may enter upon the premises of any applicant or licensee at any time for the purpose of making inspections necessary to determine whether the applicant or licensee meets the requirements of this act. All books and records of the nursing home or home for the aged or infirm kept in connection with this act shall be open to the health commissioner's inspection, his employees or those of city or county health departments designated by him in writing.

HISTORY: New 1956, p. 252, Act 139, Eff. Aug. 11;—Am. 1957, p. 53, Act 46, Eff. Sep. 27.

331.656 State health commissioner; authority as to suspension and revocation of license.

Sec. 6. The state health commissioner shall have the authority to deny, suspend, revoke or refuse to renew a license in any case where he finds that there has been a failure to comply with the provisions of this act and the rules and regulations promulgated thereunder. Said commissioner shall provide for notices, hearings, procedures in contested cases, and appeals, in accordance with Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 253, Act 139, Eff. Aug. 11.

331.657 Operation without license or permit; misdemeanor.

Sec. 7. Any person establishing, conducting, managing or operating any nursing home, or home for the aged without a license, a provisional license or a permit is guilty of a misdemeanor.

HISTORY: New 1956, p. 253, Act 139, Eff. Aug. 11;—Am. 1965, p. 236, Act 151, Imd. Eff. Jul. 12.

331.658 Operation without license or permit; injunction.

Sec. 8. Notwithstanding the existence and pursuit of any other remedy, the state health commissioner may maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a nursing home or home for the aged without a license or permit.

HISTORY: New 1956, p. 253, Act 139, Eff. Aug. 11;—Am. 1965, p. 236, Act 151, Imd. Eff. Jul. 12.

331.659 Construction of act and rules and regulations.

Sec. 9. Nothing in this act or the rules and regulations adopted pursuant thereto shall be construed as (1) authorizing the supervision, regulation or control of the practice of any method of healing, or (2) interfering with the authority of the state health commissioner to close temporarily any nursing home or home for the aged in enforcement of laws governing the control of communicable diseases, or (3) authorizing the medical supervision, regulation or control of the remedial care or treatment of residents or patients in any home or institution conducted by or for the adherents of any well recognized church or denomination who rely upon treatment by prayer or spiritual means alone in accordance with the creed or tenets of any such well-recognized church or religious denomination, nor shall the residents, patients, personnel or employees other than food handlers of any such home or institution be required to submit to any medical or physical examination.

HISTORY: New 1956, p. 253, Act 139, Eff. Aug. 11;—Am. 1960, p. 113, Act 108, Eff. Aug. 17.

CITED IN OTHER SECTIONS: The above section is cited in § 338.1188.

331.659a Nursing homes; licensees as consumers of property.

Sec. 9a. Licensees of nursing homes or homes for the aged licensed under this act and operated for profit shall be considered to be the consumers and not the retailers of the tangible personal property purchased and used or consumed in the operation of the homes.

HISTORY: Add. 1956, p. 9, Act 9, Eff. Sep. 13.

331.660 Transfer of powers to state health commissioner.

Sec. 10. This act shall be deemed to supersede subdivision (e) of section 14 of Act No. 280 of the Public Acts of 1939, as amended, being section 400.14 of the Compiled Laws of 1948, as of January 1, 1956. All the powers and duties of the state department of social welfare in respect to said subdivision (e) of section 14 are hereby transferred to the state health commissioner.

HISTORY: New 1956, p. 253, Act 139, Eff. Aug. 11.

CHAPTER 332. HEALTH—TUBERCULOSIS SANATORIA

TUBERCULOSIS SANATORIUM COMMISSION

Act 115 of 1929

- 332.1 Tuberculosis sanatorium commission; chairman, members, appointment, qualifications, terms, vacancies, oath.
- 332.2 Sanatorium commission; body corporate, powers; contract for mental disease patients.
- 332.3 Sanatorium commission; organization; compensation and expenses.
- 332.4 State sanatorium board of trustees; abolition, transfer of powers and duties to sanatorium commission.
- 332.5 Sanatorium commission; supervisory powers, expenses of indigents, state share, transfer of patients.
- 332.6 State tuberculosis sanatoria; rules and regulations.
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STATE SANATORIUM

Act 254 of 1905

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- 332.53 Board of trustees; body corporate.
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- 332.55 Board of trustees; medical superintendent, appointment, qualifications.
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- 332.57 Medical superintendent; officers and employees, appointment, qualifications, removal.
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- 332.59 Board of trustees; sanatorium by-laws, rules.
- 332.60 Board of trustees; site for sanatorium, deed, contract powers.
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- 332.66 Admission of patients; expense rate, share of county and state, reimbursement by county, appropriation.
- 332.67 Patients; clothing, expenses, moneys received for support, disposition.
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- 332.101 Joint county sanatorium; establishment, committee, duties, expenses.
- 332.102 Board of trustees; members, oath, term, committee of co-operation.
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- 332.115 Board of trustees; vacancy, resignation.
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COUNTY SANATORIALS

Act 177 of 1925

- 332.151 County sanatoriums; establishment, procedure, site, minimum size.
- 332.152 Board of supervisors; raising moneys by taxation, disposition.
- 332.153 Board of trustees; members, terms, officers, powers and duties, disbursement for construction.
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- 332.156 Joint county sanatorium; special tax fund, expenditures.
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- 332.158 State commissioner of health; rules and regulations, duty of trustees, sanatorium personnel, expenditures.
- 332.158a Board of trustees; borrowing power, issuance of bonds.
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	Act 5 of 1951 (Ex. Ses.)		Act 166 of 1951
332.231	Tuberculosis sanatorium supplemental appropriation; construction of act; release of funds.	332.301-332.304	Repealed.
332.232	Herman Kiefer hospital; appropriation;		

Act 115, 1929, p. 267; Imd. Eff. May 6.

AN ACT to create a tuberculosis sanatorium commission to have supervision and control of all state tuberculosis sanatoria; to transfer all of the powers and duties of the present board of trustees of the state tuberculosis sanatorium to such commission; to fix the compensation for such hospitalization, care and treatment; and to give general powers and duties to such commission and the state administrative board.

The People of the State of Michigan enact:

332.1 Tuberculosis sanatorium commission; chairman, members, appointment, qualifications, terms, vacancies, oath.

Sec. 1. There is hereby created a commission to be known as the "tuberculosis sanatorium commission," hereinafter called the commission, consisting of 10 members. The state health commissioner shall be ex-officio a member of such commission and shall act as chairman thereof. The 9 other members shall be appointed by the governor. Five of such members shall be duly licensed and practicing physicians of this state, who have had at least 6 years experience in the practice of medicine and surgery and in the treatment of tuberculosis; the 4 other members shall be appointed from among resident citizens of this state. The term of office of each member shall be 3 years, the terms of 3 members of such commission expiring every year. To effect such order of expiration of term of office, the first appointment shall be made as follows. viz., 2 members shall be appointed for a period of 1 year, 2 for a period of 2 years, and 2 for a period of 3 years. The additional members provided for by this amendatory act shall

be appointed as soon as this act takes effect, 1 for a period ending October 9, 1932, 1 for a period ending October 9, 1933, and 1 for a period ending October 9, 1934, and thereafter for a period of 3 years. Thereafter 3 members shall be appointed annually for a period of 3 years. Vacancies shall be filled by appointment of the governor for the balance of any unexpired term. Each member shall qualify by taking the constitutional oath of office and shall continue to perform the duties thereof until his successor is appointed and has qualified.

HISTORY: CL 1929, 6992;—Am. 1931, p. 300, Act 186, Eff. Sept. 18;—CL 1948, 332.1.

CHAIRMAN: Duty to aid in picking sites for joint county sanatoriums, see Compilers' § 332.101.

TUBERCULOSIS: Control, see Act 314 of 1927, being Compilers' § 329.401 et seq.

CITED IN OTHER SECTIONS: Sections 332.1 to 332.7 are cited in §§ 325.151 and 400.109.

332.2 Sanatorium commission; body corporate, powers; contract for mental disease patients.

Sec. 2. The tuberculosis sanatorium commission shall be a body corporate, with all powers necessary to carry this act into effect. The commission shall have power and authority to receive, hold and control property by gift, devise, bequest and conveyance, to be used by said commission for the purpose of carrying out the provisions of this act, and all property so received shall be held and used as a trust fund for the purposes for which received, and its use shall never be diverted to any other purpose.

Other provisions of law to the contrary notwithstanding, the commission at its discretion and with the approval of the state administrative board may contract with the mental health department for use of any part of any tuberculosis sanatorium under its control for the care of persons with mental diseases when such uses will not jeopardize the availability of necessary care for tuberculosis patients.

HISTORY: CL 1929, 6993;—Am. 1945, p. 149, Act 134, Imd. Eff. May 2;—CL 1948, 332.2;—Am. 1959, p. 23, Act 25, Imd. Eff. May 5.

332.3 Sanatorium commission; organization; compensation and expenses.

Sec. 3. The commission shall form its own organization except as to chairman and shall elect a secretary and treasurer and make and adopt its own rules of procedure. Members shall receive as compensation for their services 15 dollars per day but not to exceed more than 25 days in any 1 calendar year, for the time spent in the discharge of their duties and their actual and necessary traveling expenses may be authorized by the commission and paid as the expenses of other state officers and employes are audited and paid.

HISTORY: CL 1929, 6994;—Am. 1945, p. 149, Act 134, Imd. Eff. May 2;—CL 1948, 332.3.

SECRETARY: Duty to aid in picking sites for joint county sanatoriums, see Compilers' § 332.101.

332.4 State sanatorium board of trustees; abolition, transfer of powers and duties to sanatorium commission.

Sec. 4. All of the powers and duties of the board of trustees of the state tuberculosis sanatorium at Howell, as contained in Act 254, Public Acts of 1905, as amended, being sections 1620 to 1642 inclusive, of the Compiled Laws of 1915, are hereby transferred to the tuberculosis sanatorium commission and the said commission is made the legal successor to the said board of trustees as fully as though each of said powers and duties were herein enumerated at length. The board of trustees of the state tuberculosis sanatorium at Howell shall be abolished from and after 12 o'clock noon of the first day of July, 1929, at which time the tuberculosis sanatorium commission shall assume and succeed to all of the rights, powers and duties of said board of trustees.

HISTORY: CL 1929, 6995;—CL 1948, 332.4.

NOTE: Act 254 of 1905, above referred to, is Compilers' § 332.51 et seq.

332.5 Sanatorium commission; supervisory powers, expenses of indigents, state share, transfer of patients.

Sec. 5. The commission shall also have supervision and control over any other state tuberculosis sanatorium hereafter to be established and shall have the same powers

and duties thereover as given by Act No. 254 of the Public Acts of 1905, as amended, being sections 332.51 to 332.70 of the Compiled Laws of 1948, for the supervision and control of the state sanatorium at Howell. All of the provisions of said act, as amended, shall govern the admission, control and expense of patients in all state tuberculosis sanatoria. The commission shall fix the rate and amount of expense for treatment, care and maintenance of all patients in any state tuberculosis sanatorium, subject to the approval of the state administrative board. The state shall share in the expense of the care, treatment and maintenance of indigent patients to the extent of \$6.00 per day each for each day of such care, treatment and maintenance. All other expense for the care, treatment and maintenance of such patients, including the cost of transportation to and from any state tuberculosis sanatorium, and other incidental expenses, shall be the sole obligation of the county of their residence, and shall be a proper charge against such county at the rate fixed therefor. It shall be the duty of the county treasurer of such county to reimburse the state of Michigan therefor by paying such amount into the state treasury forthwith upon receipt of statements from the auditor general showing the amount thereof. Such sums of money are hereby appropriated and shall be paid by the auditor general out of any moneys in the general fund not otherwise appropriated, as may be necessary for the care, treatment and maintenance of patients in any state tuberculosis sanatorium, and the auditor general shall draw his warrant on the state treasurer therefor and charge the county's portion of such expenditures for indigent patients as shown by statements from the commission to the county of which such person is a resident, to be collected from such county and returned to the general fund. The commission may transfer such patients from any state tuberculosis sanatorium to the university hospital at Ann Arbor and from such university hospital to any state tuberculosis sanatorium or to their homes, and the county from which such patient was admitted shall pay the rate established for either institution, together with the cost of such moving expenses.

HISTORY: CL 1929, 6996;—Am. 1945, p. 264, Act 196, Imd. Eff. May 17;—Am. 1948, Ex. Ses., p. 11, Act 9, Imd. Eff. Apr. 28.—CL 1949, 332.5;—Am. 1954, p. 338, Act 140, Eff. Jul. 1;—Am. 1965, p. 228, Act 141, Imd. Eff. Jul. 12.

NOTE: Act 254 of 1905, above referred to, is Compilers' § 332.51 et seq.

332.6 State tuberculosis sanatoria; rules and regulations.

Sec. 6. All state tuberculosis sanatoria shall be regulated and subject to the rules and regulations governing other state hospitals so far as applicable when not inconsistent with the provisions hereof. The commission shall have authority to formulate and enforce any additional rules and regulations that it may deem necessary to adopt for the proper control and operation of any state tuberculosis sanatorium.

HISTORY: CL 1929, 6997;—CL 1948, 332.6.

332.7 Declaration of necessity.

Sec. 7. This act is deemed to be necessary for the peace, health and safety of the state and shall be given immediate effect.

HISTORY: CL 1929, 6996;—CL 1948, 332.7.

Act 254, 1905, p. 363; Imd. Eff. Jun. 16.

AN ACT to establish a state sanatorium in some suitable locality in Michigan, for the care and treatment of persons having tuberculosis, and making appropriations therefor, and to provide a tax to meet the same.

The People of the State of Michigan enact:

332.51 State tuberculosis sanatorium; establishment.

Sec. 1. That a state sanatorium for the care and treatment of tuberculous persons, in some suitable locality in Michigan be and hereby is established.

HISTORY: CL 1915, 1620;—CL 1929, 6999;—CL 1948, 332.51.

LOCATION: The State Sanatorium is located about 2 ½ miles out of the city of Howell, in Livingston county, and was opened September 1, 1907.

CITED IN OTHER SECTIONS: Sections 332.51 to 332.70 are cited in § 332.5.

332.52 Board of trustees; appointment, terms, removal, quorum.

Sec. 2. The governor shall appoint 6 citizens of this state, 4 of whom shall be legally registered physicians, who shall constitute the board of trustees of the state sanatorium. The term of office of each trustee shall be 6 years, the terms of 2 members of such board expiring every 2 years. To effect such order of expiration of term of office, the first appointment shall be made for the respective terms of 2, 4 and 6 years. Thereafter there shall be appointed by the governor, with the consent of the senate, 2 members every 2 years. Any such trustee may be removed by the governor for such cause as the governor may deem sufficient, after an opportunity to be heard in his own defense has been granted him. Any vacancy arising in said board by reason of removal, accepted resignation, or by death, shall be filled for the unexpired term by appointment in like manner as in the first instance. A majority of the board shall constitute a quorum, but no business shall be transacted except by the affirmative vote of at least 3 members of said board.

HISTORY: CL 1915, 1621;—CL 1929, 7000;—CL 1948, 332.52.

BOARD OF TRUSTEES: Abolished; powers and duties taken over by tuberculosis sanatorium commission, see Sec. 4 of Act 115 of 1929, being Compilers' § 332.4.

332.53 Board of trustees; body corporate.

Sec. 3. For the purpose of this act, the board of trustees and their successors in office shall be a body corporate, with all the powers necessary to carry into effect this act.

HISTORY: CL 1915, 1622;—CL 1929, 7001;—CL 1948, 332.53.

BOARD OF TRUSTEES: Abolished; powers and duties taken over by tuberculosis sanatorium commission, see Sec. 4 of Act 115 of 1929, being Compilers' § 332.4.

332.54 Board of trustees; control of property and affairs.

Sec. 4. Said board of trustees shall have the general control of the property and affairs of the sanatorium, and shall take such action as shall be necessary to carry out the purposes of this act.

HISTORY: CL 1915, 1623;—CL 1929, 7002;—CL 1948, 332.54.

332.55 Board of trustees; medical superintendent, appointment, qualifications.

Sec. 5. The board of trustees shall appoint a medical superintendent, not a member of said board, who shall be a legally qualified physician, of at least 6 years' experience in the practice of his profession, and who shall be chosen with a special view to his professional and executive ability. Such medical superintendent shall, in all matters pertaining to the sanatorium, be under the general supervision of the board of trustees, who may remove him at any time and appoint his successor.

HISTORY: CL 1915, 1624;—CL 1929, 7003;—CL 1948, 332.55.

332.56 Board of trustees; officers, removal; treasurer's bond.

Sec. 6. Said board of trustees shall elect from the members a president, and shall appoint a secretary, and a treasurer. The treasurer shall give a bond to the people of the state of Michigan for the faithful performance of his trust, in the penal sum of 25,000 dollars, to be approved by the governor and filed with the secretary of state. Said sec-

retary or treasurer may at any time be removed, and his successor appointed, by the governor on the recommendation of said board of trustees in its discretion.

HISTORY: CL 1915, 1625;—CL 1929, 7004;—CL 1948, 332.56.

332.57 Medical superintendent; officers and employees, appointment, qualifications, removal.

Sec. 7. The medical superintendent, with the consent of the board of trustees, shall appoint such other officers, assistants and employees in and for the sanatorium as may be, from time to time, necessary to carry into effect this act: Provided, however, That all medical officers shall be well educated physicians. All such officers, assistants and employees shall be under the direct supervision of the medical superintendent, and may be removed by him. In case of removal by the medical superintendent of any such officers, assistants or employees, said medical superintendent shall forthwith report the same to the said board of trustees.

HISTORY: CL 1915, 1626;—CL 1929, 7005;—CL 1948, 332.57.

332.58 Board of trustees; determination of salaries.

Sec. 8. The board of trustees shall from time to time, subject to the provisions of Act 286 of the Public Acts of 1907, determine the salaries and allowance of the officers, assistants and employees of said sanatorium.

HISTORY: Am. 1913, p. 421, Act 209, Eff. Aug. 14;—CL 1915, 1627;—Am. 1919, p. 16, Act 10, Eff. Aug. 14;—CL 1929, 7006;—CL 1948, 332.58.

NOTE: Act 286 of 1907, above referred to, is Compilers' repealed §§ 38.761 to 38.764.

332.59 Board of trustees; sanatorium by-laws, rules.

Sec. 9. The board of trustees is hereby directed to establish such by-laws as it may deem necessary and expedient for defining the duties of officers, assistants and employees, for fixing the conditions of admission, support and discharge of patients, and for conducting in a proper manner the professional and business affairs, also to ordain and enforce a suitable system of rules and regulations for the internal government, discipline and management of the sanatorium.

HISTORY: CL 1915, 1628;—CL 1929, 7007;—CL 1948, 332.59.

332.60 Board of trustees; site for sanatorium, deed, contract powers.

Sec. 10. The board of trustees shall have authority, and it is hereby made the duty of said board on behalf of the state to receive by gift or grant, real estate consisting of state tax homestead lands as a site for said sanatorium: Provided, That said lands are situated in some county of this state where the conditions are most favorable for the treatment of persons afflicted with tuberculosis. Said board shall have power to receive and hold property or money as endowment or otherwise for said sanatorium, or to purchase a site and to cause to be erected thereon suitable buildings for said sanatorium and to provide for the equipment of said buildings. If the said board can find a suitable tract of state tax homestead land upon which to erect said institution, consisting of any number of acres, the commissioner of the state land office shall withdraw and withhold from said entry and sale said tract of lands subject to control and disposition of his department and to convey the same by deed of the commissioner of the land office to said board of trustees as a site for said sanatorium. The trustees shall have power to make all contracts and employ all agents necessary to carry into effect this act.

HISTORY: CL 1915, 1629;—CL 1929, 7008;—CL 1948, 332.60.

LAND OFFICE COMMISSIONER: Office abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and its powers and duties transferred to the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

332.61 Board of trustees; meetings, inspection of sanatorium, annual report to governor.

Sec. 11. Said board shall meet at the sanatorium at least semi-annually, at which time a written report of the affairs and conditions of the sanatorium and of the pa-

tients therein, to be prepared by the medical superintendent, shall be submitted to and carefully examined by the board. The board shall at such meetings personally inspect the sanatorium, and shall examine and audit all bills and accounts. At the annual meeting, which shall be held in July, the board of trustees shall make a detailed report and shall examine the report and audit the accounts of the treasurer, which shall be presented at said annual meeting, and shall transmit it with their annual report to the governor, for publication by the board of state auditors.

HISTORY: CL 1915, 1630;—CL 1929, 7009;—CL 1948, 332.61.

332.62 Board of trustees; compensation and expenses.

Sec. 12. The board of trustees shall receive no compensation for their services, but expenses incurred in the performance of their duties shall be audited by the board of trustees, certified by the president and secretary, and paid by its treasurer.

HISTORY: CL 1915, 1631;—CL 1929, 7010;—CL 1948, 332.62.

332.63 Medical superintendent; powers, duties, records.

Sec. 13. The medical superintendent shall be chief executive officer of the sanatorium. He shall have general superintendence of the buildings, grounds, furniture, fixtures, and stock and the direction and control of all persons therein, subject to the by-laws and regulations established by the state tuberculosis sanatorium commission. He shall have authority to transfer patients to other approved hospitals or sanatoriums in the state according to the needs of the patients. He or his representative shall daily ascertain the condition of each and all the patients, and prescribe or direct their treatment. He shall cause full and fair records of all his official acts and the entire business and operation of the sanatorium to be kept regularly, from day to day, in books provided for that purpose, in the manner and to the extent prescribed in the by-laws, and he shall see that all the accounts and records are fully made up to the last day of June and present the same to the state tuberculosis sanatorium commission at their annual meeting. It shall be the duty of the medical superintendent to admit any of the state tuberculosis sanatorium commission into every part of the sanatorium, and to exhibit to him or them, on demand, all the books, papers, accounts, and writings belonging to the sanatorium, or pertaining to its business, management, discipline, or government; also to furnish copies, abstracts, and reports whenever required so to do by said commission. The medical superintendent shall make, in a book kept for that purpose, at the time of reception, a record, with the date of the same, of the name, age, residence, occupation and such other statistics in regard to every patient admitted to the sanatorium as the by-laws may require.

HISTORY: CL 1915, 1632;—CL 1929, 7011;—Am. 1937, p. 336, Act 211, Imd. Eff. July 21;—CL 1948, 332.63.

JOINT COUNTY SANATORIUMS: Duty of superintendent to aid in picking sites, see Compilers' § 332.101.

RECORD OF INMATES: As to duty of person in charge of institution to keep; also contents, see Compilers' § 404.32.

ALIEN INMATES: Report by person in charge of institution to U.S. immigration service, and release for deportation, see Compilers' § 404.31.

332.64 Treasurer; duties.

Sec. 14. The treasurer shall have the custody of all moneys, bonds, notes, mortgages, and other securities and obligations to the sanatorium. Said moneys shall be disbursed only for the uses and purposes of the sanatorium, and in the manner prescribed by the by-laws on itemized vouchers allowed by the board of trustees, and so certified by the president and secretary of the board. The treasurer shall keep full and accurate accounts of all receipts and payments, in the manner directed in the by-laws, and such other accounts as the board of trustees shall prescribe. He shall render statements of accounts of the several books, and of the funds and other property in his custody,

whenever required so to do by the board of trustees. He shall have all accounts and records pertaining to his office fully made to the last day of June and present the same to the board of trustees at their annual meeting.

HISTORY: CL 1915, 1633;—CL 1929, 7012;—CL 1948, 332.64.

332.65 Patients; classification.

Sec. 15. There shall be received into said sanatorium, such persons as shall be proved by proper bacteriological, Xray or clinical examination to be suffering from tuberculosis. Such patients shall be of 3 classes, namely, first, persons resident of this state who are referred to said sanatorium by health officers under Act No. 314 of the Public Acts of 1927; second, those persons who have contracted tuberculosis during their period of employment in the actual care of patients afflicted with tuberculosis in any Michigan state hospital or sanatorium or the general hospital of the university of Michigan; and third, residents of this state who are able to pay such fees as shall be fixed by the state tuberculosis sanatorium commission.

HISTORY: CL 1915, 1634;—CL 1929, 7013;—Am. 1937, p. 337, Act 211, Imd. Eff. July 21;—Am. 1943, p. 249, Act 176, Eff. July 30;—Am. 1947, p. 353, Act 234, Eff. Oct. 11;—CL 1948, 332.65.

NOTE: Act 314, 1927, above referred to, is Compilers' § 329.401 et seq.

CITED IN OTHER SECTIONS: The above section is cited in § 329.403.

332.66 Admission of patients; expense rate, share of county and state, reimbursement by county, appropriation.

Sec. 16. Any person designated in section 15 of this act as a patient of the first class shall be admitted to said sanatorium only upon a certificate of the health officer of the city, village, township, county or district in which such person resides. Said certificate shall show that such person resides in the county containing such city, village, township or district. The state tuberculosis sanatorium commission is hereby empowered and directed to fix the rate and amount of expense for treatment, care and maintenance of all patients in said sanatorium subject to the approval of the state administrative board. The state shall share the expense of the care, treatment and maintenance of such indigent patients to the extent of \$4.00 per day each for each day of such care, treatment and maintenance. All other expense for the care, treatment and maintenance of such patients, including the cost of transportation to and from the sanatorium, and other incidental expenses, shall be the sole obligation of the county of their residence, and shall be a proper charge against such county at the rate fixed therefor. It shall be the duty of the county treasurer of such county to reimburse the state of Michigan therefor by paying such amount into the state treasury forthwith upon receipt of statements from the auditor general showing the amount thereof. Such sums of money are hereby appropriated and shall be paid by the auditor general out of any moneys in the general fund not otherwise appropriated, as may be necessary for the care, treatment and maintenance of patients in said sanatorium, and the auditor general shall draw his warrant on the state treasurer therefor and charge the county's portion of such expenditures for patients of the first class as shown by statements from the commission, to the county of which such person is a resident, to be collected from such county and returned to the general fund. Any person designated in section 15 of this act as a patient of the second class may be admitted to a state tuberculosis sanatorium or to the university hospital only upon a certificate of the superintendent of the state hospital or sanatorium in which the patient became afflicted with tuberculosis. Said certificate shall show evidence that the person seeking admission presented no signs of the disease tuberculosis when entering the service of said state hospital or sanatorium together with evidence that said person contracted the disease during his period of employment. The state shall assume all of the expense of care, treatment and maintenance of such patients while under treatment in such sanatorium or hospital. Such sums of money are hereby appropriated as may be necessary for the care, treat-

ment and the maintenance of such patients, and shall be paid by the auditor general out of any moneys in the general fund on vouchers of the medical superintendent of the sanatorium.

HISTORY: CL 1915, 1635;—Am. 1929, p. 270, Act 117, Imd. Eff. May 7;—CL 1929, 7014;—Am. 1937, p. 337, Act 211, Imd. July 21;—Am. 1943, p. 249, Act 176, Eff. July 30;—Am. 1945, p. 263, Act 197, Imd. Eff. May 17;—Am. 1948, 1st Ex. Ses., p. 12, Act 10, Imd. Eff. April 26;—CL 1948, 332.66;—Am. 1954, p. 339, Act 141, Eff. Jul. 1.

332.67 Patients; clothing, expenses, moneys received for support, disposition.

Sec. 17. Before sending any patient to the sanatorium, under the provisions of this act, the health officer of any city, village, township, county or district of this state shall apply to the superintendent of the sanatorium for the admission of the patient to the said institution, and upon receiving notice that the said application is accepted by the superintendent of the sanatorium, he shall cause the patient to be comfortably clothed, and shall provide the patient with suitable clothing while the patient remains at the sanatorium, and shall defray the necessary traveling expenses in going to and returning therefrom, and provide the patient with such articles of necessity and convenience as are required by the rules of the sanatorium: Provided, That any moneys that shall be paid into the hands of a health officer of any county, to reimburse in whole or in part, for the maintenance of any patient sent to said sanatorium as a patient of the first class as provided by section 15 of this act, shall within 30 days after the receipt thereof be forwarded by such health officer to the county treasurer. The county treasurer shall forward to the auditor general all moneys received by him for the maintenance of any such patient, and the auditor general shall credit the same upon the cost of maintenance of said patient at said sanatorium.

HISTORY: Am. 1911, p. 165, Act 108, Eff. Aug. 1;—CL 1915, 1636;—CL 1929, 7015;—Am. 1937, p. 338, Act 211, Imd. Eff. July 21;—CL 1948, 332.67.

332.68 Patients; aid for poor, expenses.

Sec. 18. All persons entitled to admission to the sanatorium who are not a charge upon the county, but who, on account of their poverty, are unable to provide themselves with suitable clothing or other necessary articles, shall receive the same aid from the superintendent of the poor of their respective counties while attending the sanatorium as is provided in this act for those who are a county charge. All proper expenses incurred by the superintendents of the poor under this or the preceding section shall be a charge against their respective counties, and shall be defrayed out of the poor fund of such county.

HISTORY: CL 1915, 1637;—CL 1929, 7016;—CL 1948, 332.68.

332.69 Private patients; payment of charges.

Sec. 19. The charges for the support of the patients in said sanatorium who are able to pay the same, or have persons or kindred bound by law to maintain them, shall be paid to the medical superintendent by such patients, persons, or kindred, at a rate to be determined by the board of trustees of said sanatorium.

HISTORY: CL 1915, 1638;—CL 1929, 7017;—CL 1948, 332.69.

332.70 Disposition of receipts.

Sec. 20. All moneys collected by the medical superintendent shall be passed over to the treasurer of the sanatorium and his receipt taken therefor, such moneys to be disbursed by the treasurer under the provisions of section 14 of this act.

HISTORY: CL 1915, 1639;—CL 1929, 7018;—CL 1948, 332.70.

Secs. 21-23. (These were appropriation and tax clause sections.)

HISTORY: CL 1915, 1640-1642;—CL 1929, 7019-7021;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

332.91-332.94 Repealed. 1963, p. 23, Act 21, Imd. Eff. Apr. 25.

Sections provided for construction, maintenance and operation of Northern state tuberculosis sanitarium.

Act 343, 1917, p. 850; Imd. Eff. May 10.

AN ACT to provide for the establishment, enlargement, extension and maintenance of joint county sanatoriums for the treatment of tuberculosis. Am. 1934, 1st Ex. Ses., p. 65, Act 3, Imd. Eff. Mar. 7.

The People of the State of Michigan enact:

332.101 Joint county sanatorium; establishment, committee, duties, expenses.

Sec. 1. Any 2 or more counties in this state may co-operate for the establishment and maintenance of a joint county sanatorium for the treatment of tuberculosis in the manner hereinafter provided. It shall be competent for the board of supervisors of any county to appoint a committee of 3 citizens, taxpayers of the county, who are not members of the board to confer with a like committee similarly chosen from any other county or counties for the purpose of selecting and agreeing upon a site for a joint county sanatorium and procuring an option thereon. Said committee shall, through its chairman, communicate with the committees of the several boards of the counties co-operating and arrange for time and place of meeting. The committees from the several counties shall thereupon organize themselves into a joint committee and appoint one of its members chairman and a second member secretary. Said joint committee shall at the next subsequent meeting of each board of supervisors of the counties co-operating, make a full report of its work, including a statement regarding said site and the estimated cost thereof. When after 60 days from the time of appointment of the last committee by any county co-operating said joint committee shall have failed to agree upon a site, the chairman of said joint committee shall so inform the president of the board of trustees of the Michigan state sanatorium for tuberculosis and said president and the secretary of said board of trustees together with the superintendent of said state sanatorium shall constitute a committee a majority of which shall have the power and shall proceed at once to select a site and obtain option thereon and its decision shall be final and shall be made a part of said joint committee's report to the several boards of supervisors as hereinbefore provided. The board of supervisors shall have power to reimburse the members of such committees for all expenses incurred by reason of their duties.

HISTORY: Am. 1919, p. 742, Act 414, Eff. Aug. 14;—CL 1929, 7027;—CL 1948, 332.101.

JOINT COUNTY SANATORIUMS: Establishment, see also Compilers' §§ 332.154 to 332.156.

LOCATION: In township, see Compilers' § 750.473.

RECORD OF INMATES: As to duty of person in charge of institution to keep; also contents, see Compilers' § 404.32.

ALIEN INMATES: Report by person in charge of institution to U.S. immigration service, and release for deportation, see Compilers' § 404.31.

332.102 Board of trustees; members, oath, term, committee of co-operation.

Sec. 2. On presentation and adoption by the board of supervisors of the report of the joint committee as specified in section 1 of this act, said board shall appoint 2 suitable persons, residents and taxpayers of said county, as members of the board of trustees of such joint sanatorium. In the first instance 1 of such trustees shall serve for a period of 1 year from and after his appointment and the other trustee shall serve for a term of 2 years from and after his appointment. Thereafter each trustee appointed in accordance with this act shall hold office for 2 years and until his successor is appointed and qualifies. Any person appointed as such trustee shall file his acceptance with the county clerk of his county and shall also take and file with said clerk the constitutional oath of office. The board of supervisors shall also appoint a committee of 3 to co-operate with said board of trustees as hereinafter provided. Said committee shall

be members of the board of supervisors and shall serve for 1 year from and after their appointment or until their successors are elected and qualified.

HISTORY: Am. 1919, p. 742, Act 414, Eff. Aug. 14;—CL 1929, 7029;—CL 1948, 332.102.

332.103 Board of trustees; officers, initial meeting, notice.

Sec. 3. The trustees of any proposed sanatorium to be established hereunder shall immediately upon their appointment as hereinbefore provided meet and organize by the election of a president, a vice president, a secretary and a treasurer. All the said officers shall be members of the board and their terms as officers shall expire with the expiration of their terms as such members. The initial meeting may be called by any 4 trustees, on the service of written notice upon the trustees selected in all the counties concerned.

HISTORY: CL 1929, 7029;—CL 1948, 332.103.

332.104 Board of trustees; rules and regulations.

Sec. 4. Said board of trustees shall adopt rules and regulations governing its own procedure, its time and place of regular meetings, the manner of calling special meetings, and such other matters as will enable said board to perform its duties and carry out the purpose of this act.

HISTORY: CL 1929, 7030;—CL 1948, 332.104.

332.105 Board of trustees; meeting with committee, apportionment of cost, tax spread.

Sec. 5. The board of trustees shall meet with the committee of 3 appointed by each board of supervisors in counties co-operating, as specified in section 2 of this act. Said committee shall estimate the amount to be expended for such site and sanatorium with the necessary equipment, together with the amount necessary for current expenses of such institution for the first year. Said board of trustees, shall thereupon advertise for or otherwise procure plans and specifications for suitable building as soon thereafter as may be. Said committees and said board of trustees shall apportion the aggregate of the amount so required among the various counties concerned in proportion to the valuation of such counties as equalized by the state board of equalization at the preceding equalization thereof. The amount required to be raised by each of said counties together with the total amount so determined shall be certified by them to the several boards of supervisors, at the next session thereof, and they shall order a tax spread for such amount at the regular October meeting; or in its discretion any board of supervisors may borrow a part or all of such amount and issue the obligation of the county therefor. Any tax hereby authorized shall be spread and collected in the manner provided by the general tax law of the state, and shall be subject to all incidents thereof.

HISTORY: Am. 1919, p. 743, Act 414, Eff. Aug. 14;—CL 1929, 7031;—CL 1948, 332.105.

GENERAL TAX LAW: See Compilers' § 211.1 et seq.

332.106 Finances; determination and apportionment of expenses, tax.

Sec. 6. On or before the first day of September of each subsequent year said board of trustees and committee appointed as aforesaid shall estimate and determine upon the amounts necessary for current expenses and for necessary repairs and maintenance of such sanatorium and shall certify such determination to boards of supervisors who shall apportion the aggregate of such amounts among the various counties in the manner provided in the preceding section. Such apportionment shall be made and the amount to be raised by each county certified to the various boards of supervisors on or before the first day of October of each year; thereupon said boards shall order a tax spread for the portion raised by such county.

HISTORY: CL 1929, 7032;—CL 1948, 332.106.

332.107 Deposit of income in special fund.

Sec. 7. All moneys raised either by taxation or by borrowing under the provisions of this act, shall be, in the first instance, paid into the treasury of the county where raised. The treasurer of said county shall, in case such money is raised by borrowing, immediately transmit the same to the treasurer of the county in which said sanatorium is located; and if said money is raised by taxation, shall transmit the same on or before the fifteenth day of March of each year. The county treasurer receiving such amounts shall deposit them in a special fund to be known as "The general fund of the joint sanatorium of the counties of"

HISTORY: CL 1929, 7033;—CL 1948, 332.107.

332.108 Finances; disbursements, accounts, publication.

Sec. 8. Money shall be paid out of the fund hereinbefore provided for only for the purposes of this act, and only on the order of the treasurer of the board of the trustees of such sanatorium, countersigned by the secretary. A full and detailed account of all receipts and expenditures shall be kept and a report thereof shall be made to the board of supervisors in each county concerned, at the regular October session thereof. Such report shall be incorporated in the minutes of the board and be published as a part thereof.

HISTORY: CL 1929, 7034;—CL 1948, 332.108.

332.109 Board of trustees; body corporate, powers.

Sec. 9. The board of trustees hereby created shall be a body corporate to be known and designated as "The board of trustees of a joint sanatorium of the counties of;" and may sue and be sued by such corporate name. Said board is authorized and empowered to accept donations and bequests, to purchase and hold property in its corporate capacity for the purposes hereof, and to make all contracts that may be necessary for the carrying out of the duties hereby imposed. Said board may enter into necessary undertakings for the construction of a sanatorium subject to the same incidents as are now, or may be, by general law imposed upon public officials and boards of this state or of the various municipalities thereof invested with like powers and charged with like duties.

HISTORY: CL 1929, 7035;—CL 1948, 332.109.

332.110 Board of trustees; powers, operating personnel, compensation, obligation for claims.

Sec. 10. Said board shall have general charge and oversight of the sanatorium established hereunder and may make rules and regulations therefor. Said board shall employ a competent person to act as superintendent of such institution who shall be the executive thereof. Said executive, with the consent of the board, may also employ other officials, nurses and employes as may be found necessary and, with the approval of the board fix the compensation of all persons appointed or employed hereunder. Such compensation shall be paid out of the fund hereinbefore provided for. No claim against such board of trustees arising out of contractual liability or otherwise shall be deemed to impose any obligation whatsoever on any of the counties contributing to the support of said institution.

HISTORY: Am. 1919, p. 743, Act 414, Eff. Aug. 14;—CL 1929, 7036;—CL 1948, 332.110.

332.111 Building plans; approval, bids, advertisement.

Sec. 11. No building shall be erected to be used as a part of such sanatorium for the treatment of tuberculosis patients unless and until the plans and specifications there-

for, as adopted by the board of trustees, and said committees, shall have been submitted to, and approved by the state board of health. In all cases where the cost of construction exceeds the sum of 500 dollars bids shall be advertised for, in accordance with such general rules and regulations as the board of trustees may establish.

HISTORY: CL 1929, 7037;—CL 1948, 332.111.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

332.112 Admission rules and regulations.

Sec. 12. Any sanatorium established hereunder shall be deemed to exist and be maintained for the benefit of the people of the counties contributing to the support thereof. The board of trustees shall make regulations governing the admission and conduct of patients and may exclude any person or persons wilfully violating such regulations. Any indigent person afflicted with tuberculosis, in any of the said counties, may be admitted on the certificate of the superintendents of the poor or county physician, or any of them, of his county, upon such terms as may be determined by the said board of trustees. A person afflicted with tuberculosis who is not in indigent circumstances may be admitted and shall pay to said board of trustees, for the benefit of the institution, such reasonable compensation as shall be agreed on by such persons and such board. If the facilities of the institution will permit, the board of trustees may, in its discretion, accept patients afflicted with tuberculosis who are not residents of any of the counties contributing to the support of the institution, upon such terms as may be deemed proper.

HISTORY: CL 1929, 7038;—CL 1948, 332.112.

332.112a Admission of patients with other diseases; approval.

Sec. 12a. The board of trustees, with the approval of the board of supervisors, may admit patients to the hospital for the treatment of diseases other than tuberculosis under such terms and conditions as prescribed by the board of trustees and approved by the state health commissioner. Persons from the county in which the hospital or sanatorium is located or from any county in not less than the service area as presently constituted of the hospital or sanatorium suspected or afflicted with tuberculosis, and requiring hospitalization in the hospital or sanatorium, shall be given priority of admittance. Such patients other than tuberculosis shall not be subject to per diem tuberculosis state aid to the county as prescribed elsewhere in this act. Those parts, portions, or facilities of any hospital or sanatorium operating under the provisions of this act and erected or created with funds provided under the terms of Act No. 252 of the Public Acts of 1951, being sections 332.201 to 332.204, inclusive, of the Compiled Laws of 1948 and of Act No. 5 of the Public Acts of the First Extra Session of 1951, being sections 332.231 to 332.239, inclusive, of the Compiled Laws of 1948, may be used for any of the purposes authorized by the provisions of this act upon the filing with the state commissioner of health of a statement signed by the members of the board of trustees of said hospital or sanatorium that such uses are in the best interests of the effective provision of medical care and treatment specifically authorized to be provided by this act.

History: Add. 1957, p. 41, Act 34, Imd. Eff. May 8.

332.113 Dependent children; care.

Sec. 13. Said board of trustees shall, as soon as possible, make provision for the care and maintenance of dependent children whose parent or parents are inmates of the institution.

HISTORY: CL 1929, 7039;—CL 1948, 332.113.

DEPENDENT CHILDREN: In general, see Compilers' § 712A.1 et seq.

332.114 Discrimination prohibited; patients' rights; practitioners and nurses, freedom.

Sec. 14. In the treatment of inmates of such sanatorium no discrimination shall be made against practitioners of any school of medicine or healing recognized by the laws of this state. Each patient so receiving treatment shall have the right to employ, at his own expense, his own physician or practitioner and nurse; and any physician, practitioner or nurse so employed shall be permitted entire freedom with reference to the treatment of the said case, subject however to such reasonable rules and regulations as shall be established by the board of trustees in accordance with the provisions of this act.

HISTORY: CL 1929, 7040;—CL 1948, 332.114.

332.115 Board of trustees; vacancy, resignation.

Sec. 15. Any vacancy occurring on said board of trustees shall be filled for the remainder of the term by the board of supervisors of the county represented by such trustee. The resignation of any such trustee shall be presented to his board of supervisors for action thereby.

HISTORY: CL 1929, 7041;—CL 1948, 332.115.

332.116 Board of trustees; salary of superintendent, expenses, interest in contracts, scope of act.

Sec. 16. The board of trustees may fix the compensation of the superintendent at such reasonable amount as may be deemed proper. Each member of the board shall be entitled to \$10.00 for each meeting he attends, and he may be reimbursed out of the fund of the sanatorium for any expense necessarily and properly incurred by him as a member of the board and in pursuance of his official duties. All such claims shall be approved by the board of trustees and paid in the manner hereinbefore provided. No member of such board shall be in any way interested in any contract on behalf of the institution; nor shall he be employed to render services therefor. Nothing in this act contained shall be construed to affect any sanatorium established and maintained by any one county.

HISTORY: CL 1929, 7042;—CL 1948, 332.116;—Am. 1957, p. 184, Act 162, Eff. Sep. 27;—Am. 1959, p. 219, Act 158, Eff. Mar. 19, 1960.

332.117 Joint county sanatoriums; approved list; annual reports, state aid, petition, referendum, ballot form.

Sec. 17. Any sanatorium established under the provisions of this act, and which shall have expended at least 10,000 dollars in building and equipment, may, upon application to the state board of health, be placed upon the approved list of joint county sanatoriums. A joint county sanatorium, once entered upon said approved list, may remain listed and be entitled to state aid so long as the scope and character of its work are maintained in such manner as to meet the approval of the state board of health. On the first day of July of each year the secretary of the board of each joint county sanatorium on the approved list shall report under oath to the state board of health, the character of the work done and the treatment given, the number and names of the persons employed and patients treated and on said date remaining in such sanatorium, the amount contributed by each county for the support of such sanatorium, and such other matters as may be required by the state board of health. Upon receipt of such report, if it shall appear that the sanatorium has been maintained in a satisfactory manner, the secretary of the state board of health shall make a certificate to that effect, together with the cost of maintenance for the year and the amount actually contributed by each county therefor, and file it with the auditor general. Upon receiving such certificate the auditor general shall draw his warrant payable to the treasurer of each county contributing toward the maintenance of such sanatorium for that portion of the sum of 6,000 dollars, which the expenditure of each county contributing shall have

been of the total amount contributed by the participating counties for the support of such sanatorium for the preceding year. The auditor general shall annually, beginning in the year 1920, include and apportion in the state tax such sum as shall have been so paid. Whenever the board of supervisors of any county shall be presented with a petition signed by 5 per cent of the electors of the county asking that said board submit to the voters of such county the question whether a sanatorium shall be established in cooperation with 1 or more adjacent counties, the board of supervisors shall submit the question to the voters of the county at the next election, and if a majority of the voters voting thereon shall favor the establishment of such sanatorium, then the board of supervisors shall establish the same as provided in this act. The petition shall specify the amount of tax to be levied, which tax levy shall not exceed 2 mills on the dollar. It shall also specify the maximum amount to be expended by such county as its proportion in the purchase of a site and construction of buildings of such sanatorium. The form of ballot for such election shall be substantially as follows:

Shall the county of establish a tuberculosis sanatorium in conjunction with 1 or more adjacent counties, at cost to county not to exceed dollars?

Yes ☐ No ☐.

HISTORY: Am. 1919, p. 743, Act 414, Eff. Aug. 14;—CL 1929, 7043;—CL 1948, 332.117.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

332.118 Joint county sanatoriums; enlargement; bonds, taxation, committee of cooperation, apportionment.

Sec. 18. The boards of supervisors of the counties having established a joint county sanatorium for the treatment of tuberculosis under the provisions of this act may, by resolution of each board, provide for the addition to, enlargement or extension of such sanatorium, and its equipment. Such resolutions may provide for the financing of such addition, enlargement or extension, and the equipment thereof, by the issuance of self-liquidating bonds, or by a tax as provided in section 5 of this act, and, in case such resolutions provide for the issuance of self-liquidating bonds, such bonds shall be issued in accordance with the provisions of any law authorizing the issuance thereof. When the boards of supervisors of such counties shall have passed similar resolutions for the addition to, enlargement or extension of any such sanatorium, and its equipment, each board of supervisors shall appoint a committee of 3 to cooperate with the board of trustees of such sanatorium and the provisions of this act pertaining to the construction of such sanatorium shall apply to such additions, enlargements or extensions, and the equipment thereof, insofar as applicable. Said committees and said board of trustees shall apportion the aggregate of the amount required therefor among the several counties concerned in proportion to the valuation of such counties as equalized by the state board of equalization at the preceding equalization thereof. In the case revenue bonds are to be issued therefor, the boards of the supervisors of such counties, by a similar resolution of each board, shall authorize the issuance of such bonds, which shall be repaid from the revenue to be derived from the operation of the addition, enlargement or extension, and equipment, herein authorized. Such revenue bonds shall be signed by the treasurers of each of such counties.

HISTORY: Add. 1934, 1st Ex. Ses., p. 65, Act 3, Imd. Eff. March 7;—CL 1948, 332.118.

Act 177, 1925, p. 245; Eff. Aug. 27.

AN ACT to protect and promote the public health and welfare, and to provide for the construction, maintenance and operation of hospitals and sanatoriums for the

treatment of tuberculosis; and to make an appropriation therefor. Am. 1937, p. 340, Act 213, Imd. Eff. Jul. 21.

The People of the State of Michigan enact:

332.151 County sanatoriums; establishment, procedure, site, minimum size.

Sec. 1. It shall be competent for the board of supervisors of any county in this state having a population of more than 30,000 according to the last official census of the federal government to establish, maintain and operate a hospital or sanatorium for the treatment of tuberculosis in accordance with the provisions of this act. Said board shall designate the site on which such sanatorium shall be placed and the sum or sums of money appropriated for construction and equipment purposes. Immediately upon the taking of such action by any board of supervisors subject to the provisions hereof, it shall be the duty of the clerk of the board to certify to the state commissioner of health a copy of the resolution or resolutions adopted. Thereupon it shall be the duty of said commissioner to cooperate with the board of supervisors, or with any committee thereof selected for such purpose, in the preparation or selection of plans for the building or buildings to be erected: Provided, That no sanatorium hereafter erected under the provisions of this act shall be upon lands used by or controlled by a county poor commission, or used or intended to be used as a county poor farm, and no such sanatorium shall be erected having provision and room for less than 50 beds.

HISTORY: CL 1929, 7044;—CL 1948, 332.151.

COUNTY PUBLIC HOSPITAL: Tuberculosis department, see Compilers' § 331.168.

LOCATION: In township, see Compilers' § 750.473.

RECORD OF INMATES: As to duty of person in charge of institution to keep; also contents, see Compilers' § 404.32.

ALIEN INMATE: Report by person in charge of institution to U.S. immigration service, and release for deportation, see Compilers' § 404.31.

CITED IN OTHER SECTIONS: Sections 332.151 to 332.164 are cited in § 400.109.

332.152 Board of supervisors; raising moneys by taxation, disposition.

Sec. 2. The board of supervisors of any county, subject to the provisions of section 1 of this act, is hereby authorized and empowered to raise by taxation necessary funds for the purpose of constructing, equipping and maintaining a hospital or sanatorium for the treatment of tuberculosis. In no case shall the tax for the original construction and equipment exceed in any year 1 mill on each dollar of assessed valuation of said county. If deemed expedient by said board, money for construction purposes hereunder may be raised by taxation during successive years, not exceeding, however, a period of 3 years. All moneys raised by taxation within the county shall constitute a special fund for the construction and equipment of the sanatorium. Money raised by taxation in the county for construction purposes, and subsequently found not to be needed therefor, may be used to defray the expenses of operation and maintenance.

HISTORY: CL 1929, 7045;—CL 1948, 332.152.

332.153 Board of trustees; members, terms, officers, powers and duties, disbursement for construction.

Sec. 3. A board of trustees for the management of any sanatorium created hereunder shall be appointed by the board of supervisors of the county in which such sanatorium is to be constructed. Said trustees shall be residents and taxpayers of the county. In the first instance, 1 of such trustees shall serve for a period of 1 year from and after the first day of January following his appointment. One shall serve for a period of 2 years and the third for a period of 3 years. Thereafter, each trustee shall hold office for a period of 3 years, beginning on the first day of January next ensuing and until a successor is appointed and qualifies. Each such trustee shall file his acceptance of office with the county clerk and shall also take and file with said clerk the constitu-

tional oath of office. It shall be the duty of said board of trustees to cooperate and advise with the state health commissioner and with the board of supervisors of the county, or with any committee selected thereby, in the erection and equipment of the sanatorium. As soon as such sanatorium is completed and equipped the management and control thereof shall vest in said board of trustees, subject to the provisions of this act. Money for the construction of the sanatorium and for the purchase and installation of equipment shall be paid out by the county treasurer on the order of said board of trustees, countersigned by the chairman and clerk of the board of supervisors, or by any committee of said board selected by the board for that purpose. Said board of trustees may organize by the election of a president, a secretary and a treasurer and may adopt rules and regulations governing its procedure.

HISTORY: CL 1929, 7046;—CL 1948, 332.153.

332.153a County sanatoriums; admission of nontubercular patients; board of trustees, additional members.

Sec. 3a. Any sanatorium established or existing pursuant to the provisions of this act which elects to admit patients for treatment of diseases other than tuberculosis as provided in section 9a, as amended, may, by majority vote of the board of supervisors, have a board of trustees of 5 members. If the supervisors shall elect to establish a 5-member board, 1 of the additional appointees shall be appointed for a term expiring January 1 of the second year following the year of his appointment. The other shall be appointed for a term expiring January 1 of the third year following the year of his appointment. Thereafter trustees shall all be appointed for 3-year terms.

HISTORY: Add. 1984, p. 29, Act 23, Eff. Aug. 28.

332.154 Joint county sanatorium; establishment, procedure, powers of supervisors.

Sec. 4. Any 2 or more counties within this state may cooperate for the establishment, maintenance and operation of a joint county sanatorium for the treatment of tuberculosis under the provisions of this act. The board of supervisors of any county may appoint a committee to confer with a like committee similarly chosen by the board in any other county or counties for the purpose of selecting a site for a joint sanatorium. At such meeting the committees present shall organize into a joint committee and shall select 1 of the members of such joint committee chairman and a second member secretary. A full report of the results of such meeting shall be made to the board of supervisors of each county concerned at the next ensuing meeting thereof. Thereupon each said board of supervisors shall have the same power to take action with reference to the establishment, maintenance and operation of such joint county sanatorium as is granted by this act with reference to the construction of a sanatorium by a single county in so far as such provisions are applicable.

HISTORY: CL 1929, 7047;—CL 1948, 332.154.

JOINT COUNTY SANATORIUMS: Establishment, see also Compilers' § 332.101 et seq.

332.155 Joint county sanatorium; cooperation with commissioner of health.

Sec. 5. In case the boards of supervisors of 2 or more counties shall determine by separate action thereof that a joint sanatorium shall be constructed, it shall be the duty of each said board to appoint a committee of its members for the purpose of cooperating with the state commissioner of health and with the board of trustees of said sanatorium in the construction and equipment of the necessary building or buildings. Each board shall also select 3 residents and taxpayers of the county to serve as members of the board of trustees of the sanatorium. Said trustees shall be appointed for like terms and shall qualify in the same manner as is provided in section 3 for the appointment and qualification of trustees of a county sanatorium. It shall be the duty of the trustees

so appointed to meet as soon as may be and to organize by the election of a president and secretary.

HISTORY: CL 1929, 7048;—CL 1948, 332.155.

332.156 Joint county sanatorium; special tax fund, expenditures.

Sec. 6. The board of supervisors of each county becoming a party to the erection of a joint sanatorium under the provisions of this act may raise in any 1 year for construction or maintenance purposes a sum not exceeding 1 mill on each dollar of assessed valuation of said county. Such tax shall be regarded as a special tax and the moneys received therefrom shall be transmitted by the treasurer of the county in which it is collected to the treasurer of the county in which the sanatorium is to be constructed. All such moneys shall be and remain in a special fund and shall be used solely for the purposes for which the tax is spread: Provided, however, That money raised for construction purposes and not needed therefor may be expended by the board of trustees for maintenance and operation. Money expended for the construction, equipment and installation of equipment of any joint county sanatorium shall be paid out by the county treasurer having such fund in charge on the order of the board of trustees of such sanatorium.

HISTORY: CL 1929, 7049;—CL 1948, 332.156.

332.157 Construction contracts; bids.

Sec. 7. Contracts for the construction and equipping of any sanatorium to be erected under the provisions of this act shall be let by the board of trustees of said sanatorium, subject to the approval of the state commissioner of health. Such work may be let as an entirety or in sections as may be deemed most advantageous. In all cases where the cost of construction exceeds the sum of 500 dollars, bids shall be advertised for in 1 or more newspapers published and circulating within the county or counties concerned not less than 2 weeks prior to the date when bids are to be received. Subject to the provisions of this act, the board of trustees concerned may adopt reasonable rules and regulations concerning the manner of advertising for bids and the letting of contracts. In all cases the right to reject any and all bids presented shall be reserved. Each contract let hereunder shall provide that the work shall be done subject to the approval of the board of trustees and the state commissioner of health.

HISTORY: CL 1929, 7050;—CL 1948, 332.157.

332.158 State commissioner of health; rules and regulations, duty of trustees, sanatorium personnel, expenditures.

Sec. 8. The state commissioner of health is hereby authorized and directed to adopt and publish, in the same manner as rules and regulations of the state department of health are published, rules and regulations governing the operation of county sanatoriums. It shall be the duty of the board of trustees of any such sanatorium to observe such rules and regulations. Wilful failure or refusal to do so shall constitute grounds for removal. Subject to this act and to such rules and regulations, each such board of trustees shall operate the sanatorium under its charge and shall employ a medical superintendent, a suitable number of nurses, and such other employees as may be necessary and may fix the compensation thereof. Such compensation shall be paid out of the maintenance fund of the sanatorium in the same manner as the salaries of other county employees are paid. Money to defray the expenses of maintenance and operation shall be paid by the county treasurer having such fund in his custody on the warrant of the president of the board of trustees of the sanatorium, countersigned by the secretary.

HISTORY: CL 1929, 7051;—CL 1948, 332.158.

332.158a Board of trustees; borrowing power, issuance of bonds.

Sec. 8a. The board of trustees may borrow when the need is certified by state health commissioner and approved by the county board of supervisors, a sum of money equal

to 3/4 the amount due and owing the county from the state or other government units in accordance with sections 9 and 9a and issue bonds or notes or other evidence of indebtedness therefor to be repaid from the receipts from the state and other government units of such amount due and owing the county.

HISTORY: Add. 1949, p. 147, Act 141, Imd. Eff. May 23;—Am. 1966, p. 153, Act 126, Imd. Eff. Jun. 23.

332.159 County sanatoriums; admission of residents and nonresidents; reports to health commissioner, approval, reimbursement by state.

Sec. 9. Any sanatorium established hereunder shall be maintained and operated for the benefit of the residents of the county or counties establishing and maintaining the same. The board of trustees shall make regulations covering the admission and conduct of patients and may exclude any person or persons wilfully violating such regulations. Any person afflicted with tuberculosis may be admitted to the sanatorium on a certificate of the health officer of the city, village, township, county or district in which such person resides. If the facilities of the sanatorium will permit, the board of trustees may in its discretion accept patients afflicted with tuberculosis who are not residents of the county or counties establishing and maintaining the sanatorium, upon such terms and conditions as may be mutually agreed upon. On the first day of each month the board of trustees or the medical superintendent of the sanatorium, whether organized and established under the provisions of this act or any other act or acts permitting counties to erect and maintain sanatoriums for treatment of tuberculosis, shall report to the state commissioner of health the number of patients treated during the preceding month, with such detailed information as said commissioner may require. Such reports shall show specifically the number of patients treated, with the compensation and aggregate number of weeks of such treatment. Such report shall be verified by the medical superintendent or by the president of the board of trustees. If accepted and approved by the state commissioner of health, it shall be the duty of the latter official to certify to the auditor general that the sanatorium in question has treated without compensation patients for an aggregate specified number of days. Thereupon the auditor general shall draw his warrant on the state treasurer, in favor of the county treasurer having the funds of the sanatorium in his custody, for such an amount as will constitute compensation for such free patients on the basis of \$6.00 per day each it being the intent hereof that the state shall contribute towards the cost of maintaining and treating free patients the sum of \$6.00 for each day of such care and treatment. All sums due any county from the state of Michigan hereunder shall be a continuing obligation of the state and shall be paid out of any funds which may be appropriated by the legislature for that purpose.

HISTORY: Am. 1929, p. 78, Act 42, Imd. Eff. Apr. 16;—CL 1929, 7052;—Am. 1932, 1st Ex. Ses., p. 33, Act 18, Imd. Eff. May 3;—Am. 1933, p. 342, Act 215, Imd. Eff. Jul. 6;—Am. 1937, p. 340, Act 213, Imd. Eff. Jul. 21;—Am. 1943, p. 231, Act 169, Eff. Jul. 30;—Am. 1945, p. 278, Act 206, Imd. Eff. May 17;—Am. 1948, 1st Ex. Ses., p. 13, Act 11, Imd. Eff. Apr. 28;—Am. 1954, p. 369, Act 156, Eff. Jul. 1;—Am. 1965, p. 229, Act 142, Imd. Eff. Jul. 12.

332.159a County sanatoriums; admission of patients of all types, approval.

Sec. 9a. The board of trustees, with the approval of the board of supervisors, may in its discretion admit patients to said hospital for the treatment of diseases other than tuberculosis under such terms and conditions as prescribed by said board of trustees and approved by the state health commissioner. Persons from the county in which the hospital or sanatorium is located or from any county in not less than the service area as presently constituted of the hospital or sanatorium suspected or afflicted with tuberculosis and requiring hospitalization in the hospital or sanatorium shall be given priority of admittance. Such patients other than tuberculosis shall not be subject to per diem tuberculosis state aid to the county as prescribed elsewhere in this act. Those parts, portions, or facilities of any hospital or sanatorium operating under the provisions of this act and erected or created with funds provided under the terms of Act

No. 252 of the Public Acts of 1951, being sections 332.201 to 332.204, inclusive, of the Compiled Laws of 1948 and of Act No. 5 of the Public Acts of the First Extra Session of 1951, being sections 332.231 to 332.239, inclusive, of the Compiled Laws of 1948, may be used for any of the purposes authorized by the provisions of this act upon the filing with the state commissioner of health of a statement signed by the members of the board of trustees of said hospital or sanatorium that such uses are in the best interests of the effective provision of medical care and treatment specifically authorized to be provided by this act.

HISTORY: Add. 1949, p. 147, Act 141, Imd. Eff. May 23;—Am. 1957, p. 41, Act 35, Imd. Eff. May 8.

332.160 Board of trustees; compensation, expenses, approval of claims, vacancies, body corporate, powers, conveyances.

Sec. 10. Each trustee may receive not to exceed \$15.00 per day for his services in attending meetings of the board, and not to exceed 7 cents per mile for each mile necessarily traveled in going to and returning from the place of meeting each day the board is in session, when the rate of compensation and mileage as herein provided is approved by the board of supervisors, and such other necessary expenses as shall be allowed by the board of supervisors. No trustee shall claim reimbursement for attending more than 24 meetings a year. All claims against the sanatorium shall be approved by the board of trustees and paid in the manner hereinbefore indicated. Any vacancy occurring on a board of trustees shall be filled for the remainder of the term by the board of supervisors of the county represented by such trustee. Each said board shall constitute a body corporate and may sue and be sued. It may accept donations and bequests, purchase and hold property, and make such contracts as may be necessary for the carrying out of the duties hereby imposed. All conveyances of real estate shall be taken in the name of the board of trustees in trust for the county or counties represented thereby.

HISTORY: CL 1929, 7053;—CL 1948, 332.160;—Am. 1962, p. 13, Act 15, Eff. Mar. 28, 1963.

332.161 Board of trustees; annual report to supervisors, contents, annual appropriation, tax limit, referendum on excess.

Sec. 11. Prior to the regular October session in each year of the board of supervisors of any county establishing or maintaining or assisting to establish or maintain any sanatorium hereunder, it shall be the duty of the board of trustees of such sanatorium to make and present to the board a full and detailed report of the operations during the preceding year and of the receipts and disbursements. At the same time an estimate of the funds necessary to be raised in such county for the ensuing year shall be presented. Thereupon, said board, subject to the provisions of this act, shall vote such amount as may be necessary to be raised by taxation. In the case of the joint county sanatorium, it shall be the duty of each board of supervisors concerned to vote its proportionate share of the cost and maintenance of operation during the ensuing year, as estimated and determined by the board of trustees. In case it is deemed expedient by any board of supervisors to raise in any 1 year either for construction purposes or for maintenance purposes an amount in excess of 1 mill on each dollar of assessed valuation of said county, the question of raising by taxation or borrowing such additional amounts as may be deemed necessary shall be submitted to the electors of the county at any general election or at a special election called for that purpose. Said question shall be submitted and election held and conducted and returns thereof canvassed and declared in the same manner as is or may be provided by the general election law for the submission and determination of the question of issuing county bonds. If a majority of

the electors of the county voting thereon authorize the raising of such additional sum or sums, the board of supervisors shall by resolution direct the raising of the same by taxation.

HISTORY: CL 1929, 7054;—CL 1948, 332.161.

BOND ELECTION: See Compilers' §§ 46.20 and 141.61 et seq.

332.162 County sanatoriums; inspection by commissioner of health; recommendations, non-observance of rules.

Sec. 12. The state commissioner of health either in person or by his deputy or other representative shall inspect each sanatorium constructed hereunder at such times as he may deem necessary. He may also require from the authorities in charge of such sanatorium reports from time to time concerning the operation thereof. It shall be his duty to make recommendations to the board of trustees and to the medical superintendent in charge of the sanatorium with respect to operation, treatment of patients, employees, and such other matters as affect the welfare of the patients and the general conduct of the institution. If any board of trustees, or medical superintendent, shall neglect or refuse to observe the rules and regulations of the state commissioner of health hereinbefore provided for, the state maintenance aid contemplated by section 9 may in the discretion of said commissioner be withheld until such rules and regulations are complied with.

HISTORY: CL 1929, 7055;—CL 1948, 332.162.

332.163 Counties not constructing sanatoriums; taxation in aid of other public sanatoriums.

Sec. 13. The board of supervisors of any county of this state not desiring to construct a sanatorium or hospital for the treatment of tuberculosis, is hereby authorized to raise money by taxation for the aid and assistance of any hospital or sanatorium within this state and to secure the treatment of persons afflicted with tuberculosis and may make agreements with the management or owners of any hospital or sanatorium for the treatment of indigent persons afflicted with tuberculosis. No money shall be raised, however, for the assistance of any private hospital under this section, nor to provide for the treatment of patients at any hospital or sanatorium unless said hospital or sanatorium shall be first inspected by the state commissioner of health, or by his duly authorized representative and approved by him as a proper and suitable institution for the care and treatment of patients afflicted with tuberculosis.

HISTORY: Am. 1929, p. 76, Act 41, Imd. Eff. April 16;—CL 1929, 7056;—CL 1948, 332.163.

332.164 Contracts with approved sanatorium; report to state health commissioner, reimbursement by state.

Sec. 14. Whenever the board of supervisors of any county shall contract with the management or owners of any hospital or sanatorium for the treatment of persons afflicted with tuberculosis and such hospital or sanatorium shall have been approved by the state commissioner of health, as provided in the preceding section, it shall be the duty of the clerk of said county, or the board of county auditors in counties having such boards, or other legally designated authority, on the first day of each month to report to the state commissioner of health the number of patients treated at any such sanatorium or hospital during the preceding month on contract with said county, with such detailed information as said commissioner may require. Such reports shall show specifically the number of patients treated, any compensation paid by the county therefor, and the aggregate number of days of such treatment. Such report shall be verified by the officer or officers making the same. Upon receipt and approval of such report by the state commissioner of health, it shall be the duty of the latter official to certify to the auditor general that the county in question has caused to be treated, without compensation to it, patients for an aggregate specified number of days based

upon said report. Thereupon the auditor general shall draw his warrant on the state treasurer in favor of the county treasurer of such county for such an amount as will constitute compensation for such patients on the basis of \$6.00 per day each, it being the intent hereof that the state shall contribute towards the cost of maintaining and treating such patients the sum of \$6.00 for each day of such care and treatment. If the sum appropriated by the legislature is not sufficient to pay all demands, then the funds appropriated shall be paid pro rata to the counties and cities entitled thereto, and such contributions shall be made in accordance with rules and regulations promulgated by the state commissioner of health for the purpose of protecting the rights of all such counties and cities in such fund.

HISTORY: Add. 1929, p. 77, Act 41, Imd. Eff. April 16;—CL 1929, 7057;—Am. 1931, p. 163, Act 101, Eff. Sept. 15 —Am. 1937, p. 341, Act 213, Imd. Eff. July 21;—Am. 1943, p. 232, Act 169, Eff. July 30;—Am. 1945, p. 279, Act 206, Imd. Eff. May 17;—Am. 1945, 1st Ex. Sess., p. 14, Act 11, Imd. Eff. April 25;—CL 1945, 332.164;—Am. 1954, p. 370, Act 156, Eff. Jul. 1;—Am. 1965, p. 230, Act 142, Imd. Eff. Jul. 12.

Act 252, 1951, p. 408; Imd. Eff. Jun. 19.

AN ACT to make an appropriation for the enlargement of existing facilities in county and city tuberculosis sanatoriums and at the state-owned American legion hospital (tuberculosis sanatorium) at Battle Creek; to prescribe the powers and duties of certain state officials and agencies with respect thereto; and to provide for the disbursement thereof.

The People of the State of Michigan enact:

332.201 County and city sanatoriums; appropriation for enlargement, amount.

Sec. 1. There is hereby appropriated from the state hospital building fund the sum of \$3,000,000.00 to the state tuberculosis sanatorium commission, to be disbursed in accordance with the requirements of this act, for the enlargement of existing facilities at county and city tuberculosis sanatoriums and at the state-owned American legion hospital (tuberculosis sanatorium) at Battle Creek.

HISTORY: New 1951, p. 409, Act 252, Imd. Eff. Jun. 19.

CITED IN OTHER SECTIONS: Sections 332.201 to 332.204 are cited in §§ 332.112a and 332.159a.

332.202 Appropriation; recommendations as to priorities and amounts.

Sec. 2. It shall be the duty of the joint legislative committee created by house concurrent resolution No. 75 of the 1951 session of the legislature, after study in conjunction with the state tuberculosis sanatorium commission, the state department of health and other interested agencies, to submit to the emergency appropriations commission created under Act No. 120 of the Public Acts of 1937, as amended, being sections 5.1 to 5.5, inclusive, of the Compiled Laws of 1948, recommendations as to priorities and amounts to be distributed to the several county and city tuberculosis sanatoriums and the state-owned American legion hospital (tuberculosis sanatorium) at Battle Creek, for the enlargement of existing facilities in order that the appropriation made under the provisions of this act may be economically expended in the providing of needed beds in the state of Michigan in such areas as will most benefit the people of the state of Michigan.

HISTORY: New 1951, p. 409, Act 252, Imd. Eff. Jun. 19.

332.203 Appropriation; distribution, approval.

Sec. 3. No distribution of the appropriation made under the provisions of this act shall be made unless and until such distribution is approved by the emergency appropriations commission created under said Act No. 120 of the Public Acts of 1937, and released by the state administrative board, which authority is hereby vested in said commission.

HISTORY: New 1951, p. 409, Act 252, Imd. Eff. Jun. 19.

332.204 Appropriation; disbursements.

Sec. 4. Disbursements under the provisions of this act shall be made on vouchers signed by the chairman of the state tuberculosis sanatorium commission, and on warrants drawn by the auditor general on the state treasurer, in accordance with the accounting laws of the state.

HISTORY: New 1951, p. 409, Act 252, Imd. Eff. Jun. 19.

Act 5, 1951 (Ex. Ses.), p. 615; Imd. Eff. Aug. 23.

AN ACT to provide for the enlargement of tuberculosis hospital facilities; to prescribe the conditions under which state appropriations can be released; to provide for a study of the needs of the state of Michigan with respect to tuberculosis hospital facilities by the state tuberculosis sanatorium commission; to make certain appropriations, and to provide for the disbursement thereof; and to prescribe penalties.

The People of the State of Michigan enact:

332.231 Tuberculosis sanatorium supplemental appropriation; construction of act; release of funds.

Sec. 1. This act shall be construed as supplemental to Act No. 252 of the Public Acts of 1951 and the distribution of the appropriation made under the provisions of said Act No. 252 by the emergency appropriations commission created under Act No. 120 of the Public Acts of 1937, and the release authorized by the state administrative board, shall be subject to and governed by the restrictions contained in sections 4 to 9, inclusive, of this act.

HISTORY: New 1951, 1st Ex., p. 615, Act 5, Imd. Eff. Aug. 23.

CITED IN OTHER SECTIONS: Sections 332.231 to 332.239 are cited in §§ 332.112a and 332.159a.

332.232 Herman Kiefer hospital; appropriation; effect of acceptance, payment, unexpended balance.

Sec. 2. There is hereby appropriated from the moneys received from the issuance of bonds, as authorized under the provisions of section 24 of article 10 of the state constitution, the sum of not to exceed \$300,000.00 to the common council of the city of Detroit for the purpose of rehabilitation, the conversion of sun porches, and the providing of heating and utilities, thus providing as many additional beds as possible at the Herman Kiefer hospital for tubercular cases: Provided, That the appropriation made under the provisions of this section shall be studied by the joint legislative committee created by House Current Resolution No. 75 of the 1951 session of the legislature, and no distribution thereof shall be made unless and until such distribution is approved by the emergency appropriations commission created under Act No. 120 of the Public Acts of 1937, and released by the state administrative board, which authority is hereby vested in said commission. This appropriation is in recognition of an investigation made, which investigation called for emergency action by the legislature, and the appropriation herein provided for is made in recognition of the existing emergency and the providing of additional beds as soon as possible at the least cost to the people of the state of Michigan.

The common council of the city of Detroit is hereby empowered to accept such appropriation with the understanding that the city of Detroit shall be liable for the cost and responsibility of operation and maintenance of the Herman Kiefer hospital and that counties assigning patients to the Herman Kiefer hospital will be charged only the rates prevailing in similar institutions. In case of a dispute with respect to rates, the matter shall be determined by an arbitration board, whose decision shall be final and binding on the city of Detroit. The 3-man arbitration board shall be selected as follows: One member selected by the board of health of the city of Detroit, the second member selected by the common council of the city of Detroit, and the third member selected by the first 2 members.

The common council of the city of Detroit by accepting the grant, thus accepts the condition that the plans for the rehabilitation herein provided for shall first be approved by the state tuberculosis sanatorium commission and that as many additional hospital beds as possible be available at the Herman Kiefer hospital for tubercular patients from Wayne county and other counties of the state.

The appropriation made under the provisions of this section shall be paid on a voucher or vouchers signed by the chairman of the state tuberculosis sanatorium commission, and shall be released at such time or times and in such amount or amounts as shall be determined by the state administrative board. Any unexpended balance in such appropriation, after the purposes for which the same was made have been completed, shall revert to the hospital building fund of the state.

HISTORY: New 1951, 1st Ex., p. 615, Act 5, Imd. Eff. Aug. 23.

332.233 Appropriation; survey of needs of persons afflicted with tuberculosis.

Sec. 3. There is hereby appropriated from the general fund of the state the sum of \$5,000.00 to the state tuberculosis sanatorium commission for the purpose of conducting a study and survey of the needs of the state of Michigan, and in particular of southeastern Michigan, in connection with providing facilities for the care of persons afflicted with tuberculosis. Such study and survey shall take into consideration appropriations herein and heretofore made by the legislature with respect to the providing of hospital facilities for persons afflicted with tuberculosis. It shall be the duty of the state tuberculosis sanatorium commission to report its findings and recommendations to the 1952 session of the legislature on the convening thereof. The appropriation made under the provisions of this section shall be paid on a voucher or vouchers signed by the chairman of the state tuberculosis sanatorium commission and shall be expended in accordance with the accounting laws of the state.

HISTORY: New 1951, 1st Ex., p. 616, Act 5, Imd. Eff. Aug. 23.

332.234 Plan of capital improvements for establishing service area.

Sec. 4. Prior to the approval of any distribution under the provisions of Act No. 252 of the Public Acts of 1951, or under the provisions of this act, any county, counties, city or cities benefiting from any such distribution shall declare in detail a plan of capital improvements which will justify and enable said county, counties, city or cities to establish a "service area" of adjacent and other specified counties or cities, said plan to be approved by the state tuberculosis sanatorium commission. The sanatorium requesting funds shall give evidence and proof of its ability and willingness to provide tuberculosis control services to the area showing need, the responsible authority in said counties or cities to concur.

HISTORY: New 1951, 1st Ex., p. 616, Act 5, Imd. Eff. Aug. 23.

332.235 State aid for tuberculosis sanatoriums; cooperation.

Sec. 5. Sanatoriums receiving funds under this act or Act No. 252 of the Public Acts of 1951 shall cooperate fully with boards of supervisors and health agencies of the

county or city where the sanatorium is located, that is extending and improving tuberculosis control activities.

Sanatorium staffs, diagnostic services.

(a) Sanatorium staffs shall assist in improving tuberculosis diagnostic services for physicians and hospitals of the area through x-ray reading and reporting, and otherwise, whenever possible.

Free examination and follow-up treatment to discharged persons; reports.

(b) All persons known to have, or suspected of having, active tuberculosis and all persons discharged from a sanatorium still under follow-up treatment shall be provided examination and follow-up treatment, diagnostic x-rays, laboratory tests, observation, and other recommended measures as needed, without cost to the individual; and reports of these examinations shall be made available to the physician designated by the patient at the time of examination and to the responsible health agency or agencies.

Charge for field services.

(c) The charge of field services which are required of the sanatorium in a service area shall be chargeable to the county, counties, city or cities receiving them after mutual agreement on the costs involved, except that in no case shall the sanatorium charges exceed the average of charges for the same services among any 3 other sanatoriums, as selected by the state tuberculosis sanatorium commission, and their service counties.

Service area for state tuberculosis sanatoria.

(d) In order that no county or city in the state of Michigan shall be denied the services as stated in this section, all state tuberculosis sanatoria shall, for the purpose of providing said services, operate in their contiguous area in the same manner and function as the sanatorium qualifying and serving pursuant to this act.

Same; payment for field services.

(e) The county, counties, city or cities receiving this service from state institutions shall be chargeable on the same basis as stated in section 5, subdivision c of this act, except that the state tuberculosis commission, acting as trustee for the state institutions, shall collect such return for services and all moneys collected for same shall revert to the general fund of the state.

HISTORY: New 1951, 1st Ex., p. 616, Act 5, Imd. Eff. Aug. 23.

332.236 Change of legal residence of afflicted person; collection of funds.

Sec. 6. Proper treatment shall be provided without delay to the tuberculous individual who, while under the medical supervision of 1 sanatorium, changes residence to the service area of another within the state of Michigan, but such treatment shall be chargeable to the county of legal residence for a period of 1 year or until legal residence is established in the county designated in the service area providing treatment. There shall be no obligation upon the patient or those responsible for him to bring about collection of funds for treatment. Such charges are an obligation to be resolved between the state and county of legal residence and shall be divided according to the act designating the chargeability of tuberculosis sanatorium treatment.

HISTORY: New 1951, 1st Ex., p. 617, Act 5, Imd. Eff. Aug. 23.

332.237 Hospitalization; basis.

Sec. 7. Hospitalization of all patients in a designated service area shall be on the basis of isolation and treatment.

HISTORY: New 1951, 1st Ex., p. 617, Act 5, Imd. Eff. Aug. 23.

332.238 Petition for funds; contents.

Sec. 8. The county, counties, city or cities requesting funds under the terms of this act or Act No. 252 of the Public Acts of 1951 shall make such requests by petition in a bill to the emergency appropriations commission created under Act No. 120 of the Public Acts of 1937, said petition to contain the following information:

(a) Declaration of the number of beds to be constructed or number of additional beds to be made available through use of this requested grant.

(b) Preliminary plans and estimates of cost of proposed capital construction for which this grant is requested.

(c) Name of architect or architect firm submitting information contained in subdivision (b) of this section.

(d) Statement by responsible body of county, counties, city or cities requesting funds which shall describe and define a plan for building, equipping and maintaining proposed capital construction provided through the use of the sum of money requested under the terms of this act.

HISTORY: New 1951, 1st Ex., p. 617, Act 5, Imd. Eff. Aug. 23.

332.239 Misuse of funds; penalty.

Sec. 9. Any person or persons who shall use any of the moneys herein appropriated for purposes other than those specified in this act shall be guilty of a felony.

HISTORY: New 1951, 1st Ex., p. 617, Act 5, Imd. Eff. Aug. 23.

Act 139, 1952, p. 161; Imd. Eff. Apr. 24.

AN ACT to provide tuberculosis hospital facilities at the Herman Kiefer hospital located in the city of Detroit; to make a grant to the common council of the city of Detroit for the construction of an addition and necessary facilities, and to prescribe certain conditions with respect thereto; to make an appropriation therefor; and to provide for the disbursement thereof.

The People of the State of Michigan enact:

332.251 Herman Kiefer hospital; appropriation, purpose.

Sec. 1. There is hereby appropriated from the moneys received from the issuance of bonds, as authorized under the provisions of section 24 of article 10 of the state constitution, the sum of not to exceed \$2,500,000.00 to the common council of the city of Detroit for the purpose of the construction of a 250 bed addition and certain additional facilities to the present Herman Kiefer hospital for tuberculosis and contagious diseases, and for the purpose of purchasing necessary equipment to furnish the addition. This grant is appropriated in connection with the demands on the capacity of such hospital, due to the services extended by Herman Kiefer hospital to surrounding county and state-at-large patients, not maintaining approved tuberculosis sanatoria or hospitals for contagious diseases.

HISTORY: New 1952, p. 161, Act 139, Imd. Eff. Apr. 24.

332.252 Acceptance of grant; operation and maintenance rates, arbitration board.

Sec. 2. The common council of the city of Detroit is hereby empowered to accept such grant, with the understanding that the city of Detroit shall be liable for the cost and responsibility of operation and maintenance of the Herman Kiefer hospital and that counties assigning patients to the Herman Kiefer hospital will be charged only the rates prevailing in similar institutions. In case of a dispute with respect to rates, the matter shall be determined by an arbitration board, whose decision shall be final and

binding on the city of Detroit. The 3-man arbitration board shall be selected as follows: One member selected by the board of health of the city of Detroit, the second member selected by the common council of the city of Detroit, and the third member selected by the Wayne county board of supervisors.

HISTORY: New 1952, p. 161, Act 139, Imd. Eff. Apr. 24.

332.253 Approval by state tuberculosis sanatorium commission; tuberculosis control services.

Sec. 3. The common council of the city of Detroit, by accepting the grant thus accepts the conditions that the plans for the construction of the addition must first be approved by the state tuberculosis sanatorium commission, who shall approve a service area to include patients from Wayne county, Macomb county and other specified counties, and the common council of the city of Detroit shall give evidence and proof of its ability and willingness to provide tuberculosis control services to such area.

HISTORY: New 1952, p. 161, Act 139, Imd. Eff. Apr. 24.

332.254 Appropriation; payment and release.

Sec. 4. The appropriation made under the provisions of this act shall be paid on a voucher or vouchers signed by the secretary of the state tuberculosis sanatorium commission, and shall be released at such time or times and in such amount or amounts as shall be determined by the state administrative board. Any unexpended balance in such appropriation, after the purposes for which the same was made have been completed, shall revert to the general fund of the state.

HISTORY: New 1952, p. 161, Act 139, Imd. Eff. Apr. 24.

332.255 Appropriation; return.

Sec. 5. The amount appropriated in this act shall hereafter be returned by appropriations from the general fund of the state whenever such amount is needed to complete the \$60,000,000.00 mental health construction program.

HISTORY: New 1952, p. 161, Act 139, Imd. Eff. Apr. 24.

332.301-332.304 Repealed. 1969, p. 103, Act 56, Imd. Eff. Jul. 21.

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CHAPTER 335. HEALTH—DRUGS

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Act 146, 1909, p. 310; Eff. Sep. 1.

AN ACT to prohibit and prevent adulteration, misbranding, fraud and deception in the manufacture and sale of drugs and drug products in the state of Michigan, and to provide for the enforcement thereof.

The People of the State of Michigan enact:

335.1 Adulterated or misbranded drug; manufacture or distribution prohibited.

Sec. 1. No person shall within this state manufacture for sale, have in his possession with intent to sell, offer or expose for sale, or sell, any drug or drug product which is adulterated or misbranded within the meaning of this act.

HISTORY: CL 1915, 6521;—CL 1929, 6867;—CL 1948, 335.1.

ADULTERATION: See also Compilers' §§ 750.16 and 750.18.

335.2 Drug; definition.

Sec. 2. The term "drug" as used in this act shall include all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use, and any substance or mixture of substances or device intended to be used for the cure, mitigation or prevention of disease of either man or other animals.

HISTORY: Am. 1915, p. 254, Act 152, Eff. Aug. 24;—CL 1915, 6522;—CL 1929, 6868;—CL 1948, 335.2.

335.3 Adulterated; conditions; exception.

Sec. 3. An article shall be deemed to be adulterated within the meaning of this act:

First, If, when it is sold under or by a name recognized in the United States Pharmacopoeia or National Formulary, it differs from the standard of strength, quality or purity as determined by the test laid down in the United States Pharmacopoeia or National Formulary official at the time of investigation: Provided, That no drug defined in the United States Pharmacopoeia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the principal label of the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopoeia or National Formulary;

Second, If the strength or purity fall below the professed standard or quality under which it is sold.

HISTORY: Am. 1915, p. 254, Act 152, Eff. Aug. 24;—CL 1915, 6523;—CL 1929, 6869;—CL 1948, 335.3.

335.4 Misbranded; conditions; exceptions.

Sec. 4. An article shall be deemed to be misbranded within the meaning of this act:

First, If it is an imitation of, or offered for sale under the name of another article;

Second, If the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, antipyrin, opium, morphine, codeine, heroin, cocaine, alpha or beta eucaïne, chloroform, cannabis, indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substances, contained therein: Provided, That nothing herein shall be construed to apply to the dispensing of prescriptions written by regularly licensed practicing physicians, veterinary surgeons and dentists, and kept on file by the dispensing pharmacist, nor to such drugs as are recognized in the United States Pharmacopoeia and National Formulary, and which are sold under the name by which they are so recognized;

Third, If the package containing it or its label shall bear any statement, design or device regarding the ingredients, or the substances contained therein, which statement, design or device shall be false or misleading in any particular, and to any drug or drug product which is falsely branded as to the state, territory or country in which it is manufactured or produced;

Fourth, If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such articles or any of the ingredients or substances contained therein, which is false and fraudulent.

HISTORY: Am. 1915, p. 254, Act 152, Eff. Aug. 24;—CL 1915, 6524;—CL 1929, 6870;—CL 1948, 335.4.

BRANDING WOOD ALCOHOL: See Compilers' § 750.434.

335.5 Board of pharmacy; regulatory powers.

Sec. 5. The board of pharmacy shall make such rules and regulations as may be necessary for the enforcement of this act.

HISTORY: CL 1915, 6525;—Am. 1925, p. 57, Act 48, Eff. Aug. 27;—CL 1929, 6871;—CL 1948, 335.5.

335.6 Board of pharmacy; drug inspectors, appointment, duties, investigation, right of entry, taking of sample, analysis, prosecution of offenders, other inspectors.

Sec. 6. It shall be the duty of the board of pharmacy to investigate all complaints of violations of this act and take all steps necessary to its enforcement; it shall appoint drug inspectors who shall be registered pharmacists. Such inspectors shall hold office at the pleasure of said board of pharmacy and until others are appointed; and the said board of pharmacy or drug inspectors or any of them shall in a lawful manner inquire into the drug products which are manufactured or sold or exposed or offered for sale in this state, and may in a lawful manner procure samples of the same for analysis; and the said board of pharmacy, or said drug inspectors or any of them, shall have power to enter into any factory, store, salesroom, drug store or laboratory or place where he has reason to believe drug products are made, stored, sold or offered for sale, and open any cask, jar, bottle or package containing, or supposed to contain, any drug product, and take therefrom samples for analysis. The person making such inspection shall take such sample of such article or product in the presence of at least 1 witness, and he shall, in the presence of said witness, mark or seal such sample and shall tender at the time of taking to the manufacturer or vendor of such product, or to the person having the custody of the same, the value thereof, and a statement in writing for the taking of such sample. The said board of pharmacy shall request the state analyst to make due and careful examination of such sample and report to it the result of such analysis, and if the same is found to be adulterated or misbranded within the provisions of this act it shall be the duty of said board of pharmacy, or any drug inspector assigned to such duty, to make complaint against the manufacturer or vendor thereof in the proper county and furnish all evidence thereof to obtain a conviction of the offense charged, and in no case shall any party connected with the board of pharmacy making such

complaint be required to furnish security for costs in any action instituted by said party or parties having for their object the enforcement of this act: Provided, Nothing herein contained shall be held to prohibit or prevent other inspectors or chemists connected with the board of pharmacy from performing any of the duties herein imposed upon the said drug inspectors or other parties, whenever in the opinion of said board of pharmacy the work of its office can be expedited thereby.

HISTORY: CL 1915, 6526;—Am. 1925, p. 57, Act 48, Eff. Aug. 27;—CL 1929, 6672;—CL 1948, 335.6.

335.7 Liability for agent or employee; protection to dealer, notice of violation by board of pharmacy to manufacturer and dealer.

Sec. 7. In construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association within the scope of his employment or office, shall, in every case, be also deemed to be the act, omission or failure of such corporation, company, society or association, as well as that of the person: Provided, That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty in accordance with the provisions of the national food and drugs act, June thirtieth, 1906, or a guaranty signed by the wholesaler, jobber, manufacturer or other parties residing in this state, from whom he purchased such article, to the effect that the same is not adulterated nor misbranded within the meaning of this act. Said guaranty to afford protection shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case, if such guaranty was given in this state, said party or parties shall be amenable to the prosecution, fines and other penalties which would attach in due course to the dealer under the provisions of this act: Provided, however, That said guaranty shall not afford protection to the vendor in any case if said product is adulterated or misbranded within the meaning of this act, and if said vendor shall have been previously notified in writing by the board of pharmacy to that effect: Provided further, That in no case shall the board of pharmacy serve such notice upon any vendor of any such product until said board of pharmacy shall have notified the manufacturer or jobber of any such product of the findings of the state analyst with reference to such product; such notification to such manufacturer or jobber shall be in writing and shall be mailed 10 days previous to any notice sent to any vendor in accordance with this section.

HISTORY: CL 1915, 6527;—Am. 1925, p. 58, Act 48, Eff. Aug. 27;—CL 1929, 6673;—CL 1948, 335.7.

335.8 Scope of act; limitation.

Sec. 8. Nothing in this act shall affect any drug product manufactured in this state for export to any foreign country or for sale in any other state, when such drug product is not adulterated or misbranded within the meaning of the laws of such foreign country or state; but if said article shall be in fact sold or offered for sale for use or consumption within this state, then such article shall not be exempt from the operation of any of the provisions of this act.

HISTORY: CL 1915, 6528;—CL 1929, 6674;—CL 1948, 335.8.

335.9 Duty of prosecuting attorney.

Sec. 9. It shall be the duty of each prosecuting attorney, when called upon by the said board of pharmacy, or by any person by it authorized as aforesaid, to render any legal assistance in its power in proceedings under the provisions of this act or any subsequent act relative to the adulteration or misbranding of drug products.

HISTORY: CL 1915, 6529;—Am. 1925, p. 59, Act 48, Eff. Aug. 27;—CL 1929, 6675;—CL 1948, 335.9.

335.10 Violation of act; penalty.

Sec. 10. Whoever shall do any of the acts or things prohibited, or wilfully neglect or refuse to do any of the acts or things enjoined by this act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and on conviction thereof

shall be punished by a fine of not less than 25 nor more than 500 dollars, or by imprisonment in the county jail for a period of not more than 90 days, or by both fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 6530;—CL 1929, 6876;—CL 1948, 335.10.

Sec. 11. (This was an appropriation section.)

HISTORY: CL 1915, 6531;—CL 1929, 6877;—Rep. 1933, p. 5, Act 4, Imd. Eff. Feb. 13.

Act 343, 1937, p. 808; Imd. Eff. Jul. 28.

AN ACT to safeguard and regulate the legitimate use of and traffic in narcotic drugs and exempt narcotic drugs; to suppress the illegitimate use, possession, control, sale, manufacture, production, disposition, administering, compounding, dispensing, prescribing and traffic in the same; to provide a penalty for any violation of the provisions of this act; and to repeal all acts and parts of acts in anywise contravening any of the provisions of this act. Am. 1949, p. 188, Act 178, Imd. Eff. May 27.

The People of the State of Michigan enact:

335.51 Uniform narcotic drug act; definitions.

Sec. 1. The following words and phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

(1) "Persons" includes any corporation, association, co-partnership, or one or more individuals.

(2) "Physician" means a licensed practitioner of medicine or osteopathy as defined by law in this state and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by law to practice dentistry in this state.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this state.

(8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the state director of drugs and drug stores as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(9) "Laboratory" means a laboratory approved by the state director of drugs and drug stores as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(10) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) The term "narcotic," "narcotics," or "narcotic drugs" means opium, or coca leaves, or cannabis, or any compound, manufacture, salt, derivative, or preparation thereof, including "exempt preparations" as specified in section 8, and/or "synthetic narcotic drugs" which the bureau of narcotics of the United States treasury department has designated as "narcotics."

(14) "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

(15) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of internal revenue under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the state director of drugs and drug stores.

(16) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(17) "Registry number" means the number assigned to each person registered under the federal narcotic laws.

HISTORY: Am. 1939, p. 486, Act 263, Eff. Sept. 29;—CL 1948, 335.51;—Am. 1949, p. 188, Act 178, Imd. Eff. May 27.

This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws, and recommended by such commissioners for passage by the several states. It has been adopted (those marked * being modified versions) by the legislatures of the following states: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, *Idaho, Illinois, Indiana, Iowa, *Kentucky, Louisiana, Maine, Maryland, *Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, *New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming.

CITED IN OTHER SECTIONS: Sections 335.51 to 335.78 are cited in §§ 335.152, 335.153, 335.153a, and 335.154.

335.52 Narcotic drugs; unlawful manufacture, possession or sale.

Sec. 2. It shall be unlawful for any person duly licensed under the provisions of this act to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this act.

HISTORY: CL 1948, 335.52;—Am. 1952, p. 150, Act 132, Eff. Sep. 18.

335.53 Narcotic drug licenses; application, filing, fee, term, renewal.

Sec. 3. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, and no person shall sell, prescribe, administer or dispense any narcotic drugs without having first obtained a license so to do from the state director of drugs and drug stores. Application for such license shall be in writing and shall be accompanied by the payment to said director of drugs and drug stores, the sum of \$2.00 as a license fee. Such licenses shall be valid for a period of 1 year commencing on July first and ending on the thirtieth day of the next June and each license shall contain the name of the licensee and the address of the place at which said business or profession will be conducted. All licenses shall be renewable annually on or before July first of each fiscal year.

HISTORY: CL 1948, 335.53;—Am. 1956, p. 137, Act 52, Eff. Aug. 11.

335.53a Narcotic drug licenses; withholding suspension or revocation, grounds.

Sec. 3a. The state board of pharmacy may withhold, suspend or revoke any license issued under the authority of this act, after giving reasonable notice and an opportunity to be heard, if the applicant or licensee:

- (a) Has committed acts of gross immorality.
- (b) Habitually becomes intoxicated.
- (c) Habitually uses narcotics or habit forming drugs.
- (d) Is mentally ill or mentally incompetent.
- (e) Exhibits any abnormal physical or mental condition which threatens the safety of persons to whom such applicant or licensee might sell or dispense narcotic drugs.
- (f) Violates any of the provisions of this act.
- (g) Has been convicted in any of the courts of this state, the United States of America or any other state of a felony or any crime involving moral turpitude.

HISTORY: Add. 1908, p. 414, Act 281, Imd. Eff. Jul. 12;—Am. 1908, p. 141, Act 87, Eff. Nov. 15.

335.54 Narcotic drug licenses; requirements for issuance.

Sec. 4. No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the state director of drugs and drug stores:

- (a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.
- (b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.
- (c) That the applicant is an apothecary or that he employs an apothecary to assume charge of the narcotic drugs and preparations in his possession or under his control.

No license shall be granted to any person who has within 5 years been convicted of a wilful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict.

HISTORY: CL 1948, 335.54.

335.54a Certificate as to license; evidence.

Sec. 4a. At the trial of any civil or criminal cause, or at the hearing of any matter by an administrative tribunal or a hearing officer thereof, in this state, a certificate stating that any person named therein is or is not licensed pursuant to the provisions of sections 3 and 4 of this act for the period, or at the time stated therein and certified and signed by the director of drugs and drug stores and bearing the seal of the state board of pharmacy, shall be received in evidence if material to the determination of the cause, and it shall be deemed to be prima facie proof of the facts stated therein.

HISTORY: Add. 1900, p. 27, Act 32, Eff. Aug. 17.

335.55 Persons to whom sales may be made by a licensed manufacturer or wholesaler upon written order.

Sec. 5. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

- (a) To a manufacturer, wholesaler, or apothecary.
- (b) To a physician, dentist, or veterinarian.
- (c) To a person in charge of a hospital, but only for use by or in that hospital.
- (d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

- (a) On a special written order accompanied by a certificate of exemption, as required by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft, upon which no physician is regularly employed, or to a physician or surgeon duly licensed in some state, territory or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States army, navy or public health service employed upon such ship or aircraft for the actual medical needs of persons on board such ship or aircraft, when not in port: Provided, That such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft or to the physician, surgeon or retired commissioned medical officer of the United States army, navy or public health service employed upon such ship or aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service.

(c) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

(3) An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of 2 years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms.

(4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, or a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or a physician or surgeon duly licensed in some state, territory or District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States army, navy or public health service employed upon such ship or aircraft who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this act.

HISTORY: CL 1948, 335.55.

335.56 Sales by apothecary; prescriptions.

Sec. 6. (1) (a) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of 5 years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. The prescription shall not be refilled.

(b) In lieu of a written prescription for such narcotic drugs which the Michigan state board of pharmacy, in its discretion (after considering such regulations as may be is-

sued by the secretary of the treasury of the United States for the purpose of designating narcotic drugs which may be sold or dispensed upon oral prescriptions under federal law), shall by regulation designate to possess relatively little or no addiction liability, the sale or dispensing may be made by an apothecary upon oral prescription of a duly registered physician, dentist, or veterinarian, which oral prescription is reduced promptly to writing, and the writing filed and preserved by the apothecary for a period of 5 years from the date on which such prescription is filled in such a way as to be readily accessible to inspection by any public officer or employee engaged in the enforcement of this act. In issuing an oral prescription, the prescriber shall furnish the apothecary with the same information as is required by law or regulation in case of a written prescription for narcotic drugs except for the written signature of the prescriber, and the apothecary who fills such prescription shall be required to inscribe such information, together with the date of filling and his own signature, on the written record of the prescription made, filed and preserved by him. The prescription shall not be refilled.

(c) If the board of pharmacy shall subsequently determine that a narcotic drug, to which the oral prescription procedure described in the preceding paragraph has been made applicable, possesses a degree of drug addiction liability that, in its opinion, results in abusive use of such procedure, it shall by regulation publish such determination. The determination shall be final, and after the expiration of a period of 6 months from the date of its publication, the oral prescription procedure described in the preceding paragraph shall cease to apply to the particular narcotic drug which is the subject of the determination.

Same; sales to manufacturer, wholesaler, apothecary.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

Same; sales to physician, dentist, veterinarian.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding 1 ounce at any 1 time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than 20% of the complete solution, to be used for medical purposes.

HISTORY: CL 1948, 335.56;—Am. 1955, p. 293, Act 193, Eff. Oct. 14.

335.57 Physician or dentist; use allowed in professional practice.

Sec. 7. (1) A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

(2) A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

(3) Any person who has obtained from a physician, dentist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, or veterinarian, shall return to such physician, dentist, or veterinarian any unused portion of such drug, when it is no longer required by the patient.

HISTORY: CL 1948, 335.57.

335.58 Narcotic drugs; exemptions from act.

Sec. 8. (1) Except as specifically provided otherwise in this act, the following preparations are exempt from the provisions of this act regulating the prescribing, administering, dispensing and selling at retail of narcotic drugs, if they contain, in addition to any narcotic drugs, some drug conferring upon them medicinal qualities other than

those possessed by the narcotic drug alone and if they are prescribed, administered, dispensed and sold in good faith as medicines and not for the purpose of evading the provisions of this act:

(a) Any medicinal preparation that contains in 1 fluid ounce, or if a solid or semisolid preparation, in 1 avoirdupois ounce, no more than 1 of the following:

(i) One-fourth of a grain or less of morphine or of any salt of morphine.

(ii) One grain or less of codeine or of any salt of codeine.

(b) Any liniment, ointment or other preparation, which:

(i) Is suitable for external use only; and

(ii) Contains narcotic drugs in such combination as prevents their being readily extracted; and

(iii) Contains no cocaine in any quantity or combination.

License required.

(2) No person may prescribe, administer, dispense or sell at retail any exempt narcotic preparation covered by subsection (1) without first having obtained a license as required by section 3.

Maximum amount to be sold in 48-hour period for use of 1 person.

(3) Except upon a prescription sufficient under section 6, no person may dispense or sell at retail more than a total of 120 milliliters (4 fluid ounces) of exempt narcotic liquid preparations covered by subsection (1) within any 48-hour period to or for the use of any one person.

Maximum purchases within a 48-hour period.

(4) Except upon a prescription sufficient under section 6, no person not licensed as required by section 3 may purchase within any 48-hour period, or possess or have under his control at any one time, more than a total of 120 milliliters (4 fluid ounces) of exempt narcotic liquid preparations covered by subsection (1).

Labeling container; contents.

(5) Whenever any person dispenses or sells any exempt narcotic liquid preparation covered by subsection (1), he shall affix to the container in which the preparation is sold or dispensed a label showing the date, his own name, and the name and address of the place of practice in which the preparation is sold or dispensed.

Unlawful public promotion.

(6) No person may promote to the public in any manner any exempt narcotic preparation covered by subsection (1).

Nonlimitation on prescribed drugs.

(7) Except as provided in subsection (3) of this section, nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed or sold to any person or for the use of any person or animal, when it is prescribed, administered, dispensed or sold in compliance with the general provisions of this act.

Paregoric, oral prescription reduced to writing.

In lieu of a written prescription camphorated opium tincture (paregoric) may be sold by an apothecary upon oral prescription of a duly registered physician, dentist or veterinarian if the oral prescription is reduced promptly to writing and the writing is filed and preserved in the manner described in subsection (1) (b) of section 6. The prescription shall not be refilled.

HISTORY: Am. 1939, p. 487, Act 263, Eff. Sep. 29;—CL 1948, 335.58;—Am. 1949, p. 189, Act 178, Imd. Eff. May 27;—Am. 1964 p. 398, Act 195, Eff. Aug. 28;—Am. 1966, p. 138, Act 118, Eff. Mar. 10, 1967.

335.59 Narcotic drugs; records of use; exceptions.

Sec. 9. (1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

No record need be kept of narcotic drugs administered, dispensed or professionally used in the treatment of any one patient, when the amount administered, dispensed or professionally used for that purpose does not exceed in any 48 consecutive hours, (a) 1/2 of a grain of morphine or of any of its salts, or (b) 2 grains of codeine or of any of its salts.

Manufacturers and wholesalers, records.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

Apothecaries, records.

(e) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

Record of purchases and sales.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 8 of this act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise in accordance with the provisions of subsection 5 of this section.

Records, form, contents, keeping.

(5) The form of records shall be prescribed by the state director of drugs and drug-stores. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves and the proportion of resin contained in or producible from the plant *cannabis sativa* L., received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of 2 years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction or theft.

HISTORY: Am. 1939, p. 488, Act 263, Eff. Sep. 29;—CL 1948, 335.59;—Am. 1959, p. 261, Act 187, Eff. Mar. 19, 1960;—Am. 1964, p. 266, Act 195, Eff. Aug. 28.

335.60 Label on container; contents.

Sec. 10. (1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this act, shall alter, deface, or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a written or oral prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was issued; and such directions as may be contained in the prescription. No person shall alter, deface, or remove any label so affixed.

HISTORY: CL 1948, 335.60;—Am. 1955, p. 294, Act 193, Eff. Oct. 14.

335.61 Lawful possession only in container delivered.

Sec. 11. A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of section 5 of this act, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

HISTORY: CL 1948, 335.61.

335.62 Container restrictions; exceptions.

Sec. 12. The provisions of this act restricting the possession and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

HISTORY: CL 1948, 335.62.

335.63 Illegal keeping or sale; place deemed a common nuisance.

Sec. 13. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

HISTORY: CL 1948, 335.63.

335.64 Forfeiture of drugs coming into possession of a peace officer; disposal.

Sec. 14. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place

where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them.

(b) Upon written application by the state commissioner of health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said state commissioner of health, for distribution or destruction, as hereinafter provided.

(c) Upon application by any hospital within this state, not operated for private gain, the state commissioner of health may in his discretion deliver any narcotic drugs that have come into his custody by authority of this section to the applicant for medicinal use. The state commissioner of health may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same.

(d) The state commissioner of health shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws.

HISTORY: CL 1948, 335.64.

CITED IN OTHER SECTIONS: The above section is cited in § 335.155.

335.65 Violation of act; judgment and sentence; copies filed with board or officer issuing license, reinstatement.

Sec. 15. On the conviction of any person of the violation of any provision of this act, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, the court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration.

HISTORY: CL 1948, 335.65.

335.66 Inspections; persons eligible, knowledge of wrong doing.

Sec. 16. Prescriptions, orders, and records, required by this act, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

HISTORY: CL 1948, 335.66.

335.67 Unlawful acts.

Sec. 17. (1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

Information not privileged.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

False statements.

(3) No person shall wilfully make a false statement in any prescription, order, report or record, required by this act.

False personation.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

False or forged prescription or order.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

False or forged label.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

Application of section.

(8) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 8, in the same way as they apply to transactions under all other sections.

HISTORY: CL 1948, 335.67;—Am. 1959, p. 262, Act 187, Eff. Mar. 19, 1960;—Am. 1966, p. 137, Act 117, Eff. Mar. 10, 1967.

335.68 Enforcement of act; relative to drawing complaint, information, burden of proof.

Sec. 18. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

HISTORY: CL 1948, 335.68.

335.69 Enforcement of act; cooperation with federal agencies and all other states.

Sec. 19. It is hereby made the duty of the Michigan board of pharmacy, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state and of all other states, relating to narcotic drugs.

HISTORY: CL 1948, 335.69;—Am. 1949, p. 189, Act 178, Imd. Eff. May 27.

335.70 Violation of act; penalties.

Sec. 20. Any person who violates any provision of this act except section 8, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000.00 or by both such fine and imprisonment. Any person who violates section 8 shall be guilty of a misdemeanor.

HISTORY: CL 1948, 335.70;—Am. 1951, p. 223, Act 175, Eff. Sep. 28;—Am. 1952, p. 150, Act 132, Eff. Sep. 18—Am. 1968, p. 140, Act 86, Eff. Aug. 1.

335.71 Double indemnity prosecution prohibited.

Sec. 21. No person shall be prosecuted for a violation of any provision of this act if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which, it is alleged, constitutes a violation of this act.

HISTORY: CL 1948, 335.71.

335.72 Warrant; issuance, complaint or affidavit, search and seizure, disposal.

Sec. 22. If any person makes a sworn complaint or affidavit before any magistrate authorized to issue warrants in criminal cases that any drugs, derivatives, compounds or preparations mentioned in section 1 of this act are being possessed, sold, dispensed, distributed or given away or kept for the purpose of being possessed, sold, dispensed, distributed or given away, contrary to law, or that such drugs, derivatives, compounds or preparations are stored or concealed temporarily or otherwise in any depot, freight house, express office or in any other building or place or in any vehicle or conveyance with the apparent intention of being delivered for the purpose of being possessed, sold, dispensed, distributed or given away, contrary to the provisions of this act or that the complainant or affiant believes and has good cause to believe that such drugs, derivatives, compounds or preparations are concealed in any barn, building, place, vehicle or conveyance, such magistrate, if he be satisfied there is reasonable cause for such belief, shall immediately issue his warrant to any officer whom the complainant may designate having power to serve criminal process, commanding him to search the premises described and designated in such complaint and warrant and if any drugs, derivatives, compounds or preparations are there found, to seize the same, together with bottles, cases, vessels or packages in which they are contained and all the implements, furniture, vehicles and conveyances used and kept for such illegal possessing, storing, selling, dispensing, distributing or giving away of such drugs, derivatives, compounds or preparations and then safely keep and make immediate return on said warrant. Such drugs and other articles seized, unless the same be owned by innocent third parties, shall be held subject to the order of such court or magistrate to be used as evidence in the prosecution for the violation of this act.

HISTORY: CL 1948, 335.72.

Sec. 23. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

335.74 Interpretation of act.

Sec. 24. This act shall be so interpreted and construed as to effectuate its general purpose, to make uniform the laws of those states which enact it.

HISTORY: CL 1948, 335.74.

335.75 Receipts credited to general fund.

Sec. 25. All funds collected under this act shall be deposited with the state treasurer and credited to the general fund.

HISTORY: CL 1948, 335.75.

Sec. 26. (This was a repeal section.)

HISTORY: Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 172, 1931.

335.77 Uniform narcotic drug act; short title.

Sec. 27. This act may be cited as the uniform narcotic drug act.

HISTORY: CL 1948, 335.77.

335.78 Person; definition.

Sec. 28. As used in this act the term "person" includes individual, partnership, corporation and association, and words in the singular shall include the plural and vice versa.

HISTORY: Add. 1949, p. 189, Act 178, Imd. Eff. May 27.

Act 204, 1943, p. 333; Eff. Jul. 30.

AN ACT to regulate the sale and possession of certain drugs; and to prescribe a penalty for the violation of the provisions of this act.

The People of the State of Michigan enact:

335.101 Sale and possession of certain drugs; conditions, records.

Sec. 1. It shall be unlawful for any person, firm, partnership, association or corporation to sell, offer for sale, barter or otherwise dispose of, or be in possession of any of the following drugs: barbituric acid and any of its derivatives, chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their sales and derivatives, except under the following conditions:

(a) Manufacturers, wholesalers and retailers of drugs may sell, offer for sale, barter or otherwise dispose of, or be in possession of for sale, to licensed physicians, dentists, veterinarians, druggists, pharmacists, police laboratories and public health laboratories or hospitals, any of the following dangerous drugs: barbituric acid and any of its derivatives, chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their salts and derivatives. A record of all such drugs, and their disposition, shall be kept, by the manufacturers, wholesalers or retailers, which record shall be open to inspection by any officer of any organized police force of this state or any prosecuting attorney or his investigators and by inspectors or investigators of the department of licensing and regulation.

(b) Licensed physicians, dentists and veterinarians may dispense or prescribe barbituric acid and any of its derivatives, chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their salts and derivatives. A record of all such dispensations, except administration to a patient upon whom such physician, dentist or veterinarian shall personally attend, shall be kept showing the date when issued and bearing the name and address of the patient for whom, or the owner of the animal for which the drug is dispensed, which record shall be open to inspection by any officer of any organized police force of this state or any prosecuting attorney or his investigators and by inspectors or investigators of the department of licensing and regulation.

(c) Druggists and pharmacists shall be prohibited from selling, giving away, bartering or otherwise disposing of barbituric acid and any of its derivatives, chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their salts and derivatives, except on prescription of a licensed physician, dentist or veterinarian, and except as such sale or possession is authorized under subdivision (a) of this section. All druggists and pharmacists shall keep an accurate record of all disposals, which record shall be open to inspection by any officer of any organized police force of this state or any prosecuting attorney or his investigators and by inspectors or investigators of the department of licensing and regulation.

(d) All hospitals shall keep a record of all dispositions of barbituric acid and any of its derivatives, chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their salts and derivatives, which are not actually consumed on the premises by the patients, which record shall be open to inspection by any officer of any organized police force of this state or any prosecuting attorney or his investigators and by inspectors or investigators of the department of licensing and regulation.

HISTORY: CL 1948, 335.101;—Am. 1961, p. 28, Act 28, Eff. Sep. 8;—Am. 1970, p. 579, Act 204, Imd. Eff. Aug. 25.

335.102 Possession of certain drugs deemed unlawful; exceptions.

Sec. 2. It shall be unlawful for any person, firm, partnership, association or corporation, other than a drug manufacturer or wholesaler, licensed physician, licensed dentist, licensed veterinarian, licensed druggist or pharmacist, hospital, or police or public health laboratory, to have in possession any barbituric acid and any of its derivatives,

chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their salts and derivatives, unless the same are contained in the original container, as dispensed to them.

HISTORY: CL 1948, 335.102;—Am. 1961, p. 29, Act 28, Eff. Sep. 8.

335.103 Dispensing container; marking.

Sec. 3. It shall be the duty of every licensed physician, dentist, veterinarian, druggist, pharmacist or hospital, when dispensing any barbituric acid and any of its derivatives, chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their salts and derivatives, to mark on the dispensing container, the name of the patient, the date, and the name of the person dispensing the same.

HISTORY: CL 1948, 335.103;—Am. 1961, p. 29, Act 28, Eff. Sep. 8.

335.104 Preservation of records.

Sec. 4. All records required to be kept under the provisions of this act shall be preserved for a period of 2 years.

HISTORY: CL 1948, 335.104.

335.105 Refilling of prescriptions; conditions.

Sec. 5. No prescription for any habit forming drug issued before or after the effective date of this section may be filled or refilled more than 6 months after the date on which the prescription was issued and no such prescription which is authorized to be refilled may be refilled more than 5 times, except that any prescription for such a drug after 6 months after the date of issue or after being refilled 5 times may be renewed by the practitioner issuing it either in writing or orally if promptly reduced to writing and filed by the pharmacist filling it.

HISTORY: Am. 1945, p. 126, Act 123, Eff. Sep. 6;—CL 1948, 335.105;—Am. 1968, p. 157, Act 103, Imd. Eff. Aug. 1.

335.105a Unlawfully obtaining certain drugs.

Sec. 5a. (1) No person shall obtain or attempt to obtain any barbituric acid and any of its derivatives, chloral hydrate, paraldehyde, or amphetamine and methamphetamine and their salts and derivatives, or procure or attempt to procure the administration of any of the aforementioned drugs, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of false name or the giving of a false address; or (e) by alteration or erasure of any label on any package, phial or other container presented for the purpose of obtaining drugs. (2) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this act. (3) No person shall, for the purpose of obtaining any of the aforementioned drugs, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or other authorized person. (4) No person shall make or utter any false or forged label to a package containing any of the aforementioned drugs. (5) No person shall make or utter any false or forged prescription or false or forged written order.

HISTORY: Add. 1945, p. 126, Act 123, Eff. Sep. 6;—CL 1948, 335.105a;—Am. 1961, p. 29, Act 28, Eff. Sep. 8;—Am. 1963, p. 230, Act 168, Eff. Sep. 6.

335.106 Violation of act; misdemeanor; sale of hallucinogenic drugs, felony.

Sec. 6. Any person who violates any of the provisions of this act is guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than \$500.00, or imprisonment in the county jail not more than 1 year, or both such fine and imprisonment in the discretion of the court. Any person, firm, partnership, association or corporation who sells, offers for sale, barter or otherwise disposes of or is in possession of d-lysergic acid diethylamide, peyote, mescaline and its salts, dimethyltryptamine, silocyn, or psilocybin or any salt or derivative of any of the aforementioned substances or

any other drug possessing similar hallucinogenic properties is guilty of a felony unless in accordance with the federal food, drug and cosmetics act.

HISTORY: CL 1948, 335.106;—Am. 1966, p. 242, Act 215, Eff. Sep. 1;—Am. 1966, p. 188, Act 126, Eff. Sep. 1.

335.107 State pharmacy board; administration of act.

Sec. 7. The state board of pharmacy is hereby authorized to administer the provisions of this act. The state board of pharmacy is authorized and empowered to promulgate such rules and regulations, not inconsistent with the provisions of this act, as it deems necessary to carry out the provisions of this act.

HISTORY: Add. 1949, p. 170, Act 160, Eff. Sep. 23.

Original section 7 of Act 204 of 1943, p. 333, was a severing clause section and was repealed by Act 267 of 1945.

Act 266, 1952, p. 448; Imd. Eff. May 7.

AN ACT to suppress the illegitimate use, possession, control, sale, manufacture, production, disposition, administration, compounding, dispensing, prescribing and traffic in narcotic drugs; to prescribe penalties for violation of the provisions of this act; and to provide for the confiscation of certain properties.

The People of the State of Michigan enact:

335.151 Narcotic drugs; illegitimate use, possession and traffic, definitions.

Sec. 1. The following words and phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, copartnership, or 1 or more individuals.

(2) "Narcotics" includes the following:

(a) Cocaine, and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substance from which cocaine may be synthesized or made.

(b) Opium, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but not apomorphine or any of its salts.

(c) Morphine, and any compound, manufacture, salt, derivative, mixture or preparation thereof.

(d) Codeine.

(e) Heroin.

(f) All parts of the plant *Cannabis Sativa*. The term "Cannabis" as used in this act shall include all parts of the plant *Cannabis Sativa* L., whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from seeds of such plant, other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, except the resin extracted therefrom, fibre, oil, or cake, or the sterilized seed of such plant which is incapable of germination. This definition is to include marihuana and all allied plants of the cannabis family which are habit forming.

(g) Isonipecaïne. The word "Isonipecaïne", as used in this act, shall mean any substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated.

(h) Anileridine. The term "Anileridine", as used in this act, shall mean any substance identified chemically as 1-(4-aminophenethyl)-4-phenylisonipecotinic acid ethyl ester or any salt thereof by whatever name designated.

(i) Any substance or synthetic narcotic drug which the bureau of narcotics of the United States Treasury Department has heretofore designated as "narcotic".

HISTORY: New 1952, p. 448, Act 266, Imd. Eff. May 7;—Am. 1957, p. 68, Act 63, Imd. Eff. May 21;—Am. 1961, p. 339, Act 206, Imd. Eff. Jun. 6.

335.152 Sale by unlicensed person; penalty.

Sec. 2. Any person not having a license under the provisions of Act No. 343 of the Public Acts of 1937, as amended, being sections 335.51 to 335.78, inclusive, of the Compiled Laws of 1948, who shall sell, manufacture, produce, administer, dispense or prescribe any narcotic drug shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for a term of not less than 20 years nor more than life.

HISTORY: New 1952, p. 449, Act 266, Imd. Eff. May 7.

335.153 Unlawful possession; penalty.

Sec. 3. Any person not having a license as required under the provisions of Act No. 343 of the Public Acts of 1937, as amended, being sections 335.51 to 335.78, inclusive, of the Compiled Laws of 1948, who shall possess or have under his or her control any narcotic drug shall be deemed guilty of a felony, and upon conviction thereof, for the first offense shall be punished by imprisonment for not more than 10 years, and a fine of not more than \$5,000.00. In the discretion of the court the sentence for any such imprisonment or fine may be suspended, or the person convicted may be placed on probation for a term of years within the limits for which a sentence of imprisonment may be given. Any person convicted of violating the provisions of this section who shall previously have been convicted of any violation of the laws of the United States or of Michigan relating to the possession, sale, manufacture, production, administering, dispensing or prescribing of any narcotic drugs shall be punished by imprisonment for not more than 20 years and a fine of not more than \$5,000.00. Any person convicted of violating the provisions of this act who shall previously have been convicted 2 or more times of violating the laws of the United States or of Michigan relating to the possession, sale, manufacture, production, administering, dispensing or prescribing of any narcotic drugs shall be punished by imprisonment for not less than 20 years or more than 40 years and a fine of not more than \$5,000.00.

The offenses set forth in this section and in section 4 shall be deemed to be included within every offense charged as a violation of section 2 of this act.

HISTORY: New 1952, p. 449, Act 266, Imd. Eff. May 7.

335.153a Fraudulent procurement; felony.

Sec. 3a. Any person who shall obtain or attempt to obtain any narcotic drugs, or who procures or attempts to procure the administration of any narcotic drugs, from a person duly licensed under the provisions of Act No. 343 of the Public Acts of 1937, as amended, being sections 335.51 to 335.78 of the Compiled Laws of 1948, by fraud, deceit, misrepresentation or subterfuge, or by the forgery or alteration of a prescription or written order, or by the concealment of a material fact, or by the use of a false name or the giving of a false address, or who shall wilfully and knowingly make a false statement in any prescription, report, record or order, or who shall, for the purpose of obtaining a narcotic drug, falsely assume the title of or represent himself to be a producer, manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or practitioner, or make or utter any false or forged order or prescription, or who shall affix any false or forged label to a package or receptacle containing narcotic drugs, shall be guilty of a felony.

HISTORY: Add. 1955, p. 299, Act 196, Imd. Eff. Jun. 17;—Am. 1958, p. 200, Act 176, Eff. Sep. 13.

335.154 Addicts; penalty; unlawful use, definition.

Sec. 4. Any person who shall unlawfully use, or who shall be addicted to the unlawful use of, any narcotic drug or drugs shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not more than 1 year or by a fine of not more than \$2,000.00, or by both such fine and imprisonment. It is the intention of the legislature that anyone sent to any institution under the provisions of this section shall receive psychiatric and medical treatment and care in an attempt to cure the narcotic addiction.

The term "unlawful use" as used in this section shall be deemed the use of any narcotic drug or drugs except in accordance with prescriptions by licensed persons as provided for in Act No. 343 of the Public Acts of 1937, as amended, being sections 335.51 to 335.78, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1952, p. 449, Act 266, Imd. Eff. May 7.

335.155 Narcotic drugs; forfeiture, disposal.

Sec. 5. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into custody of a peace officer, shall be forfeited and disposed of as provided in section 14 of Act No. 343 of the Public Acts of 1937, being section 335.64 of the Compiled Laws of 1948.

HISTORY: New 1952, p. 449, Act 266, Imd. Eff. May 7.

335.156 Illegal transportation; vehicle seizure, liens.

Sec. 6. Any vehicle, vessel, airplane or other means of transportation, knowingly used in connection with the illegal possession of narcotic drugs, which shall have come into custody of a peace officer, shall be forfeited to the state of Michigan, and shall be turned over to the commissioner of the Michigan state police, or his designated representative, for such disposition as said commissioner may prescribe: Provided, however, That where the amount of any bona fide lien thereon exceeds the value of such property, then such property shall be returned to the holder of such lien, upon payment of the expenses of seizure and storage thereof; otherwise such property shall be sold in the manner provided for sale of chattels under execution, and after deducting the expenses of seizure, sale and keeping thereof, all such liens shall be paid according to their priority and the balance paid to the state treasurer to be credited to the general fund of the state: Provided further, That the lienholder shall establish to the commissioner, or any court having jurisdiction of the matter, by petition, intervention, or otherwise, that such lien was created without the lienor having any notice that such property was being used or was to be used in violation of this act.

HISTORY: New 1952, p. 449, Act 266, Imd. Eff. May 7.

335.157 Scope of act.

Sec. 7. This act shall be construed as supplemental to and in conjunction with the laws of the state of Michigan and of the United States with respect to narcotic drugs.

HISTORY: New 1952, p. 450, Act 266, Imd. Eff. May 7.

Act 60, 1954, p. 71; Imd. Eff. Apr. 5.

AN ACT relative to narcotic drug users, and to facilitate the institutional care and treatment of such addicts; to authorize and direct activities of the state health commissioner and local health officers in relation thereto.

The People of the State of Michigan enact:

335.201 Purpose of act.

Sec. 1. That the purpose of this act is to protect the health and safety of the people of the state of Michigan from the menace of drug addiction and to afford an opportunity to the drug user for rehabilitation. The legislature intends that criminal laws shall be enforced against drug users as well as other persons, and this act shall not be used to substitute treatment for punishment in cases of crime committed by drug users.

HISTORY: New 1954, p. 71, Act 60, Imd. Eff. Apr. 5.

335.202 Definitions.

Sec. 2. For the purposes of this act:

(1) The term "drug user" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term "patient" means a person with respect to whom there has been filed with the clerk of the circuit court, or the superior court for the city of Grand Rapids in which courts jurisdiction over these matters is invested, a statement as provided for in section 3: Provided, That in counties having a population exceeding 750,000 persons, according to the latest or each succeeding federal decennial census, such petition may be referred for action to a municipal court having concurrent jurisdiction within its territory.

HISTORY: New 1954, p. 71, Act 60, Imd. Eff. Apr. 5.

335.203 Drug user; statement filed with court by health officers, contents, exceptions.

Sec. 3. (a) Whenever it appears to the state health commissioner or any health officer of any county, city or district that any person within the said county, city or district within the state of Michigan other than a person referred to in subsection (b), is a drug user, he may file with the clerk of the circuit court of the county of residence of said person, or in the superior court for the city of Grand Rapids, if such person is a resident of Grand Rapids, a statement in writing setting forth the facts tending to show that such person is a drug user.

(b) The state health commissioner or any health officer for such county, city or district shall not file a statement under this section with respect to any person who is charged with a criminal offense, whether by indictment, by information, or who is under sentence for a criminal offense, whether he is serving the sentence, or is on probation or parole, or has been released on bond pending appeal.

HISTORY: New 1954, p. 71, Act 60, Imd. Eff. Apr. 5.

335.204 Report by physician of drug users.

Sec. 4. Every practicing physician in the state who shall examine any person and find that such person is addicted to the use of narcotic drugs shall make a report thereof to the health officer of the county, city, township or district in which such person is a resident, or to the state health commissioner when there is no local health officer.

HISTORY: New 1954, p. 72, Act 60, Imd. Eff. Apr. 5.

335.205 Report by police officer or sheriff of drug addicts in custody.

Sec. 5. Any police officer, sheriff or deputy sheriff who shall have in custody any person believed by him to be addicted to the use of narcotic drugs shall promptly notify the health officer of the county, city or district in which such person was found, or to the state health commissioner when there is no local health officer.

HISTORY: New 1954, p. 72, Act 80, Imd. Eff. Apr. 5.

335.206 Order for appearance of patient; examination, service.

Sec. 6. Upon the filing of such a statement, the court shall order the patient to appear before it for an examination by physicians pursuant to subdivision (a) of section 8 of this act and for a hearing if required under section 9 of this act. The copy of the statement and order of the court shall be served personally upon the patient.

HISTORY: New 1954, p. 72, Act 80, Imd. Eff. Apr. 5.

335.207 Assistance of counsel; assignment.

Sec. 7. A patient shall have the right to the assistance of counsel at every stage of the judicial proceedings under this act. Before the court appoints physicians it shall advise the patient of his right to counsel and shall assign counsel to represent him if the patient is unable to obtain counsel.

HISTORY: New 1954, p. 72, Act 80, Imd. Eff. Apr. 5.

335.208 Examination by physicians; commitment of patient, reports, contents, inspection.

Sec. 8. (a) When such a statement has been filed the court shall appoint 2 qualified physicians to examine the patient. For the purpose of the examination the court may order the patient committed for such reasonable period as the court may determine, not to exceed 3 days, to a suitable hospital or other facility to be designated by the court. Each physician shall, within such periods as the court may direct, file a written report of the examination, which shall include a statement of his conclusion as to whether the patient is a drug user.

(b) The counsel for the patient may inspect the reports of the examination. No such report and no evidence resulting from the personal examination of the patient or evidence offered by the patient shall be admissible against him in any judicial proceeding except a proceeding under this act.

HISTORY: New 1954, p. 72, Act 80, Imd. Eff. Apr. 5.

335.209 Hearing; notice, proceedings dismissed.

Sec. 9. If, in a report filed pursuant to section 8 of this act, either of the examining physicians states that the patient is a drug user, or that he is unable to reach any conclusion by reason of the refusal of the patient to submit to thorough examination, the court shall conduct a hearing in the manner provided in section 10 of this act. If, on the basis of the reports filed, the court is not required to conduct such a hearing, it shall enter an order dismissing the proceeding under this act. If a hearing is deemed necessary, then such notice of hearing shall be served personally upon the patient to afford the said patient the opportunity to prepare for the hearing.

HISTORY: New 1954, p. 72, Act 80, Imd. Eff. Apr. 5.

335.210 Hearing; determination, jury, commitment, rules of evidence.

Sec. 10. Upon the evidence introduced at a hearing held for that purpose the court or the jury, whenever a jury has not been waived, shall determine whether the patient is a drug user. The hearing shall be conducted by the court with a jury of 6, drawn in the same manner as juries in civil cases are drawn in said court, unless, before the hearing a jury is waived by the patient. The patient may, after appointment or employment of counsel, waive a hearing and be committed directly to a hospital as designated or approved by the department of mental health of the state of Michigan. The

rules of evidence applicable in judicial proceedings in the court are applicable to hearings pursuant to this section, including the right of the patient to present evidence in his own behalf and to subpoena and cross-examine witnesses.

HISTORY: New 1954, p. 73, Act 60, Imd. Eff. Apr. 5.

335.211 Commitment to hospital; report.

Sec. 11. If the patient is found to be a drug user, the court may commit him to a hospital designated by the patient or the department of mental health and approved by the court, to be confined there for rehabilitation until released in accordance with section 12 of this act. The head of the hospital shall submit written reports within such periods as the court may direct, but no longer than 6 months after the commitment and for successive intervals of time thereafter, and state reasons why the patient has not been released.

HISTORY: New 1954, p. 73, Act 60, Imd. Eff. Apr. 5.

335.212 Notice to judge by hospital; delivery of patient, order to release.

Sec. 12. (a) When the head of the hospital to which the patient is committed finds that the patient appears to be no longer in need of rehabilitation, or has received maximum benefits, they shall give notice to the judge of the committing court, and the said patient shall be delivered to the said court, for such further action as the court may deem necessary and proper under the provisions of this act.

(b) The court, upon petition of the patient after confinement for 1 year, shall inquire into the refusal or failure of the head of the hospital to release him. If the court finds that the patient is no longer in need of care, treatment, guidance, or rehabilitation, or has received maximum benefits, it shall order the patient released, subject to the provisions of section 13 of this act.

HISTORY: New 1954, p. 73, Act 60, Imd. Eff. Apr. 5.

335.213 Report by patient to probation department for examination; notice to state health commissioner, statement.

Sec. 13. For the 2 years after his release, the patient shall report to the probation department of the respective court or their designated agent, at such times and places as those officers, or officer, require, for an examination to determine whether the patient has again become a drug user. If the probation department, or their designated agent, determine that the person examined is a drug user, they shall so notify the state health commissioner who may then file a statement under section 3 of this act with respect to the person examined.

HISTORY: New 1954, p. 73, Act 60, Imd. Eff. Apr. 5.

335.214 Patient deemed not criminal.

Sec. 14. The patient in any proceeding under this act shall not be deemed a criminal and the commitment of any such patient shall not be deemed a conviction.

HISTORY: New 1954, p. 73, Act 60, Imd. Eff. Apr. 5.

Act 241, 1970, p. 654; Imd. Eff. Dec. 30.

AN ACT concerning consent by minors to certain care, services or treatment for drugs or narcotics.

The People of the State of Michigan enact:

335.231 Minors; consent to treatment for drug abuse; legal responsibility; notice to parents.

Sec. 1. (1) A consent to care, treatment or service by a hospital, a public clinic, a private clinic, a physician licensed to practice medicine, or a nurse registered or licensed

under Act No. 149 of the Public Acts of 1967, being sections 338.1151 to 338.1175 of the Compiled Laws of 1948, when executed by a minor who is or professes to be dependent on or subject to abuses of drugs or narcotics, is valid and binding as if the minor had achieved his majority. The consent shall not be subject to later disaffirmance by reason of minority. A parent, guardian or custodian of a minor is not legally responsible for any care, service or treatment rendered under this act.

(2) The consent of another person or persons, including but not limited to a spouse, parent, custodian or guardian, is not necessary in order to authorize such care, treatment, or service to be provided to the minor.

(3) A treating physician may, but is not obligated to, inform the spouse, parent, custodian or guardian of the minor as to treatment given or needed.

HISTORY: New 1970, p. 654, Act 241, Imd. Eff. Dec. 30.

CHAPTER 336. AIR POLLUTION

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Act 250, 1965, p. 427; Imd. Eff. Jul. 21.

AN ACT to provide for the exemption of air pollution control facilities from certain taxes.

The People of the State of Michigan enact:

336.1 Air pollution control facility; definition.

Sec. 1. As used in this act "facility" means machinery, equipment, structures, or any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution which if released would render the air harmful or inimical to the public health or to property within this state. It does not include an air conditioner, dust collector, fan or other similar facility for the benefit of personnel or of a business.

HISTORY: New 1965, p. 427, Act 250, Imd. Eff. Jul. 21.

336.2 Tax exemption certificate; application, contents, approval, notice, hearing, tax exemption.

Sec. 2. (1) An application for a pollution control tax exemption certificate shall be filed with the state tax commission in such manner and in such form as may be prescribed by the commission. The application shall contain plans and specifications of the facility including all materials incorporated or to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of pollution control together with the proposed operating procedure for the control facility.

(2) Before issuing a certificate the state tax commission shall seek approval of the director of public health and give notice in writing by certified mail to the department of revenue and to the assessor of the taxing unit in which the facility is located or to be located, and shall afford to the applicant and the assessor an opportunity for a hearing. Tax exemption granted under this act shall be reduced to the extent of any commercial or productive value derived from any materials captured or recovered by any air pollution control facility as defined in section 4.

HISTORY: New 1965, p. 427, Act 250, Imd. Eff. Jul. 21;—Am. 1967, p. 170, Act 145, Imd. Eff. Jun. 27.

336.3 Director of public health; findings, notice to state tax commission, issuance and effective date of certificate.

Sec. 3. If the director of public health finds that the facility is designed and operated primarily for the control, capture and removal of pollutants from the air, and is suitable, reasonably adequate and meets the intent and purposes of the air pollution act, Act. No. 348 of the Public Acts of 1965, as amended, being sections 336.11 to 336.36 of the Compiled Laws of 1948, and rules promulgated thereunder, he shall so notify the state tax commission who shall issue a certificate. The effective date of the certificate shall be the date of issue of the certificate.

HISTORY: New 1965, p. 427, Act 250, Imd. Eff. Jul. 21;—Am. 1967, p. 170, Act 145, Imd. Eff. Jun. 27.

336.4 Pollution control facility; taxes from which exempt.

Sec. 4. (1) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, a facility covered thereby is exempt from real and personal property taxes imposed under Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948.

(2) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, tangible personal property which becomes affixed and made a structural part of the real estate of such facility shall be exempt from:

(a) Sales taxes imposed under Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948.

(b) Use taxes imposed under Act No. 94 of the Public Acts of 1937, as amended, being sections 205.91 to 205.111 of the Compiled Laws of 1948.

(3) This act shall not be construed to affect the industrial processing exemptions under the act referred to in subdivisions (a) and (b) of subsection (2).

(4) The certificate shall state the total acquisition cost of the facility entitled to exemption.

HISTORY: New 1965, p. 427, Act 250, Imd. Eff. Jul. 21;—Am. 1966, p. 384, Act 270, Imd. Eff. Jul. 12.

336.5 Tax exemption certificate; issuance, mailing to applicant, local tax assessors and revenue department; filing; notice of refusal.

Sec. 5. The state tax commission shall send an air pollution control tax exemption certificate, when issued, by certified mail to the applicant, and certified copies by certified mail to the assessor of the taxing unit in which any property to which the same relates is located or to be located and to the department of revenue, which copies shall

be filed of record in their offices. Notice of the commission's refusal to issue a certificate shall be sent by certified mail to the applicant, to the department of revenue, and to the assessor.

HISTORY: New 1965, p. 428, Act 250, Imd. Eff. Jul. 21.

336.6 Certificate; modification or revocation, grounds; notice and hearing; statute of limitations.

Sec. 6. (1) The state tax commission, on notice by certified mail to the applicant and opportunity for a hearing, shall on its own initiative or on complaint of the director of public health, the department of revenue or by the assessor of the taxing unit in which any property to which the certificate relates is located, modify or revoke the certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation.

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a facility or to operate the facility for the purpose and degree of control specified in the certification, or an amended certificate.

(c) The facility covered by the certificate is no longer used for the primary purpose of pollution control and is being used for a different purpose.

(d) Substantial noncompliance with Act No. 348 of the Public Acts of 1965, as amended, or any rule promulgated thereunder.

(2) On the mailing by certified mail to the certificate holder, the department of revenue, and the local assessor of notice of the action of the state tax commission modifying or revoking a certificate, the certificate shall cease to be in force or shall remain in force only as modified. When a certificate is revoked because obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by applicable law. No statute of limitations shall operate in the event of fraud or misrepresentation.

HISTORY: New 1965, p. 428, Act 250, Imd. Eff. Jul. 21;—Am. 1967, p. 170, Act 145, Imd. Eff. Jun. 27.

336.7 Certificate; refusal, appeals.

Sec. 7. A party aggrieved by the issuance or refusal to issue, revocation or modification of a pollution control tax exemption certificate may appeal from the finding and order of the state tax commission in the manner and form and within the time provided by Act No. 197 of the Public Acts of 1952, as amended.

HISTORY: New 1965, p. 428, Act 250, Imd. Eff. Jul. 21.

336.8 State tax commission; rules and regulations, administration of act.

Sec. 8. The state tax commission may adopt such rules and regulations as it deems necessary for the administration of this act subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. These rules and regulations shall not abridge the authority of the director of public health to determine whether or not air pollution control exists within the meaning of this act.

HISTORY: New 1965, p. 428, Act 250, Imd. Eff. Jul. 21;—Am. 1967, p. 171, Act 145, Imd. Eff. Jun. 27.

Act 348, 1965, p. 683; Imd. Eff. Jul. 23.

AN ACT to control air pollution in this state; to create an air pollution control commission within the state health department; to prescribe its powers and duties; and to provide penalties.

The People of the State of Michigan enact:

336.11 Air pollution act; short title.

Sec. 1. This act shall be known and may be cited as the "air pollution act".

HISTORY: New 1965, p. 683, Act 348, Imd. Eff. Jul. 23.

CITED IN OTHER SECTIONS: Sections 336.11 to 336.36 are cited in § 336.3.

336.12 Air pollution act; definitions.

Sec. 2. As used in this act:

(a) "Commission" means the air pollution control commission.

(b) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor or any combination thereof.

(c) "Air pollution" means the presence in the outdoor atmosphere of air contaminants in quantities, of characteristics and under conditions and circumstances and of a duration which are injurious to human life or property or which unreasonably interfere with the enjoyment of life and property, and which are reasonably detrimental to plant and animal life in this state and excludes all aspects of employer-employee relationships as to health and safety hazards. With respect to motor vehicles, nothing in this act or in the rules and regulations promulgated under the authority of this act shall be inconsistent with the federal regulations, emission limits, standards or requirements on motor vehicles.

(d) "Air cleaning device" means any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.

HISTORY: New 1965, p. 684, Act 348, Imd. Eff. Jul. 23;—Am. 1966, p. 116, Act 95, Imd. Eff. Jun. 16;—Am. 1967, p. 122, Act 97, Eff. Nov. 2.

336.13 Air pollution control commission; membership, terms, vacancies, compensation, expenses.

Sec. 3. (1) For the purpose of administering and carrying out the provisions of this act, there is created an air pollution control commission within the state department of health. The commission shall consist of the commissioner of health, who shall act as chairman of the commission; the director of conservation; the director of agriculture; and 6 citizens of the state to be appointed by the governor by and with the advice and consent of the senate. Each of the state officers may designate a deputy of his department to serve in his stead as a member of the commission.

(2) Of the 6 citizens so appointed by the governor, 2 shall be representative of industrial management, 1 of whom shall be a registered professional engineer trained and experienced in matters of air pollution measurement and control; 2 shall be representatives of local governing bodies, 1 of whom shall be a full-time air pollution control officer; 2 shall be representatives of the general public, 1 of whom shall be a licensed doctor of medicine who shall be experienced and competent in the toxicology of air contaminants.

(3) Each appointed member shall serve for a term of 3 years except that, of the members first appointed, 2 shall be appointed for a term of 1 year, 2 for 2 years, and 2 for 3 years. Vacancies shall be filled for the unexpired terms in the same manner as original appointments. Members of the commission shall receive no compensation, but shall be entitled to actual and necessary expenses incurred in the performance of official duties under this act.

HISTORY: New 1965, p. 684, Act 348, Imd. Eff. Jul. 23;—Am. 1966, p. 116, Act 95, Imd. Eff. Jun. 16.

336.14 Air pollution control commission; organization, procedural rules, meetings, special meetings, quorum.

Sec. 4. The commission shall organize and make its own rules governing its formal and informal procedures, and shall meet at least twice each year and shall keep a record of its proceedings and all its functions. Special meetings of the commission may

called by the chairman and must be called upon receipt of a written request signed by 2 or more members of the commission. Six members of the commission shall constitute a quorum.

HISTORY: New 1965, p. 684, Act 348, Imd. Eff. Jul. 23.

336.15 Air pollution control commission; powers.

Sec. 5. The commission may:

(a) Promulgate rules and regulations for controlling or prohibiting air pollution in areas of the state affected by air pollution in accordance with the requirements of section 7 (2).

(b) Control and abate air pollution in accordance with any rule or regulation which it may promulgate under this act and not inconsistent therewith.

(c) Compel the attendance of witnesses at proceedings of the commission upon reasonable notice.

(d) Make findings of fact and determinations.

(e) Make, modify or cancel orders which require, in accordance with the provisions of this act, the control of air pollution.

(f) Institute in a court of competent jurisdiction proceedings to compel compliance with the provisions of any rule or regulation or any determination or order which it may promulgate or issue under this act.

(g) Do such other things as it may deem necessary, proper or desirable in order that it may enforce rules or regulations promulgated under this act.

(h) Accept, or when deemed necessary by the commission require to be submitted to it, and consider for approval plans for air cleaning devices or any part thereof and inspect the installation for compliance with the plans.

(i) Enter and inspect any property at reasonable times and places pursuant to reasonable notice for the purpose of investigating either an actual or suspected source of air pollution or ascertaining compliance or noncompliance with any rule or regulation which it may promulgate under this act. Any information relating to secret processes, or methods of manufacture, or production obtained in the course of the inspection or investigation shall be kept confidential. If in connection with such investigation or inspection, samples of air contaminants are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person who is suspected of causing such air pollution.

(j) Receive and initiate complaints of air pollution in alleged violation of any rule or regulation which it may promulgate under this act and take action with respect thereto as hereinafter provided in this act.

(k) Prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of any new air pollution, recognizing varying requirements for different areas of the state.

(l) Encourage voluntary cooperation by all persons in controlling air pollution and air contamination.

(m) Encourage the formulation and execution of plans by cooperative groups or associations of cities, villages and counties or districts, or other governmental units, industries and others who severally or jointly are or may be the source of air pollution, for the control of pollution.

(n) Cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(o) Conduct or cause to be conducted studies and research with respect to air pollution control, abatement or prevention.

(p) Conduct and supervise programs of air pollution control education including the preparation and distribution of information relating to air pollution control.

(q) Determine by means of field studies and sampling the degree of air pollution in the state.

(r) Provide advisory technical consultation services to local communities.

(s) Serve as the agency of the state for the receipt of moneys from the federal government or other public or private agencies and to expend such moneys after appropriation thereof for the purpose of air pollution control studies or research.

HISTORY: New 1965, p. 684, Act 348, Imd. Eff. Jul. 23.

336.16 State commissioner of health; duties, investigative and scientific services.

Sec. 6. The state commissioner of health shall act as the authorized agent for the commission in effecting the purposes of this act. All investigative, technical, scientific and other services shall be performed by the commissioner or his authorized deputies.

HISTORY: New 1965, p. 685, Act 348, Imd. Eff. Jul. 23.

336.17 Air pollution control commission; rules and regulations, amendments, repeals, approval.

Sec. 7. (1) A rule or regulation or any amendment or repeal thereof shall require a vote of approval in writing of not less than 6 members of the commission.

(2) Rules or regulations and the amendment and repeal thereof shall be adopted in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. A public hearing shall be held before rules and regulations and the amendment and repeal thereof shall be adopted.

(3) Any rule or regulation or any amendment thereof may differ in its terms and provisions as between particular types, characteristics, quantities and conditions and circumstances of air pollution and the duration; as between particular air pollution sources; and as between particular areas of the state.

(4) In exercising the power conferred upon it by this act, the commission shall give due recognition to the fact that the quantity, types or characteristics, quantities and circumstances or air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or no air pollution in another area of the state, and it shall take into consideration in this connection such factors, among others found by it to be proper and just, as existing physical conditions, topography and prevailing wind directions and velocities, predominant land usage, and also the fact that a rule or regulation and the degree of conformance therewith which may be proper as to an essentially residential area of the state may not be proper as to a highly developed industrial area of the state.

HISTORY: New 1965, p. 685, Act 348, Imd. Eff. Jul. 23.

336.18 Violations; investigation and complaint, conference and conciliation.

Sec. 8. In case any written complaint is filed with the commission and the commission believes, or if the commission believes that any person is violating this act or any rule or regulation promulgated by the commission by causing or permitting air pollution, the commission shall make a prompt investigation; and, if after such investigation it finds that a violation of any rule or regulation of the commission exists, it shall, by conference, conciliation and persuasion, endeavor to the fullest extent possible to ef-

fect such control of emissions from such source as would be required by this act or under the rules and regulations.

HISTORY: New 1965, p. 686, Act 348, Imd. Eff. Jul. 23.

336.19 Violations of act; hearing of charges, notice, answer.

Sec. 9. In case of failure by conference, conciliation and persuasion, to correct or remedy any source or cause of air pollution resulting in a violation of any rule or regulation of the commission, the commission shall issue and serve upon the person complained against a written notice, together with a copy of the complaint, which shall specify the provision of the rule or regulation of which the person is said to be in violation, and a statement of the manner in, and of the extent to which, the person is said to violate it, and shall require the person so complained against to answer the charges of the complaint at a public hearing before the commission at a specified place and time not less than 15 days after the date upon which such complaint was served upon the person complained against.

HISTORY: New 1965, p. 686, Act 348, Imd. Eff. Jul. 23.

336.20 Written answer; appearance, counsel, witnesses and evidences.

Sec. 10. (1) The respondent to the complaint may file a written answer thereto and may appear at the hearing in person or by representative, with or without counsel, and may submit testimony, or may do both.

(2) The commission at the request of any respondent to a complaint made pursuant to this act shall subpoena and compel the attendance of such witnesses, including commission personnel, employees and agents, as the respondent may reasonably designate, and it shall require the production for examination of any book or paper, including any commission book or paper, relating to the matter under investigation at the hearing. The subpoena shall only be issued after application to the circuit court having jurisdiction and for good cause shown and with the approval of the court.

(3) The testimony taken at the hearing before the commission or its referee shall be under oath and recorded.

HISTORY: New 1965, p. 686, Act 348, Imd. Eff. Jul. 23.

336.21 Public hearings; hearing referees, subpoenas, examination of witnesses, confidentiality of information, record, transcripts, nonobedience to subpoena, trade secrets, written notice of action taken.

Sec. 11. (1) Public hearings with reference to pollution control may be held before any member of the commission or their designated delegates or representatives. Persons designated to conduct the hearing shall be described as hearings referees and must be disinterested persons and technically qualified.

(2) The referee or commission conducting the hearing may issue in the name of the commission notices of hearing and subpoenas requiring attendance and testimony of witnesses, including commission personnel, employees and agents, and the production of evidence, including any commission records, investigation reports or other papers, relevant to any matter involved at any such hearing. The subpoena shall only be issued after application to the circuit court having jurisdiction and for good cause shown and with the approval of the court.

(3) The interested parties and their attorneys and the referee shall have the right to examine and cross-examine witnesses. The subpoenas shall be served and the fee paid in like manner as subpoenas issued out of the circuit court.

(4) Any information relating to secret processes, or methods of manufacture, or production ascertained or discovered by the referee or commission during any such investigation or hearing shall not be disclosed and shall be kept confidential.

(5) The record made by the referee shall be filed with the commission. The commission shall furnish a certified transcript of the record of the hearing to any party to the action upon request.

(6) In the case of refusal to obey a subpoena under this section, the circuit court within the county where the hearing was held, or the circuit court for Ingham county, upon application of the commission, may issue an order requiring the person to appear and testify in the hearing.

(7) Confidential or trade secret matters uncovered during an investigation or hearing shall not be disclosed.

(8) Any person against whom a complaint has been filed and any complainant involved shall be given written notice of the action taken by the commission following the hearing with respect to the subject matter thereof.

HISTORY: New 1965, p. 687, Act 348, Imd. Eff. Jul. 23.

336.22 Review of record by commission; hearing, additional testimony, final order of determination, approval.

Sec. 12. (1) The record made in the hearing before the referee shall be submitted and reviewed by the commission after due notice to the respondent and other interested parties and a hearing held thereon, and the commission may make such final determination as it deems appropriate under the circumstances and notify the interested parties thereof in writing by certified mail.

(2) The commission may hold the original hearing and if, in the opinion of the commission, it appears desirable that additional testimony be taken to supplement the record made at the referee's hearing, the same may be referred back to the referee for the taking of additional testimony.

(3) Any final order or determination or other final action by the commission shall be approved by not less than 6 members of the commission who shall have been present at the meeting at which such order was adopted.

HISTORY: New 1965, p. 687, Act 348, Imd. Eff. Jul. 23.

336.23 Violation of act; hearing, final order of determination, content, de novo review, relief, procedure.

Sec. 13. (1) When, in the opinion of the commission after a hearing, any person has violated or is about to violate the provisions of this act or the rules and regulations promulgated in furtherance thereof, and fails to control its air pollution, the commission shall make a final determination containing a statement of the specific violation which the commission has found to exist and shall order correction of the problem within a reasonable time. The final order or determination of the commission upon such matters shall be conclusive, but the order may be reviewed de novo in the circuit court for the county of Ingham in chancery, or for the county in which such alleged violator resides, or for the county in which the alleged violation occurred, upon petition therefor, filed within 15 days after the mailing of the final order or determination. In such de novo review, the commission shall have the burden of proving the correctness of its order or determination.

(2) Application for relief from any rules, regulations or order of the commission shall be made by petition to the circuit court for the county of Ingham, or to the county in which the petitioner resides, which petition shall be verified as in a civil action. Each petition shall contain a plain and concise statement of the material facts on which the petitioner relies and shall set forth the rule, regulation or order or part thereof which he shall claim to be unreasonable or prejudicial to him and shall specify the grounds therefor. The petition may be accompanied by affidavits or other written proof and shall demand the relief to which the petitioner alleges he is entitled, in the alternative or otherwise. The petition may be made by any one or more persons, jointly or sever-

ally, who shall be aggrieved by any rule, regulation or order whether or not the petitioner is or was a party to the proceeding in which the rule or regulation was adopted by the commission. The commission shall have the burden of proving the correctness of such challenged rules, regulation or order of the commission.

HISTORY: New 1965, p. 687, Act 348, Imd. Eff. Jul. 23.

336.24 Air contaminates; unlawful discharge, notice to discontinue, hearing, proof.

Sec. 14. When the commissioner of health finds that any person is discharging or causing to be discharged into the atmosphere directly or indirectly any air contaminant and the discharge constitutes an immediate and serious danger to the health of the people and that it appears to be prejudicial to the interests of the people of the state to delay action for a period of 15 days as provided in section 9, the commissioner of health shall notify the person by written notice that he must discontinue immediately the air pollution. Within not more than 15 days, the commission shall provide the person the opportunity to be heard and to present any proof that such discharge does not constitute a danger to the health and welfare of the people.

HISTORY: New 1965, p. 688, Act 348, Imd. Eff. Jul. 23.

336.25 Violations of act; corrective measures, time, progress reports, confidentiality of reports.

Sec. 15. If at a hearing, the commission determines that the person against whom a complaint was made is violating this act or any rule or regulation promulgated by the commission by causing or permitting air pollution, it shall fix a time, which shall be reasonable under all the circumstances and which may be extended by the commission from time to time, during which the person shall be required to take such measures as may be necessary to prevent the violation and to give periodic progress reports thereon. Any information as to secret processes or secret methods of manufacture or production which shall be revealed by the periodic progress reports shall be kept confidential.

HISTORY: New 1965, p. 688, Act 348, Imd. Eff. Jul. 23.

336.26 Violations of act; penalty, action to recover penalty, injunction, settlement of action.

Sec. 16. (1) Any person who is found to have violated this act or any rule or regulation promulgated by the commission and who shall not have taken such preventive or corrective measures as are required by the commission within the time fixed by it, either originally or as extended, shall be liable for a penalty not to exceed the sum of \$500.00 and an additional penalty of not to exceed \$100.00 for each day during which the violation continues, commencing on the first day after the expiration of the time fixed in the order of the commission for the taking of preventive or corrective measures. The penalties shall be levied by the circuit court of the county in which the violation occurred. In addition thereto, the person may be enjoined from continuing the violation.

(2) The penalty provided in this section shall be recoverable in an action brought in the name of the people of the state by the attorney general.

(3) An action or cause of action for the recovery of a penalty under this act may be settled or compromised by the attorney general after proceedings are brought to recover such penalties prior to the entry of judgment therefor.

HISTORY: New 1965, p. 688, Act 348, Imd. Eff. Jul. 23.

336.27 Action for enforcement of act.

Sec. 17. The commission may bring any appropriate action in the name of the people of the state either at law or in chancery, as may be necessary to carry out the pro-

visions of this act and to enforce any and all laws, rules and regulations relating to the provisions of this act.

HISTORY: New 1965, p. 689, Act 348, Imd. Eff. Jul. 23.

336.28 Civil liabilities; exemptions.

Sec. 18. The civil liabilities which shall be imposed pursuant to the provisions of this act upon persons violating the provisions of any rule or regulation shall not be so construed as to include any violation which was caused by an act of God, war, strike, riot, catastrophe or other condition as to which negligence or wilful misconduct on the part of such person was not the proximate cause.

HISTORY: New 1965, p. 689, Act 348, Imd. Eff. Jul. 23.

336.29 Suspension of enforcement; reasons, variance.

Sec. 19. Notwithstanding any other provision of this act, the commission may suspend the enforcement of the whole or any part of any rule or regulation in the case of any person who shows that the enforcement thereof would be inequitable or unreasonable as to him, or the commission may suspend the enforcement thereof for any reason deemed by it to be sufficient to show that the enforcement thereof would be an unreasonable hardship upon the person; and upon any suspension of the whole or any part of the rule or regulation the commission shall grant to the person a variance therefrom.

HISTORY: New 1965, p. 689, Act 348, Imd. Eff. Jul. 23.

336.30 Variance; considerations effecting.

Sec. 20. In determining under what conditions and to what extent a variance from a rule or regulation may be granted, the commission shall give due recognition to the progress which the person requesting the variance has made in eliminating or preventing air pollution. The commission shall consider the reasonableness of granting a variance conditioned upon the person effecting a partial control of the particular air pollution or a progressive control of the air pollution over a period of time which it considers reasonable under all the circumstances; or the commission may prescribe other and different reasonable requirements with which the person receiving the variance shall comply.

HISTORY: New 1965, p. 689, Act 348, Imd. Eff. Jul. 23.

336.31 Variance; granting for undue hardship.

Sec. 21. The commission shall grant a variance from any rule or regulation to, and suspend the enforcement thereof as to, any person who shows in the case of the person and of the activity which the person then operates that a compliance by him with the rule or regulation, and that the acquisition, installation, operation and maintenance of facilities and equipment required or necessary to accomplish the compliance, would constitute an undue hardship on the person and would be out of proportion to the benefits to be obtained thereby. A variance shall not be granted under the provisions of this section where the person applying therefor is causing air pollution which is injurious to the public health. Any variance granted shall not be construed as to relieve the person who shall receive it from any liability imposed by other law for the commission or maintenance of a nuisance.

HISTORY: New 1965, p. 689, Act 348, Imd. Eff. Jul. 23.

336.32 Variance; period granted, reports, conditions.

Sec. 22. Any variance granted pursuant to the provisions of this act shall be granted for such period of time, not exceeding 1 year, as is specified by the commission at the time of granting it, but any variance may be continued from year to year. Any variance granted by the commission may be granted on the condition that the person receiving it shall make reports to the commission periodically, as the commission shall

specify, as to the progress which the person has made toward reaching a compliance with the rule or regulation of the commission.

HISTORY: New 1965, p. 689, Act 348, Imd. Eff. Jul. 23.

336.33 Variance; revocation or modification of order, public hearing, notice.

Sec. 23. The commission may revoke or modify by written order, after a public hearing held upon not less than 10 days' notice, any order permitting a variance.

HISTORY: New 1965, p. 690, Act 348, Imd. Eff. Jul. 23.

336.34 Purpose of act; alteration of existing rights of actions or remedies.

Sec. 24. It is the purpose of this act to provide additional and cumulative remedies to prevent and abate air pollution. Nothing in this act contained shall abridge or alter rights of action or remedies now or hereafter existing, nor shall any provision of this act or anything done by virtue of this act be construed as estopping individuals, counties, cities, townships or villages or other governmental units from the exercise of their respective rights to suppress nuisances or to prevent or abate air pollution.

HISTORY: New 1965, p. 690, Act 348, Imd. Eff. Jul. 23.

336.35 Construction of act; evidentiary effect of determination by commission.

Sec. 25. This act shall not be construed as repealing any of the laws relating to air pollution which are not by this act expressly repealed, but it shall be held and construed to be as ancillary to and supplementing the laws now in force, excepting as they may be in direct conflict with this act. The final order or determination of the commission shall not be used in evidence of presumptive air pollution in any suit filed by any person other than this commission.

HISTORY: New 1965, p. 690, Act 348, Imd. Eff. Jul. 23.

336.36 Effect on existing regulations; local enforcement, cooperation with local governmental units.

Sec. 26. (1) Nothing in this act or in any rule or regulation which shall be promulgated pursuant to this act shall be deemed to invalidate any existing ordinances or regulations having requirements equal to or greater than the minimum applicable requirements of this act or prevent any political subdivision from adopting similar provisions if their requirements are equal to or greater than the minimum applicable requirements of this act.

(2) When a political subdivision or enforcing official thereof fails to enforce properly the provisions of the political subdivision's ordinances, laws or regulations which do afford equal protection to the public as that provided in this act, the air pollution control commission, after consultation with the local official or governing body of the political subdivision may take such appropriate action as may be necessary for enforcement of the applicable provisions of this act.

(3) The air pollution control commission shall counsel and advise local units of government on the administration of this act. In their respective fields, they shall cooperate in the enforcement of this act with local officials upon request.

HISTORY: New 1965, p. 690, Act 348, Imd. Eff. Jul. 23.

CHAPTER 338. PROFESSIONS AND OCCUPATIONS

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- 338.1 Purpose of act.
- 338.2 Board of examiners in basic sciences; members, appointment, terms, vacancies, qualifications, nominations.
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- 338.4 Board of examiners; secretary-treasurer and assistants, compensation and expenses.
- 338.5 Application for examinations; fee, qualifications, waiver, national examinations, certificate, fee, signatures, reexamination.
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- 338.7 Certificate of eligibility; revocation.
- 338.8 Certificate of eligibility; unlawful procurement, penalty.
- 338.9 Definitions; construction of act.
- 338.10 Receipts; payment to state treasury.
- 338.11 Exemptions.
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- 338.31 Sale or conveyance of medical or dental practice; notice to state board.
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- 338.351-338.362 Repealed.

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Act 134 of 1885

- 338.401-338.434 Repealed.

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- 338.461 Repealed.

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- 338.601-338.625 Repealed.

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- 338.701-338.720 Repealed.

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Act 383 of 1927

- 338.801-338.813 Repealed.

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- 338.1152 Nursing practice act; definitions.
- 338.1153 State board of nursing; members, qualifications, terms.
- 338.1154 Nursing board; nomination of new members, removal.
- 338.1155 Nursing board; experience and qualification requirements, oath of office.
- 338.1156 Nursing board; election of officers, quorum, concurrence of members, meetings.
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- 338.1161 Registered nurse; application for license, oath, qualifications, foreign applicants.
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- 338.1164 License fees; reexamination fees; abandonment of application.
- 338.1165 Temporary permit; duration, additional permit, fee.

- 338.1166 Titles; use, authority conferred.
- 338.1167 Current licensees deemed licensed under act.
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- 338.1201 Landscape architect act; short title.
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- 338.1203 Landscape architect; registration, titles not restricted.
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Act 147 of 1963

- 338.1301 Sanitarian's registration act; short title.
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Act 218 of 1966

- 338.1351 Professional community planners act; short title.
- 338.1352 Professional community planners act; definitions.
- 338.1353 Professional community planner; use of title.
- 338.1354 Registered professional community planners; scope of practice, restrictions.
- 338.1355 Professional community planner; use of seal.
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- 338.1357 Registration without examination; qualifications, experience required.
- 338.1358 State board of registration for community planners; members, appointment, qualifications, terms, oath, vacancies, removal, compensation.
- 338.1359 Registration board; powers and duties.
- 338.1360 Registration board; officers, custody of records and money, roster of registrants, notice of certificate expiration.
- 338.1361 Registration; application form, contents, fees, deposit.
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- 338.1365 Unauthorized use of title; penalty; duty of prosecuting attorney and attorney general.

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Act 201 of 1965

- 338.1401 Horologist's certification act; short title.
 338.1402 Horologist certification act; definitions.
 338.1403 State board of horology; members, qualifications, appointment.
 338.1404 Board of horology; meetings, officers, quorum, official seal.
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Act 265 of 1966

- 338.1451 Hearing aid dealers and salesmen; license required.
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 338.1456 Application for license; form, fee, qualifications and eligibility, specialized educational courses.
 338.1457 License; renewal application, fee, statement of educational studies, notice of expiration.
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 338.1459 Written examinations; minimum requirements.
 338.1460 License; nonissuance, nonrenewal or revocation, causes.
 338.1461 Unethical conduct; definition.
 338.1462 Complaint against licensee; hearing, notice, subpoenas, procedures.
 338.1463 License; recording, fee, display requirements.
 338.1464 Violation of act; misdemeanor, penalty.
 338.1465 Violation of act; injunction.
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RESIDENTIAL BUILDERS, CONTRACTORS AND SALESMEN

Act 383 of 1965

- 338.1501 Residential builder or residential maintenance and alteration contractor; licensing.
 338.1502 Residential builders; definitions.
 338.1503 Inapplicability of act.
 338.1503a Electrical contractors; exemption from act.
 338.1504 Application for license; form, contents, place of business, duplicate license, proof required.
 Written examination; subjects required.
 Residential maintenance and alteration contractor's license; issuance.
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 338.1505 Corporation licenses; person designated to take examination, qualifications, suspension or revocation.
 338.1506 Nonresident licensees; service of process, forms.
 338.1507 Licenses; form, seal, contents, display, change of location, notice.
 338.1507a Salesmen; change of employment, reissuance of license.
 338.1508 Licenses; form, fees, second examination, forfeiture, renewal, expiration, name and address change, notification.
 338.1509 Licenses; investigation, suspension or revocation, grounds; civil or criminal liability, time limitations.
 338.1509a Complaints by homeowners; time limitation, warranties.
 338.1510 Licenses; suspension or revocation, notice, hearing, subpoena, judicial review.
 338.1511 Violation of act by employee; proof of guilty knowledge.
 338.1512 Indexed records of licensees; public inspection, lists, furnishing copies, fee.
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 338.1513a State residential builders; maintenance and alteration contractors' board; appointment, compensation, terms.
 338.1514 Records as evidence; public inspection.
 338.1515 Fees and charges; disposition; expenses, limitations.
 338.1516 Violation of act; penalty.
 338.1516a Enforcement of act; nonissuance of building permit without license, affidavit.
 338.1517 Rules and regulations; compliance with act.
 338.1518 Saving clause; licenses issued under prior acts.
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BARBER LICENSING AND REGULATION ACT OF 1968 Act 355 of 1968		
338.1601	Barber licensing and regulation act of 1968; short title.	338.1633 Licenses; original application forms, fees.
338.1603	Barber licensing and regulation act; definitions.	338.1635 Licenses; renewal application forms, fees.
338.1604	Inapplicability of act.	338.1638 Licenses; annual renewal; transfer of ownership or location, automatic revocation.
338.1605	Board of barber examiners; membership, terms, officers, regulatory powers, compensation.	338.1640 Barber shops; inspections, building use and operation regulations.
338.1608	Barber license; proof of residency; grandfather clause; certificate of health.	338.1643 Barber shops, schools and colleges; sanitation regulations.
338.1610	License; evidence of freedom from tuberculosis.	338.1645 Licenses; complaint, investigation; suspension, revocation or denial, grounds.
338.1612	Student license; qualifications.	338.1648 Licenses; suspension, revocation or denial, notice, hearing.
338.1615	Apprentice license; qualifications.	338.1650 Hearing officer; qualifications, statement and recommendations; board of barber examiners, final order.
338.1618	Barber's license; qualifications.	338.1653 Enforcement of act.
338.1620	Instructor's license; qualifications.	338.1655 Practice without license; penalties.
338.1623	Licensing; examination requirements, contents.	338.1658 Fees and charges; disposition; expenses, payment.
338.1625	Barber schools and colleges; facilities and equipment required for licensing.	338.1660 Saving clause; renewal of existing licenses.
338.1628	Barber schools and colleges; educational programs required for licensing.	338.1662 Repeal.
338.1630	Barber schools and colleges; number of licenses, chairs, fixtures and instructors.	338.1665 Effective date.

Act 59, 1937, p. 73; Eff. Oct. 29.

AN ACT to regulate the practice of healing in the state of Michigan; to provide for examinations in basic sciences, or certain military service, as a prerequisite to eligibility to practice the art of healing in this state; to provide for the appointment of a board of examiners in the basic sciences, and to prescribe its powers and duties; to provide for the punishment of offenders against this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1952, p. 291, Act 198, Imd. Eff. Apr. 29.

The People of the State of Michigan enact:

338.1 Purpose of act.

Sec. 1. It is the intent and purpose of this act to protect the welfare and health of the people of this state, and to this end to require the passage of uniform examinations in the basic sciences, as herein defined, as a condition of eligibility to practice the art of healing in this state.

HISTORY: CL 1948, 338.1.

CITED IN OTHER SECTIONS: Sections 338.1 to 338.13 are cited in § 338.53b.

338.2 Board of examiners in basic sciences; members, appointment, terms, vacancies, qualifications, nominations.

Sec. 2. The governor shall appoint a board of examiners in the basic sciences, by and with the advice and consent of the senate, to consist of 5 members. The first appointments shall be made within 60 days after this act shall take effect, 2 members to be appointed for terms of 2 years each, 2 members for terms of 4 years each, and 1 member for a term of 6 years, and until the appointment and qualification of their successors. Upon the expiration of such terms, successors shall be appointed for terms of 6 years each, and until the appointment and qualification of their successors: Provided, how-

ever, That no member who has served 2 consecutive terms shall be eligible for reappointment until the expiration of a period of 10 years next following the end of his second term. Vacancies shall be filled in the same manner as original appointment, for the unexpired term. Each member shall qualify by taking and filing with the secretary of state the constitutional oath of office. No member of the board shall be a doctor of medicine, chiropractor or doctor of osteopathy. One member shall be appointed for his fitness to examine in each of the following subjects: Anatomy, physiology, bacteriology, pathology and chemistry. Members of the board shall be full time professors, or associate or assistant professors, who are teaching the subjects of the basic sciences in any university or college in this state. Not more than 1 member of the board shall come from any 1 university or college. The Michigan association of osteopathic physicians and surgeons, incorporated, the Michigan state chiropractic society, and the Michigan state medical society shall each submit to the governor 2 names, 1 of whom shall be appointed to the above board from each group, in the first instance, and vacancies shall be filled in the same manner as the original appointment.

HISTORY: CL 1948, 338.2;—Am. 1952, p. 291, Act 196, Imd. Eff. Apr. 29.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.3 Board of examiners; officers, power to administer oaths; treasurer's bond; quorum, records, seal, rules and regulations, meetings, conduct of examinations.

Sec. 3. The members of said board shall within 30 days after their appointment meet and elect a president and a vice-president from their own number, and elect or appoint a secretary-treasurer who need not be one of their number, but each of whom shall hold their respective offices for 2 years and until their successors are elected and qualified. Any member of the board and the secretary-treasurer shall have power to administer oaths. The secretary-treasurer shall give to the treasurer of the state of Michigan a bond in the penal sum of 5,000 dollars, with sufficient sureties to be approved by the state treasurer, for the faithful discharge of his duties. A majority of the board shall constitute a quorum for the transaction of business. The board shall keep a record of its proceedings and register of all applicants for certificates which register shall show whether the applicant was rejected or a certificate granted. The books and register of the board shall be prima facie evidence of all matters recorded therein. The board shall have a common seal and shall formulate rules and regulations to carry out the provisions of this act. The board shall meet at such times and places as shall be designated by the board and shall conduct at least 2 examinations in the basic sciences each year. The board shall conduct examinations at such times and places as it deems best, having due regard to the times and places of the examinations held by the several examining boards authorized to issue licenses to practice any of the branches of the healing art.

HISTORY: CL 1948, 338.3.

338.4 Board of examiners; secretary-treasurer and assistants, compensation and expenses.

Sec. 4. The board may determine the compensation of the secretary-treasurer and of such other assistants as may be necessary to carry out the provisions of this act. The members of the board shall serve without compensation, but shall be entitled to receive actual and necessary traveling and other expenses incurred in the discharge of their duties. The board is authorized to incur such expenses as may be necessary to carry out the provisions of this act. The secretary-treasurer and other assistants shall

receive actual and necessary traveling and other expenses incurred in the discharge of their duties. The expenditures of the board shall not exceed the estimated revenue to be derived from the fees prescribed by this act.

HISTORY: CL 1948, 338.4.

338.5 Application for examinations; fee, qualifications, waiver, national examinations, certificate, fee, signatures, re-examination.

Sec. 5. Any person desiring to practice healing in this state shall make application to the board of examiners in the basic sciences for a certificate of eligibility to take the examinations therein, such application to be accompanied by a fee of \$25.00. The board shall issue such certificate upon the following conditions, viz.:

Each applicant shall show to the satisfaction of the board that he is of good moral character, and possesses a high school education or its equivalent; and in addition, pass an examination before the board and to its satisfaction in the following subjects: Anatomy, physiology, pathology, bacteriology and chemistry, with a grade of not less than 75% in each subject. However, the board may waive the examination and may issue such certificate when proof satisfactory to the board is submitted, showing (1) that the applicant is of good moral character, and possesses a high school education or its equivalent; (2) (a) that the applicant has passed in 1 other state or territory of the United States, or in the District of Columbia, a written examination in the above named basic sciences given by the official basic science board of a sister state, territory or district, and that such examination and passing requirements at the time taken were substantially equal to those required by the basic science board of this state; (b) or the board may accept, in lieu of such examination given by a basic science board, proof that the applicant has passed before any examining or licensing board in the healing arts, authorized as such by laws of any state, territory or the District of Columbia, an examination or examinations in anatomy, physiology, pathology, bacteriology and chemistry substantially equal to those required by the state of Michigan under this act; (c) or the board may accept the successful passage of the examination in the basic sciences given by the national board of medical examiners or the national board of examiners for osteopathic physicians and surgeons or the national board of chiropractic examiners if these examinations are found to be, to the satisfaction of the board, substantially equal to the examinations prepared and conducted by the board of examiners in basic sciences of this state. Proof as herein referred to shall, as a minimum, consist of a copy of the examination questions given the applicant, the answers as made by the applicant or a certification that (a) such answers are not in existence; or (b) disclosure of such information is contrary to regulations or policies of such examining board, and the applicant's grades on such questions, certified to by the examining board, which certified proof shall be obtained by the applicant and attached to his application; and (3) that the application for such certificate is accompanied by a fee of \$25.00. This act shall not apply to any person matriculated in any medical, osteopathic or chiropractic school or college on or before October 15, 1937. The fee for indorsement of a certificate issued under this act to another state shall be \$5.00.

A certificate of eligibility issued under this act shall be signed by the president and secretary-treasurer of the board, and shall be sealed with the seal of the board.

If the applicant shall fail in 1 subject only, he may be examined in such subject at the next ensuing examination without payment of an additional fee. However, he shall file an application with the board in accordance with the rules of the board. If the applicant shall fail in 2 or more subjects, he shall file an application for examination in

such subjects and shall show proof satisfactory to the board of additional study in such subjects; and such application shall be accompanied by a fee of \$15.00. No person shall be eligible to more than 3 examinations within a period of 3 years.

HISTORY: CL 1948, 338.5;—Am. 1952, p. 292, Act 198, Imd. Eff. Apr. 29;—Am. 1954, p. 29, Act 20, Imd. Eff. Mar. 26;—Am. 1955, p. 295, Act 194, Eff. Oct. 14;—Am. 1968, p. 93, Act 54, Eff. Nov. 15.

338.6 Certificate of eligibility in basic sciences; requirement.

Sec. 6. No examining board for any branch or system of healing shall admit to its examinations, or license, or register, any applicant to such board, unless such applicant shall first present to said board a certificate of eligibility in the basic sciences issued under the provisions of this act.

HISTORY: CL 1948, 338.6.

338.7 Certificate of eligibility; revocation.

Sec. 7. The board may revoke any certificate of eligibility granted upon mistake of material fact or by reason of fraudulent misrepresentation of fact by any applicant, or when the holder shall be convicted under section 8 of this act.

HISTORY: CL 1948, 338.7.

338.8 Certificate of eligibility; unlawful procurement, penalty.

Sec. 8. If any person shall unlawfully obtain or procure a certificate of eligibility under the provisions of this act, whether by false and untrue statements contained in his application to the board, or other fraud or misrepresentation, or if any person shall forge, counterfeit or alter any certificate of eligibility issued under the provisions of this act, or if any person shall practice healing without securing the certificate required under this act, he shall be guilty of a felony, and shall be subject to the penalties prescribed therefor by law.

HISTORY: CL 1948, 338.8.

338.9 Definitions; construction of act.

Sec. 9. The terms “practice of healing,” “art of healing,” “healing art,” “healing” as used in this act shall be construed to mean and include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury, or unhealthiness or abnormal physical or mental condition: Provided, That this act shall not be construed as applying to interns and residents who are training in Michigan hospitals, to the practice of dentistry, dental hygiene, pharmacy, nursing, optometry, chiropractic, barbering, cosmetology and hydrotherapy by persons licensed to practice by the licensing board of their respective profession or calling to practice within the limits of their respective professions or callings; or interfere with or prevent the giving of massages, baths, Swedish movements and exercises and physical culture treatments by persons not licensed under this act; nor to persons who confine their ministrations to the sick and afflicted to prayer and without the use of material remedies; nor to persons specifically permitted by law to practice without licenses, who practice each within the limits of the privilege thus granted to them; nor to the fitting and recommending of arch supports and orthopedic shoes by retail dealers.

The term “basic science” as used in this act shall be construed to mean and include anatomy, physiology, bacteriology, pathology and chemistry.

HISTORY: CL 1948, 338.9;—Am. 1952, p. 292, Act 198, Eff. Apr. 29.

338.10 Receipts; payment to state treasury.

Sec. 10. All moneys received by the board of examiners in the basic sciences shall be paid promptly into the state treasury and shall be credited to the general fund of the state to be disbursed as appropriated by the legislature, and a receipt for the same shall be filed by the secretary-treasurer of the said board in the office of the auditor

general. The expenses of the board shall be met from the appropriation made therefor by the legislature.

HISTORY: CL 1948, 338.10.

338.11 Exemptions.

Sec. 11. This act shall not apply to any person legally registered and licensed to practice healing on the effective date of this act nor to any person graduated from an accredited medical, chiropractic, podiatry or osteopathic college or university located within the United States.

HISTORY: CL 1948, 338.11;—Am. 1970, p. 507, Act 162, Imd. Eff. Aug. 2.

338.12 Certificate of eligibility; construction as additional qualification.

Sec. 12. The certificate of eligibility required under the provisions of this act shall be construed as an additional qualification of applicants for examination, or license, or registration, in any of the branches of the healing art, and as a condition precedent thereto. It shall not be construed to in any way be a substitute for or in lieu of any of the requirements prescribed by law or by any examining board in any of the branches of the healing art.

HISTORY: CL 1948, 338.12.

338.13 Discrimination prohibited; examination papers and list of certificates of eligibility, filing.

Sec. 13. The board of examiners in the basic sciences shall in no manner discriminate against any system or branch of healing. No applicant shall be required to disclose the professional school he may have attended or what system of the healing art he intends to pursue. The examination papers shall not disclose the name of any applicant, but shall be identified by numbers to be assigned by the secretary-treasurer of the board. All examination papers shall be filed with the secretary of state at Lansing for a period of 5 years.

On the 15th day of January, 1953, and yearly thereafter, the board of examiners shall file with the secretary of state at Lansing a list of all certificates of eligibility issued by said board during the preceding year, certifying as to each such certificate the reason for issuance thereof.

HISTORY: CL 1948, 338.13;—Am. 1952, p. 293, Act 198, Imd. Eff. Apr. 29.

Sec. 14. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 15. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 297, 1965, p. 572; Eff. Mar. 31, 1966.

AN ACT regulating the sale or conveyance of the practice of a healing system; to require the reporting of such sale or conveyance and to impose a penalty.

The People of the State of Michigan enact:

338.31 Sale or conveyance of medical or dental practice; notice to state board.

Sec. 1. Any person who sells, purchases or assumes the practice of any person licensed to practice medicine or dentistry in this state from the individual or his estate shall notify, within 10 days of sale, purchase or assumption, the state board which licensed or registered the practitioner, of the sale, purchase or assumption.

HISTORY: New 1965, p. 572, Act 297, Eff. Mar. 31, 1966.

338.32 Violation of act; misdemeanor.

Sec. 2. Any person violating any provisions of this act shall be deemed to be guilty of a misdemeanor.

HISTORY: New 1965, p. 572, Act 297, Eff. Mar. 31, 1966.

Act 237, 1899, p. 369; Eff. Sep. 23.

AN ACT to provide for the examination, regulation, licensing and registration of physicians and surgeons, and for the punishment of offenders against this act, and to repeal acts and part of acts in conflict therewith.

The People of the State of Michigan enact:

338.51 Board of registration in medicine; membership, qualifications, terms, vacancies.

Sec. 1. The governor shall appoint, by and with the advice and consent of the senate, 10 resident electors of the state, who shall constitute a board of registration in medicine. The Michigan state medical society shall submit to the governor its recommendations for appointments to said board, said recommendations to consist of not less than 3 times the number of appointments to be made. The governor may appoint from such list: Provided, That 1 member of said board shall at all times be a homeopathic physician who is a graduate of a school of medicine known as homeopathic. All persons so appointed shall be legally registered physicians of this state, shall be graduates in good standing of reputable medical colleges, and shall have been actively engaged in the practice of medicine in this state for at least 6 years immediately preceding the time of such appointment. The governor shall appoint, before the first day of October of each biennial period, persons qualified as aforesaid, to hold office for 4 years from the first day of October next ensuing. No member of said board shall belong to the faculty of any medical college or university. The governor shall also fill vacancies occasioned by death or otherwise, and may remove any member for the continued neglect of duties required by this act. Vacancies in said board shall be filled in accordance with the provisions of this act for the establishment of the original board, and a person appointed to fill a vacancy shall hold office during the unexpired term of the member whose place he fills.

HISTORY: Am. 1903, p. 270, Act 191, Eff. Sep. 17;—CL 1915, 6724;—CL 1929, 6737;—CL 1948, 336.51;—Am. 1952, p. 213, Act 172, Imd. Eff. Apr. 25.

CITED IN OTHER SECTIONS: Sections 338.51 to 338.59 are cited in §§ 16.427, 336.53, 338.321, 400.55, and 550.310.

338.52 Board of registration; meetings, officers, quorum, secretary, salary, bond.

Sec. 2. The members of said board shall meet on the second Tuesday of October, 1899, at the state capitol at Lansing, and shall then elect a president from their own number, and a secretary who need not be of their number, but each of whom shall hold their respective offices for 2 years, and shall have the power to administer oaths. The secretary shall receive such salary as shall be fixed by the legislature. Not less than 6 members present and voting shall constitute a quorum of said board for transaction of business. The secretary shall give to the treasurer of the state a bond in the penal sum of \$5,000.00, with sufficient sureties, to be approved by the governor, for the faithful discharge of his duties. The said board shall hold 2 regular meetings in each year and may hold additional meetings at such times and places as it may determine.

HISTORY: CL 1915, 6725;—CL 1929, 6738;—CL 1948, 338.52;—Am. 1952, p. 213, Act 172, Imd. Eff. Apr. 25;—Am. 1959, p. 197, Act 142, Imd. Eff. Jul. 15.

338.53 Board of registration; registration and qualifications of applicants.

Sec. 3. On and after the date of the taking effect of this act, all men and women who are not already legally registered under Act No. 237 of the Public Acts of 1899, as amended, being sections 338.51 to 338.59 of the Compiled Laws of 1948, and acts amendatory thereto, and who wish to begin the practice of medicine, surgery and midwifery in any of its branches in this state, shall make application to the board of registration in medicine, to be registered and for a certificate of registration. This registration and certificate shall be granted to such applicants as shall furnish satisfactory proofs of being at least 21 years of age, and evidence of being either a citizen of the United States or of having valid second naturalization papers, and of good moral and professional character, but only upon compliance with the following conditions contained in 1 or either of subdivisions first and second of this section:

Examinations; subjects.

First. The applicant shall be registered and given a certificate of registration if he or she shall satisfactorily pass an examination under the immediate authority and direction of the board upon the following subjects: Anatomy, histology and embryology, physiology, chemistry and toxicology, bacteriology, pathology, diagnosis, hygiene and public health, medical jurisprudence, diseases of the eye, ear, nose and throat, obstetrics, gynecology and surgery, and such additional subjects made necessary by advances in medical education as the board may designate, said examination to be conducted as follows:

Examinations; division into parts.

(a) The examination may be taken as a whole in all of the subjects as aforesaid, and shall be designated as the primary-final examination, or said examination may be divided into a primary examination upon subjects of anatomy, histology and embryology, physiology, chemistry and toxicology, and bacteriology, and a final examination upon the remaining subjects as aforesaid, not included in the primary examination;

Educational qualifications.

(b) The applicant shall file with the secretary of the board, at least 30 days prior to an examination, an approved application, through a blank furnished by the board, covering the detail of his or her personal history, and preliminary and medical education, and such other evidence of qualification as the board may require, which may include, of graduates of medical colleges other than accredited colleges in the United States and the Dominion of Canada, a certificate of satisfactory examination by such screening board of examiners as may be established or approved by and under regulations of the board of registration in medicine;

Rules and regulations; violation.

(c) The board may make such rules and regulations governing the conduct of the examinations as it shall deem necessary, and wilful violation of such rules and regulations shall subject the applicant to the loss of the examination and fee;

Methods of examination.

(d) The examination shall be made as practical as possible in order to test the applicant's qualifications as a practitioner of medicine, the method of which shall be in accordance with the board's best judgment, and may be a written, clinical, laboratory or oral examination, or a combination of 1 or more of the above methods;

Passing requirements; fees; classification of schools.

(e) An average percentage of at least 75% of correct answers on all the subjects listed under this section, and of not less than 65% on each subject, shall be required of every applicant: Provided, That in the case of a qualified applicant who has been in reputable and legal practice at least 5 years, at the discretion of the board, this requirement of minimum percentage may be modified by the board to meet the necessi-

ties of the individual case. Students of medicine in regular attendance at a recognized medical college and endorsed by said board as having fulfilled the legal requirements of the state for entrance to, or matriculation in, recognized medical colleges, and who have completed, in accordance with the board's adopted minimum standard of medical education, in such recognized medical college, through attendance and examination, and not prior to the termination of the second year in such institution, among others the subjects of anatomy, histology and embryology, physiology, chemistry and toxicology, and bacteriology, shall have the right to a primary examination, as recorded under subdivision first (a) of this section, upon prescribed subjects, said examination to be held at such times and places as may be determined by the board, and to receive from the board a certificate showing the credits received in the several subjects upon which an examination shall have been had as aforesaid, and such credits obtained shall, at the election of the student, be included in and form a part of the examination heretofore called the final examination under subdivision first (a) of this section: Provided, That subsequent to graduation from a recognized medical college, in said final examination for a certificate of registration the applicant shall, if presenting said credits to the board at the time of his or her application for examination be examined only in those remaining subjects prescribed under subdivision first of this section and which have not been listed as subjects of aforesaid primary examination. The applicant shall pay to the board a fee of \$75.00 prior to the examination, divided as follows: \$37.50 for the primary examination, and \$37.50 for the final examination. If such examinations are taken together, or as a whole, the fee shall be \$75.00 for such primary-final examination. The board shall, in the recognition of medical colleges, in its discretion, list such colleges in 3 or more classes or groups: Group 1 including those colleges which fulfill the advanced requirements of this act and which maintain the board's standards of preliminary and medical education; group 2 including those colleges which have fulfilled the standard of medical education demanded by this state at the date of the diploma; and group 3 including those colleges whose courses are recognized only for advanced standing in recognized colleges listed under group 1: Provided, That a diploma issued by a medical college listed by the board in 1 or more of the groups or classes as aforesaid, shall be recognized as a qualification under this act, in the event only of its representing the actual standards of preliminary and medical education within the provisions of this act. The board of registration in medicine shall from time to time adopt minimum standards of preliminary and medical education, and no high school, academy, college, university or medical college, or other institution or board, shall be approved and designated or its diploma or certificate be recognized by said board under subdivision first of section 3 of this act, unless in the judgment of the board, it conforms with such standard.

Reciprocity; fee.

Second. The applicant may, at the discretion of the board, be registered and given a certificate of registration if he or she shall present satisfactory proof of the possession of a certificate of registration or license which has been issued to said applicant within the states, territories, districts or provinces of the United States, or within any foreign country, or has been certified as a diplomate by the national board of medical examiners, where the requirements for the registration or certification of said applicant at the date of his or her license shall be deemed by said board of registration in medicine to be equivalent to those of this act. The fee for endorsement of registration and licensure from applicants of this class shall be \$100.00, and for the certification of a license to another state, \$25.00.

Temporary annual licenses; procedure; violation; fee.

The board shall have the power to grant temporary annual licenses to practice, to doctors of medicine who are pursuing post-graduate study and who meet all qualifica-

tions and conditions for the practice of medicine, surgery and midwifery within this state excepting the making of application to be registered and certified and the taking of the examinations required by section 3 of this act: Provided, That such person

(a) Makes application through his hospital superintendent and is approved by said hospital board for such training, and

(b) Conforms to all rules promulgated by said hospital board with reference to such training, and

(c) Confines his practice and training within a hospital or hospitals approved by the Michigan state board of registration in medicine for such training, and

(d) Neither he nor the hospital receives any fees for his services from any patients during the period of such training. The hospital shall be responsible for such training and any violation may cause it to be dropped from the lists of approved hospitals for such training. The fee for a temporary license shall be \$10.00 per annum renewable for not more than 5 years. The violation of the provisions hereof by any temporary licensee hereunder shall constitute cause for revocation of such temporary license.

Canadian applicants.

The board shall have the power to grant temporary annual licenses to practice medicine, surgery and midwifery in any of its branches in this state to doctors of medicine who are residents of this state but who are Canadian citizens and graduates of approved colleges of medicine of the Dominion of Canada who make affidavit of their intention to apply for and accept citizenship in the United States: Provided, however, That such temporary annual licenses shall be renewable for a period of not to exceed 5 years.

Foreign applicants.

The board shall also have the power to grant temporary annual licenses to practice medicine, surgery and midwifery in any of its branches in this state to doctors of medicine who, having entered the United States under any act of congress, are residents of this state prior to January 1, 1952, and who apply to be registered and certified under section 3 of this act and satisfactorily comply with the requirements for such registration and certificate, excepting the requirement of United States citizenship, in lieu of which such applicants shall furnish satisfactory proof of having declared their intention to become citizens of the United States or have filed a petition for naturalization, that such temporary annual licenses shall be renewable for a period of not to exceed 5 years.

Chiropractors; registration, examination, title, fee.

Third. The board is authorized to issue a license or certificate of registration to any person who desires to practice a system of treatment of human ailments or diseases, and who does not in such treatment use drugs or medicines, internally or externally, or who does not practice surgery or midwifery, under the provisions of this act: Provided, That the applicant for such license or certificate of registration shall have an accredited diploma from a high school, academy, college or university, or an equivalent credential, or shall pass an examination before the board of preliminary examiners, such examination to be equivalent to a recognized high school diploma, as provided in subdivision first of this section, and shall pass an examination before the board upon the following subjects: Anatomy, histology and embryology, physiology, chemistry, bacteriology, pathology, diagnosis, hygiene and public health. This examination shall be concurrent with and equivalent to the examination provided for practitioners of medicine under section 3, subdivision first, of this act, and shall be in harmony with the provisions of this section and subdivision covering such examination in the subjects as above specified: Provided, however, That such examination shall be a continuous one and not subject to a division into a primary and final examination. The fee for such

examination shall be \$25.00. A practitioner under this subdivision shall not be permitted to use in any form the title of "doctor" or "professor" or any of their abbreviations, or any other sign or appellation to his or her name which would in any way designate him or her as a physician or surgeon qualified under the provisions of section 3, subdivisions first and second of this act, or in violation of the provisions of this act. All persons granted a certificate of registration or license under the provisions of this subdivision third shall also conform to the provisions of Act No. 237 of the Public Acts of 1899, as amended, being sections 338.51 to 338.59 of the Compiled Laws of 1948, and acts amendatory thereto, except as provided in this subdivision: Provided, That all practitioners described in section 3, subdivision third, who have been granted a diploma by a college incorporated for the purpose of teaching their method of treatment and who file with the state board of registration in medicine, prior to October 1, 1913, an affidavit stating that they have practiced in the state of Michigan for a period of 2 years prior to September 1, 1913, shall be registered and authorized to practice without examination under the provisions of section 3, subdivision third, of this act. A fee of \$5.00 must accompany each application for registration under this provision.

Fraudulent registration, penalty.

Fourth. If any person shall unlawfully obtain and procure himself or herself to be registered under this section, whether by false and untrue statements contained in his application to the board of registration in medicine, or by presenting to said board a false or untrue diploma, certificate or license, or one fraudulently obtained, he shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than \$300.00 nor more than \$500.00, or by imprisonment for not less than 1 year nor more than 3 years, or both such fine and imprisonment, at the discretion of the court, and shall forfeit all rights and privileges obtained or conferred upon him by virtue of such registration.

Perjury, penalty.

Fifth. Any person who shall swear falsely in any affidavit or oral testimony made or given by virtue of the provisions of this act, or the regulations of the board of registration in medicine, shall be deemed guilty of perjury, and, upon conviction thereof, shall be subject to all the pains and penalties of perjury.

Unprofessional and dishonest conduct; effect, defined.

Sixth. The board of registration in medicine may refuse to issue or continue a certificate of registration or license provided for in this section to any person guilty of grossly unprofessional and dishonest conduct. The words "unprofessional and dishonest conduct," as used in this act, are hereby declared to mean:

- (a) The procuring, aiding or abetting in procuring a criminal abortion;
- (b) The obtaining of any fee on the assurance that an incurable disease can be permanently cured;
- (c) The wilfully betraying of a professional secret;
- (d) All advertising of medical business in which grossly improbable statements are made, or where specific mention is made in such advertisement of venereal diseases or diseases of the genito-urinary organs;
- (e) Having professional connection with, or lending one's name to an illegal practitioner of medicine; or having professional connection with any person or any firm or corporation who advertises contrary to the provisions of this section, or with any person who has been convicted in a court of competent jurisdiction under the provisions of this section;
- (f) All advertising, of any nature or kind, of any medicine, or of any means for the regulation or re-establishment of the menses;

(g) All advertising of any matter of an obscene or offensive nature derogatory to good morals or contrary to sections 34 to 36, inclusive, of Act No. 328 of the Public Acts of 1931, being sections 750.34 to 750.36 of the Compiled Laws of 1948;

(h) Employing or being employed by any capper, solicitor or drummer for the purpose of securing patients; or subsidizing any hotel or boarding-house with a like purpose, or paying, or offering to any person, money or any other thing of value with a like purpose, or advertising to do so in any form whatsoever; or the division of fees in a consultation or a reference of a patient to a specialist, when no actual professional service is rendered by the physician referring the case, without the knowledge of the patient or the person concerned in the payment thereof;

(i) Being guilty of offenses involving moral turpitude, habitual intemperance, or being habitually addicted to the use of morphine, opium, cocaine, or other drugs having a similar effect; or of prescribing or giving away any substance or compound containing alcohol or drug for other than legal and legitimate therapeutic purposes;

(j) Being guilty of making representations or claims of ability to cure or relieve human ailments by secret methods.

Same; penalty.

Seventh. It shall be a misdemeanor for any person to be guilty of "unprofessional and dishonest conduct" as defined in this act. Any person who has been issued a certificate of registration or license under this act, and who shall be charged with the commission of such misdemeanor, shall be tried in a court of competent criminal jurisdiction, and upon conviction thereof shall be fined for each offense not to exceed \$250.00, or shall be imprisoned in the county jail not to exceed 3 months, or may be both fined and imprisoned, in the discretion of the court. The creation of such misdemeanor by this act shall not be construed to supersede any existing remedy or punishment, whether civil or criminal, for any act embraced within the provisions of this act, but shall be construed to be in addition thereto.

Revocation or suspension of registration; procedure.

The board of registration in medicine may, upon the filing with it of a duly certified copy of a final conviction obtained in accordance with the provisions of this act, revoke or suspend for a limited period, not less than 6 months, the certificate or license of the person so convicted. The said board of registration in medicine may also revoke any certificate of registration or license of any person guilty of a criminal offense created by or embraced within the provisions of this act, or within the provisions of any state, provincial, territorial or federal act in the United States or in foreign countries when such criminal offense or such fraud or perjury shall have been legally established in a court of competent jurisdiction. Said board may also revoke any certificate of registration or license heretofore or hereafter granted upon mistake of material fact or by reason of fraudulent misrepresentation of fact by such applicant. Any person charged with a violation of the provisions of this subdivision seventh of section 3 shall have a fair hearing before the board, upon sufficient notice of such hearing: Provided, That this section shall not apply to such forms of contract practice as are from time to time endorsed by this board.

Mental incompetency.

The board of registration in medicine may, upon the filing with it of a duly certified copy of a final adjudication of mental incompetency of a licensee, suspend the certificate of registration or license of such licensee.

Restoration of registration.

Said board shall, upon hearing, have the power to restore a certificate of registration or license of any licensee.

Subpoenas.

Said board shall have the power to issue subpoenas to compel the attendance of witnesses or the production of records in any hearing before it.

HISTORY: Am. 1903, p. 271, Act 191, Eff. Sept. 17;—Am. 1905, p. 224, Act 161, Imd. Eff. June 1;—Am. 1907, p. 215, Act 164, Imd. Eff. June 18;—Am. 1913, p. 703, Act 368, Eff. Aug. 14;—CL 1915, 6726;—CL 1929, 6739;—CL 1948, 338.53;—Am. 1952, p. 213, Act 172, Imd. Eff. Apr. 25;—Am. 1953, p. 61, Act 67, Imd. Eff. May 12;—Am. 1954, p. 61, Act 54, Imd. Eff. Apr. 5;—Am. 1959, p. 197, Act 142, Imd. Eff. Jul. 15;—Am. 1967, p. 343, Act 233, Imd. Eff. Jul. 10;—Am. 1969, p. 135, Act 75, Imd. Eff. Jul. 21.

338.53a Educational requirements; modifications during state of war.

Sec. 3a. The educational requirements prescribed in section 3 of this act may be modified by order of the Michigan state board of registration in medicine during the state of war now existing between the United States and each of the various other nations or countries of the world with which this country is now at war or with which this country may be at war prior to the cessation of the present hostilities.

HISTORY: Add. 1943, p. 31, Act 33, Imd. Eff. March 24;—CL 1948, 338.53a.

338.53b Immigrant applicants; rotating internship, examination.

Sec. 3b. Notwithstanding any other provision of this act, the board may issue temporary annual licenses to practice medicine, surgery and midwifery in any of its branches in this state to doctors of medicine who are immigrants to the United States and residents in this state, and who are graduates of colleges and universities approved by the board, and who have made affidavit of their intention to apply for and accept citizenship in the United States, if the person has completed the 1-year rotating internship at any hospital approved by the board and satisfactorily passed an examination as set forth in subdivision first of section 3 of this act, as amended, and Act No. 59 of the Public Acts of 1937, as amended, being sections 338.1 to 338.13 of the Compiled Laws of 1948.

HISTORY: Add. 1959, p. 201, Act 142, Imd. Eff. Jul. 15;—Am. 1960, p. 30, Act 36, Imd. Eff. Apr. 16.

338.54 Certificate of registration; filing, fees, reinstatement, change of residence.

Sec. 4. Every person licensed under this act and wishing to continue in the practice of medicine, surgery and midwifery in any of its branches in this state shall annually on or before January 1 re-register with the board of registration in medicine on a form to be provided by said board, but re-registration under this section shall not be required of a physician during the calendar year in which he is originally licensed under section 3 of this act. The re-registration form, to be signed by the applicant, shall contain his name, his residence address, the address at which he is engaged in practice, and such other identifying information as the board may require, and an annual re-registration fee of \$5.00 shall accompany such form. A licensee who fails to re-register before January 1 shall be so notified by certified mail to his last known address, and until March 1 may re-register as above provided, except that the re-registration fee for the year shall be \$10.00. A physician duly licensed under this act shall be exempted from the payment of the fees above provided for any calendar year during which he is in the active service of the armed forces of the United States. The license of a licensee who has not re-registered before March 1 shall be considered suspended until such time as he shall re-register, at which time he may be reinstated by the board upon the payment of a re-registration fee of \$10.00, and no further examination shall be required by the board as a condition to such reinstatement. When any person licensed under this act and practicing in this state shall change his place of residence in this state, or shall move out of the state, he shall, within 30 days after such change, so notify the board. Nothing in this section shall preclude the exercise by the board of such other powers and duties as are stated in this act. The provisions of this section shall be effective for the calendar year beginning January 1, 1960, and thereafter.

HISTORY: CL 1915, 6727;—CL 1929, 6740;—Am. 1947, p. 385, Act 254, Eff. Oct. 11;—CL 1948, 338.54;—Am. 1959, p. 202, Act 142, Imd. Eff. Jul. 15.

338.55 Board of registration; receipts, expenses, compensation, appropriation.

Sec. 5. All moneys received by said board shall be paid to the state treasurer monthly, and shall be credited to the general fund of the state, and a receipt for the same shall be filed by the secretary of the said board in the office of the auditor general. The expenses of said board and the salary of the secretary shall be paid from such fund only. The members of said board shall receive actual and necessary expenses incurred in the discharge of their official duties; and in addition thereto they shall receive reasonable compensation to be set by the board for conducting examinations. Such expenses and compensation as shall be approved by said board shall be reported to the auditor general of the state, who shall draw his warrant upon the state treasurer for the amounts due, as in case of other bills and accounts under the provisions of law: Provided, That the amount so paid shall not exceed the amount received by the treasurer of the state from said board in fees, as herein specified, and as much of said receipts as may be necessary is hereby appropriated for the compensation and expenses of said board as aforesaid.

HISTORY: CL 1915, 6728;—CL 1929, 6741;—CL 1948, 338.55;—Am. 1959, p. 202, Act 142, Imd. Eff. Jul. 15.

338.56 Board of registration; reports of official acts and finances; inspection.

Sec. 6. Said board shall keep a record of all moneys received and disbursed by it each month, and said record shall always be open to inspection at the office of the secretary of state. Said board shall annually report to the governor, on or before the first day of January of each year, the condition of medicine and surgery in this state, which report shall contain a full and complete record of all its official acts during the year, and shall also contain a statement of its receipts and disbursements.

HISTORY: CL 1915, 6729;—CL 1929, 6742;—CL 1948, 338.56;—Am. 1959, p. 202, Act 142, Imd. Eff. Jul. 15.

338.57 Practice of medicine without license; felony.

Sec. 7. Any person who shall practice medicine or surgery in this state, or who shall advertise in any form or hold himself or herself out to the public as being able to treat, cure or alleviate human ailments or diseases, and who is not the lawful possessor of a certificate of registration or license issued under and pursuant to this act, or without first complying with the provisions of this act, except as provided in section 3 is guilty of a felony. It shall be the duty of the prosecuting attorneys of the counties of this state to prosecute violations of the provisions of this act.

HISTORY: Am. 1903, p. 274, Act 191, Eff. Sept. 17;—Am 1905, p. 305, Act 207, Imd. Eff. June 13;—Am. 1913, p. 709, Act 368, Eff. Aug. 14;—CL 1915, 6730;—CL 1929, 6743;—CL 1948, 338.57;—Am. 1952, p. 217, Act 172, Imd. Eff. Apr. 25;—Am. 1968, p. 266, Act 172, Eff. Nov. 15.

338.58 Application of act; exceptions.

Sec. 8. This act shall not apply to the commissioned surgeons of the United States army, navy or marine hospital service, in actual performance of their official duties, nor to regularly licensed physicians and surgeons from out of this state, in actual consultation with physicians and surgeons of this state, nor to dentists in the legitimate practice of their profession, nor to temporary assistance in cases of emergency, nor to the domestic administration of family remedies, nor to osteopaths practicing under the provisions of Act No. 162 of the Public Acts of 1903, nor to optometrists registered under Act No. 71 of the Public Acts of 1909, nor to chiropodists who confine their practice to chiropody and who do not use title of "doctor" or "professor" or any of their abbreviations, or any other prefix or affix in a medical sense to their names, nor to persons who confine their ministrations to the sick or afflicted to prayer and without the use of material remedies.

HISTORY: Am. 1913, p. 709, Act 368, Eff. Aug. 14;—CL 1915, 6731;—CL 1929, 6744;—CL 1948, 338.58.

NOTE: Act 162 of 1903, above referred to, is Compilers' § 338.101 et seq.
Act 71 of 1909, above referred to, is Compilers' §§ 338.251 to 338.262.

338.59 Practice of medicine; definition; titles as evidence.

Sec. 9. Any person who shall append the letters "M.D." or "M.B." or other letters in a medical sense, or shall prefix the title "doctor" or its abbreviation, or any sign or appellation in a medical sense, to his or her name, it shall be prima facie evidence of practicing medicine within the meaning of this act. In this act, unless otherwise provided, the term "practice of medicine" shall mean the actual diagnosing, curing or relieving in any degree, or professing or attempting to diagnose, treat, cure or relieve any human disease, ailment, defect or complaint, whether of physical or mental origin, by attendance or by advice, or by prescribing or furnishing any drug, medicine, appliance, manipulation or method, or by any therapeutic agent whatsoever.

HISTORY: Am. 1913, p. 709, Act 369, Eff. Aug. 14;—CL 1915, 6732;—CL 1929, 6745;—CL 1948, 338.59.

338.60 Repealed. 1959, p. 203, Act 142, Imd. Eff. Jul. 15.

Section required assessors to list physicians.

Sec. 11. (This was a repeal section.)

HISTORY: CL 1915, 6734;—CL 1929, 6747;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 167, 1883, CL 1897, 5279-5285.

Act 56, 1905, p. 75; Eff. Sep. 16.

AN ACT to provide for the examination and credit of students of recognized medical colleges and universities, who have completed such a proportion of the whole course of subjects provided for under section 3, subdivision first, Act 191, laws of 1903, amending Act 237, laws of 1899, as shall be prescribed by the state board of registration in medicine, subsequent to the completion of the second year at least in such recognized medical colleges and universities.

The People of the State of Michigan enact:

338.71 Primary medical examination; time, place, relation to final examination.

Sec. 1. All students of medicine and surgery, attending any legally organized and reputable medical college or university, as shall be approved of by the board of registration in medicine of this state, such students being endorsed by said board as having fulfilled the legal requirements of this state for entrance to, or matriculation in, recognized medical colleges, and who shall have completed in accordance with the board's adopted and published minimum standard of medical education, in such approved medical college or university, through attendance and examination, and not prior to the termination of the second year in such institution, such a proportion of the whole course of subjects provided for under section 3, subdivision first, Act 191, laws of 1903, amending Act 237, laws of 1899, entitled "An act to provide for the examination, regulation, licensing and registration of physicians and surgeons," et cetera, as shall be prescribed by said board, shall have the right to an examination by said board, hereinafter called the primary examination, upon all such prescribed subjects as shall have been completed by aforesaid students, said examination to be held at such times and places as designated by the board, and to receive from the board a certificate showing the fact of such primary examination having been taken, together with the credits received thereon in the several subjects upon which examination shall have been had as aforesaid, and such credits obtained shall, at the election of the student, be included in and shall form a part of the examination hereinafter called the final examination, provided for under section 3, subdivision first of above mentioned act: Provided, however, That said credits obtained shall be included in, and shall form a part

of, the aforesaid final examination, in the event only that such credits shall be presented to said board within 3 years from and after the date of said primary examination: And provided, That subsequent to graduation from a recognized medical college, in said final examination for a certificate of registration, the applicant shall, if presenting said credits to the board, be examined only in those subjects prescribed for under section 3, subdivision first, of the above mentioned act, and which have not been prescribed and listed by the board as subjects of aforesaid primary examination.

HISTORY: CL 1915, 6738;—CL 1929, 6748;—CL 1948, 338.71.

NOTE: Sec. 3 of Act 191 of 1903 amending Act 237 of 1899, above referred to, is Compilers' § 338.53.

338.72 Primary medical examination; application, education requirements, fees.

Sec. 2. Any applicant applying to the board of registration in medicine for the primary examination provided for under the provisions of this act, shall with the application present to said board satisfactory proof that such applicant is an actual, bona fide and legally registered student of medicine and surgery, in a legally organized and reputable medical college or university recognized as such by said board, and endorsed by the board as having fulfilled the legal requirements of matriculation in this state, and that said applicant has completed, by attendance and examination, and not prior to the termination of the second year in such recognized medical college or university, such a proportion of the whole course of subjects provided for under the general laws of the state as has been prescribed by said board. The applicant shall at the same time pay to the board, for the primary examination provided for, such uniform fee during each calendar year as shall be determined by the board as necessary to cover the expense incurred by such additional examinations, and which fee shall not exceed the sum of 15 dollars for each applicant: Provided, The payment of this fee for said primary examination shall not relieve such applicant from the payment of the fee provided for in section 3, subdivision first (a) of Act 191, laws of 1903, amending Act 237, laws of 1899.

HISTORY: CL 1915, 6739;—CL 1929, 6749;—CL 1948, 338.72.

NOTE: Sec. 3 of Act 191 of 1903 amending Act 237 of 1899, above referred to, is Compilers' § 338.53.

Act 151, 1899, p. 224; Imd. Eff. Jun. 23.

AN ACT to specify the sources of authority for the issuing of medical diplomas; and to prevent the issuing of medical diplomas, and certificates to serve as diplomas, by unauthorized corporations or persons.

The People of the State of Michigan enact:

338.81 Issuance of medical diplomas; violations, penalty.

Sec. 1. That, excepting licenses issued in accordance with law by the state board of medical examiners, and diplomas issued by the University of Michigan, it shall be unlawful for any person or corporation except a legally incorporated and reputable college of medicine and surgery having and requiring actual attendance at a course of study of not less than 3 years of 8 months each, to issue a diploma or certificate setting forth or implying that the holder thereof is qualified to practice medicine or surgery, in any of their branches. Whoever shall violate this section shall, on conviction, be deemed to be guilty of a misdemeanor, and be punished by a fine not less than 100 dollars, nor more than 500 dollars, or by imprisonment in the county jail not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1915, 6735;—CL 1929, 6750;—CL 1948, 338.81.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 6736;—CL 1929, 6751;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 255, 1968, p. 438; Imd. Eff. Jul. 1.

AN ACT relative to the appointment or election of medical personnel to state positions.

The People of the State of Michigan enact:

338.91 Medical personnel; appointment to public positions, qualifications.

Sec. 1. For the purpose of appointment to governmental positions or serving on state, county, city, township or other public agencies, departments or subsidiaries thereof wherever the laws of the state require the services of or the qualifications of a licensed medical doctor, either a licensed medical physician or a licensed osteopathic physician shall be entitled to equal consideration for such services in all cases except serving on the licensing boards thereof.

HISTORY: New 1968, p. 438, Act 255, Imd. Eff. Jul. 1.

Act 162, 1903, p. 209; Eff. Sep. 17.

AN ACT to regulate the practice of osteopathy in the state of Michigan, to provide for the examination, licensing and registration of osteopathic practitioners, to appoint a state board of osteopathic registration and examination and for the punishment of offenders against this act; to provide for the disposition of moneys received under this act; and to repeal acts and parts of acts in conflict therewith. Am. 1955, p. 49, Act 40, Imd. Eff. Apr. 21.

The People of the State of Michigan enact:

338.101 Board of osteopathic registration and examination; members, treasurer's bond, compensation, expenses, rules, seal, meetings, records.

Sec. 1. There shall be a state board of osteopathic registration and examination, consisting of 5 persons, appointed by the governor, by and with the advice and consent of the senate, in the following manner, to-wit: Within 30 days after the passage of this act, the governor shall appoint 5 persons having the qualifications required by the section, who shall constitute the first board of osteopathic registration and examination. The terms of office shall be so designated by the governor that the term of 1 member shall expire each year, these several periods to date from May 1, 1903. Thereafter, in each year prior to May first, the governor, by and with the advice and consent of the senate, shall in the same manner, appoint 1 person to fill the vacancy to occur on the board on that date, from expiration of term. A vacancy occurring from any other cause shall be filled by the governor for the unexpired term in the same manner, by and with the advice and consent of the senate, if in session when such vacancy occurs, or in other cases subject to the approval of the senate at its regular session. Each person appointed as a member of the board shall, before receiving his certificate of appointment, file with the governor a certificate of the Michigan state osteopathic association or its successors, a corporation duly organized under the laws of the state of Michigan, under the seal of its president and secretary, setting forth that the person named in the certificate is a graduate of a reputable college or school of osteopathy; that he has been engaged in the practice of osteopathy in the state of Michigan for 2 years or more; that he is of good moral character, and that he is of good standing in his profes-

sion. The board shall organize by electing a president to serve for a term of 1 year and secretary and treasurer, to serve for a term of 1 year. The treasurer shall give bond in the sum of \$5,000.00, with surety approved by the board for the faithful discharge of his duties. The secretary shall receive a salary to be fixed by the board. The board may employ such assistants and investigators as it may deem necessary and fix their compensation and incur such other expenses as are necessary to carry out the provisions of this act. The members of the board shall each receive their actual expenses for the time actually employed in the discharge of their duties, and in addition shall receive \$25.00 per day on all days of regularly scheduled board meetings: Provided, however, That there shall not be more than 20 days of compensated meetings per year: Provided further, That each board member examiner shall receive the sum of \$50.00 for the preparing, giving and grading of each semiannual examination provided for in section 2 of this act. Said board in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948, shall adopt rules and regulations for its own organization and for carrying out the provisions of this act and may amend, modify and repeal said rules from time to time. The board shall have a common seal, and shall formulate rules to govern its actions. Its president and secretary shall have power to administer oaths. The board shall hold its annual meeting in Lansing in the month of September of each year, and shall hold other meetings at such other times and places as a majority of the board may appoint. Three members of the board shall constitute a quorum but no certificate to practice osteopathy shall be granted on an affirmative vote of less than 3. The board shall keep a record of its proceedings, and a register of all applicants for certificates, giving the name and location of the institution granting the applicant the degree of doctor of osteopathy, the date of his diploma, and also whether the applicant was rejected or a certificate granted. The books and register of the board shall be prima facie evidence of all matters recorded therein. The board shall create no expense exceeding the sum received from time to time as fees and fines herein provided.

HISTORY: Am. 1913, p. 580, Act 305, Eff. Aug. 14;—CL 1915, 6740;—CL 1929, 6757;—Am. 1935, p. 287, Act 184, Imd. Eff. June 6;—Am. 1937, p. 144, Act 101, Imd. Eff. June 21;—CL 1948, 338.101;—Am. 1955, p. 49, Act 40, Imd. Eff. Apr. 21.

FORMER ACT: Act 78 of 1897, being CL 1897, 5266 and 5287.

BASIC SCIENCE ACT: See Compilers' § 338.1 et seq.

CHIROPODISTS: Act relating to, is not applicable to osteopaths, see Compilers' § 338.306.

CITED IN OTHER SECTIONS: Sections 338.101 to 338.109 are cited in §§ 16.427, 338.321, 400.14, and 400.55.

338.102 Certificate; fee, application, educational requirements, examination.

Sec. 2. Any person before engaging in the practice of osteopathy in this state, shall upon the payment of a fee of 35 dollars, make application for a certificate to practice osteopathy to the board of osteopathic registration and examination, on a form prescribed by the board, giving first his name, age (which shall not be less than 21 years) and residence; second, evidence that such applicant shall have, previous to the beginning of his course in osteopathy, a diploma from a high school, academy, college or university, approved by aforesaid board or in lieu thereof, its equivalent credentials to be approved by the board; third, the name of the school or college of osteopathy from which he was graduated, and which shall have been in good repute as such at the time of the issuing of his diploma, as determined by the board; fourth, the date of his diploma, and evidence that such diploma was granted on personal attendance and completion of a course of study of not less than 4 years of 8 months each, and such other information as the board may require: Provided, That the said provisions applying to the course of study changing said course of study from 3 years of 9 months each to 4 years of 8 months each shall not take effect until February 1, 1916. The board may in its discretion accept as the equivalent of any part or all of the second and third re-

quirements, evidence of 5 or more years' reputable practice of osteopathy, by an osteopathic physician located in the state at the time of the passage of this act: Provided, That such substitution be specified in the certificate. If the facts thus set forth, and to which the applicant shall be required to make affidavit, shall meet the requirements of the board, as laid down in its rules, then the board shall require the applicant to submit to an examination as to his qualifications for the practice of osteopathy, which shall include the subjects of anatomy, physiology, chemistry, toxicology, pathology, bacteriology, histology, neurology, diagnosis, obstetrics, gynecology, surgery, hygiene, public health laws of Michigan, medical jurisprudence, principles and practices of osteopathy and such other subjects as the board may require. If such examination be passed in a manner satisfactory to the board then the board shall issue its certificate granting him the right to practice osteopathy in the state of Michigan, in all its branches as taught and practiced in the recognized colleges and schools of osteopathy. Any person failing to pass such examination may be re-examined at any regular meeting of the board within a year from the time of such failure without additional fee: Provided further, That the board may, in its discretion, dispense with an examination of the case, first, of an osteopathic physician duly authorized to practice osteopathy in any other state or territory, or the District of Columbia, who presents a certificate or license issued after an examination by the legally constituted board of such state, territory or District of Columbia, accorded only to applicants of equal grade with those required in Michigan; or, second an osteopathic physician who has been in legal practice of osteopathy for 5 years, who is a graduate of a reputable school of osteopathy, who may desire to change his residence to Michigan, and who makes application on a form to be prescribed by the board, accompanied by a fee of 75 dollars. The board of osteopathic registration and examination shall refuse to issue a certificate of registration provided for in this section to any person guilty of grossly unprofessional and dishonest conduct.

HISTORY: Am. 1913, p. 581, Act 305, Eff. Aug. 14;—CL 1915, 6741;—CL 1929, 6758;—Am. 1935, p. 288, Act 184, Imd. Eff. June 6;—CL 1948, 338.102.

338.102a Educational requirements; modification during state of war.

Sec. 2a. The educational requirements prescribed in section 2 of this act may be modified by order of the Michigan state board of osteopathic registration and examination during the state of war now existing between the United States and each of the various other nations or countries of the world with which this country is now at war or with which this country may be at war prior to the cessation of the present hostilities.

HISTORY: Add. 1943, p. 41, Act 44, Imd. Eff. March 29;—CL 1948, 338.102a.

338.103 Osteopathic board; fees paid into state treasury, compensation and expenses, renewal fee, attendance at education programs.

Sec. 3. All fees collected under the provisions of this act shall be paid promptly into the state treasury to be expended as otherwise provided by the legislature for the use of the state board of osteopathic registration and examination. The compensation of the secretary and expenses of members and officers of said board, and all expenses proper and necessary in the opinion of said board to discharge its duties under and to enforce the law, shall be paid out of such fund, upon fully itemized bills certified by the president and secretary as having been duly authorized by the board. Such bills shall be presented to the auditor general who shall draw his warrant upon the state treasurer for the payment thereof. Every person who receives a license to practice osteopathy from the board of osteopathic registration and examination shall pay to the said board on July first, of each and every year a renewal fee of \$5.00, effective July, 1949: Provided, That satisfactory evidence is presented to the board that the said licensee in the year preceding the application for renewal attended a 1 day educational

course or program of at least 8 hours duration, approved by the board, on subjects related to the practice of osteopathy, designed to further educate licensees under this act. The board may accept, as fulfilling the educational requirements, the application for renewal of any licensee who attended at least 1 of the 2-day education programs as conducted by the Michigan osteopathic association or its successors. The secretary shall notify each licensee at least 30 days prior to July first, of each year and failure to pay such renewal fee shall operate as a forfeiture of the right of the licensee to practice his profession in this state: Provided, however, That he may be reinstated by the board at its discretion upon payment of all fees due.

HISTORY: CL 1915, 6742;—CL 1929, 6759;—Am. 1935, p. 289, Act 184, Imd. Eff. June 6;—Am. 1937, p. 145, Act 101, Imd. Eff. June 21;—CL 1948, 338.103;—Am. 1949, p. 217, Act 204, Imd. Eff. May 28;—Am. 1952, p. 103, Act 93, Eff. Sep. 18.

338.104 Certificate holder; rights, duties.

Sec. 4. The certificate provided for in section 2 of this act shall entitle the holder thereof to practice osteopathy in the state of Michigan in all of its branches as taught and practiced by the recognized colleges or schools of osteopathy, but it shall not authorize him to practice medicine within the meaning of Act No. 237 of the Public Acts of 1899, or acts amendatory thereto: Provided, That nothing in this act shall be construed as to prohibit any legalized osteopathic physician in this state from practicing medicine and surgery after having passed a satisfactory examination before the state board of medical examiners in the state of Michigan. Osteopathic physicians shall observe and be subject to the state and municipal regulations relating to the control of contagious diseases, the reporting and certifying of births and deaths, and shall have the right to certify to births and deaths.

HISTORY: Am. 1913, p. 583, Act 305, Eff. Aug. 14;—CL 1915, 6743;—CL 1929, 6760;—CL 1948, 338.104.

NOTE: Act 237 of 1899 as amended, above referred to, is Compilers' § 338.51 et seq; in particular, see Compilers' § 338.59.

COMMUNICABLE DISEASE: See Compilers' § 329.1 et seq. Duty to give notice of disease, see Compilers' § 327.44.

BIRTHS AND DEATHS: Registration, see Compilers' § 326.1 et seq.

CHIROPODY: Practice by osteopaths, see Compilers' § 338.306.

338.105 Certificate; recording with county clerk, fee.

Sec. 5. Every person holding a certificate from the state board of osteopathic registration and examination shall have it recorded in the office of the county clerk of the county in which he expects to practice, and the date of the recording shall be indicated thereon. Until such certificate is filed for record the holder shall exercise none of the rights or privileges conferred therein. The county clerk shall keep, in a book provided for the purpose, a complete list of all the certificates recorded by him, with the date of the recording of each certificate. Each holder of a certificate shall pay to the county clerk a fee of 1 dollar for making such record.

HISTORY: CL 1915, 6744;—CL 1929, 6761;—CL 1948, 338.105.

338.106 Practice of osteopathy or use of titles without compliance; penalty.

Sec. 6. Any person who shall practice or attempt to practice, or use the science or system of osteopathy in treating diseases of the human body, or any person who shall buy, sell or fraudulently obtain any diploma, license, record, or registration to practice osteopathy, or who shall aid or abet in such selling or fraudulent obtaining; or who shall practice osteopathy under cover of any diploma, license, record, or registration to practice osteopathy, illegally obtained, or signed or issued unlawfully or under fraudulent representations; or who after conviction of felony shall practice osteopathy, or who shall use any of the forms of letters, "Osteopath," "Osteopathist," "Osteopathy," "Osteopathic Practitioner," "Doctor of Osteopathy," "Diplomate in Osteopathy," "D.O.," or any other titles or letter either alone or with qualifying words or phrases, under such circumstances as to induce the belief that the person who uses such terms is engaged in the practice of osteopathy, without having complied with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof,

shall be fined not less than 50 dollars, nor more than 500 dollars, or be imprisoned in the county jail not less than 30 days nor more than 1 year, or both: Provided, That nothing in this act shall be construed as prohibiting any lawfully qualified osteopathic practitioner in any other state or county meeting a registered osteopathic practitioner in this state for consultation; or any osteopathic practitioner residing on the border of a neighboring state, and duly authorized under the laws thereof to practice, whose practice may extend into this state, and who does not open an office or appoint a place of meeting or receive calls in this state; or any osteopathic practitioner duly registered in 1 county, called to attend isolated cases in another county. It shall be the duty of the prosecuting attorneys of the counties of this state to prosecute violations of the provisions of this act.

HISTORY: CL 1915, 6745;—CL 1929, 6762;—CL 1948, 338.106.

338.107 Inapplicability of act.

Sec. 7. This system, method or science of treating diseases of the human body known as osteopathy is hereby declared not to be the practice of medicine, or surgery within the meaning of Act No. 237 of the Public Acts of 1899 of the state of Michigan and not subject to the provisions of said act: Provided, That this act shall not apply to any legally qualified medical practitioner practicing medicine and surgery, under Act No. 237 of the Public Acts of 1899 or acts amendatory thereto, nor shall this act apply to masseurs or nurses practicing massage or manual Swedish movements in this state.

HISTORY: CL 1915, 6746;—CL 1929, 6763;—CL 1948, 338.107.

NOTE: Act 237 of 1899 as amended, above referred to, is Compilers' § 338.51 et seq.

Sec. 8. (This was a repeal section.)

HISTORY: CL 1915, 6747;—CL 1929, 6764;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

338.109 Revocation or suspension of licenses; causes; complaints, filing, hearing, appeal.

Sec. 9. The board shall have power to revoke or to suspend for a limited period the license of any osteopathic practitioner for any of the following causes:

(1) His conviction of a felony or of a misdemeanor involving moral turpitude, in either of which cases a certified copy of the court record shall be conclusive evidence, upon receipt of which the board shall revoke or suspend the license of the person so convicted;

(2) For any violation of the provisions of this act;

(3) For fraud or deceit in procuring admission to practice;

(4) For unprofessional conduct or for gross ignorance or inefficiency in his profession. Employing a solicitor or capper for the purpose of procuring patients or to attract or attempt to attract any person on the public streets by means of any public demonstration of any phase of medicine or surgery or by offering, selling or giving away any cure or any nostrum in order to induce such person or persons to enter any osteopathic practitioner's office room or parlor; obtaining any fee by fraud or misrepresentation; employing or knowingly permitting or conducting his business so carelessly or negligently as to permit directly or indirectly any student of osteopathic medicine, except as herein provided, or any unlicensed person or one whose license has been suspended or revoked, to perform operations of any kind or to treat lesions of the human body.

The unethical advertisement in which untruthful or impossible statements are made, and habitual intemperance or gross immorality, shall each be included within the term "unprofessional conduct."

In case any person shall make an accusation against any licensee under the second, third or fourth subdivisions above, the same shall be reduced to writing, verified by some person familiar with the facts therein stated and 3 copies thereof filed with the

secretary of the board. If the board shall deem that the charges made are sufficient, if true, to warrant suspension or revocation of license, it shall make an order fixing the time and place for a hearing and requiring the accused to appear and answer thereto, such order together with a copy of the charges to be served upon the accused at least 20 days before the date set for a hearing, either personally or by registered mail sent to his last known postoffice address. The person accused shall appear at the time and place fixed in the order and answer said charges and make his defense thereto unless for sufficient cause the board shall assign some other date. If he shall not appear, the board may hear and determine the matter in his absence. If the accused pleads guilty, or if after hearing he shall be found guilty by the board of any of the charges made, it may revoke or suspend his license for a limited period, shall enter the order upon its records, and shall notify the clerk of the county where he is registered of the cancellation or suspension of his license, as the case may be, who shall in turn enter such cancellation or suspension on the registration record in his office. Upon such hearing the board and accused may be represented by counsel, and the board shall have the power to take depositions and compel the attendance of witnesses by the issue of subpoenas under its seal and signed by the secretary. A licensee feeling himself aggrieved by the decision of the board under the second, third or fourth subdivisions above may, within 10 days after the revocation or suspension of his license, take an appeal or certiorari to the circuit court of the county in which he resides by filing with the clerk of the court an affidavit setting forth the substance of the proceedings had by the board and the errors of law or questions of fact upon which he relies and serving any member of the board with a copy thereof. The board shall, within 10 days of the service of such a copy, file with the county clerk a transcript of the proceedings had before it whereupon the circuit court is hereby vested with jurisdiction to hear and determine the questions of law and fact involved, as in writs of certiorari or appeals from justices of the peace, except that if the board prevails the judgment of the circuit court shall be that the decision of the board be affirmed and if the licensee prevails the judgment of the court shall be that the proceedings against him be dismissed. Pending the hearing of the certiorari or appeal the action of the board suspending or revoking the license shall be stayed.

HISTORY: Add. 1935, p. 289, Act 184, Imd. Eff. June 6;—CL 1948, 338.109.

Sec. 10. (This was a severing clause section.)

HISTORY: Add. 1935, p. 240, Act 184, Imd. Eff. June 6;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

Act 145, 1933, p. 214; Eff. Oct. 17.

AN ACT to provide for the appointment of a board of chiropractic examiners and for the examination, regulation, licensing and registration of chiropractors, and for the punishment of offenders against this act; and to repeal acts and parts of acts in conflict therewith.

The People of the State of Michigan enact:

338.151 Board of chiropractic examiners; appointment, qualifications, term, vacancies.

Sec. 1. Within 30 days after the passage of this act the governor shall appoint a board of chiropractic examiners composed of 5 chiropractors, each of whom shall be a graduate of an incorporated school or college of chiropractic and who shall have been engaged in the practice of their profession in this state for at least 5 years next preceding the passage of this act, and not more than 1 to be a graduate of any 1 school. No member of the board shall be connected in any way with a school or college of chiropractic.

ractic. Two of the members shall be appointed for a term of 2 years, 2 for a term of 3 years, and 1 for a term of 4 years, and all their successors shall be appointed for a term of 4 years. No individual shall serve for more than 2 4-year terms. All appointments made by the governor shall be with the advice and consent of the senate. Any vacancies occurring on the board due to death or otherwise shall be filled by the governor for the unexpired term with the advice and consent of the senate.

HISTORY: CL 1949, 338.151;—Am. 1955, p. 85, Act 53, Imd. Eff. May 10.—Am. 1968, p. 117, Act 73, Imd. Eff. Jun. 4.
CITED IN OTHER SECTIONS: Sections 338.151 to 338.159 are cited in §§ 16.427, 400.14, and 400.55.

338.152 Board of chiropractic examiners; officers, oaths, bond, quorum, meetings, records, seal, rules.

Sec. 2. The members of the board within 30 days after their appointment shall meet and elect a president from their own number, and elect or appoint a secretary who need not be one of their number, but each of whom shall hold their respective offices for 2 years and until their successors are elected and qualified. The president and secretary may administer oaths. The secretary shall give to the treasurer of the state a bond in the penal sum of \$5,000.00 with sufficient sureties to be approved by the governor for the faithful discharge of his duties. A majority of the board constitutes a quorum for the transaction of business. The board shall hold its annual meeting in Lansing in September of each year and other meetings at such times and places as the majority of the board may appoint. The board shall keep a record of its proceedings and register of all applicants for license which register shall show whether the applicant was rejected or a license granted. The books and register of the board shall be prima facie evidence of all matters recorded therein. The board shall have a common seal and shall formulate rules to govern its actions, and to make such rules and regulations as are necessary to administer this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: CL 1948, 338.152;—Am. 1968, p. 117, Act 73, Imd. Eff. Jun. 4.

338.153 Chiropractic license; application, fee, qualifications.

Sec. 3. Any person wishing to practice chiropractic and be approved for examination for licensure in the state shall make application to the board of chiropractic examiners, such application to be accompanied by a fee of \$50.00, and the board shall issue such license annually upon the following conditions:

Each applicant shall show to the satisfaction of the board that he or she is at least 21 years of age and possesses a high school education or its equivalent; and that he or she is a graduate of a recognized school or college of chiropractic which does not permit correspondence or night courses requiring for graduation a course of study of not less than 4,000 forty-five minute class hours; and in addition, pass an examination before the board and to its satisfaction in the following subjects: principles and practice of chiropractic, anatomy, physiology, histology, chemistry, pathology, bacteriology, diagnosis, hygiene, and public health, with an average passing grade of 75%. Any applicant who is not enrolled and in attendance at a recognized school or college of chiropractic by January 1, 1969, shall in addition to the foregoing, be required to furnish evidence to the board of satisfactorily completing at least one year, and starting January 1, 1970, 2 or more years of college accreditation in the arts and sciences in a college accredited by a state or regional association, board, or commission responsible for the accreditation and/or approval of secondary schools and colleges. The board may at its discretion issue a license to an applicant if he or she shall present satisfactory proof of the possession of a license or certificate of registration which has been issued to the applicant within the states or territories of the United States, or within any foreign country.

or if issued a certificate by the national board of chiropractic examiners, where the requirements for the registration or certification of the applicant at the date of his or her license shall be deemed by the board of chiropractic examiners to be substantially equivalent to those of this act; and the fee for each such license shall be \$50.00 annually.

HISTORY: CL 1948, 338.153;—Am. 1955, p. 85, Act 53, Imd. Eff. May 10;—Am. 1968, p. 118, Act 73, Imd. Eff. Jun. 4.

338.154 License; renewal fee, educational requirement, reinstatement.

Sec. 4. Every person who receives a license to practice chiropractic from the board of chiropractic examiners shall thereafter pay a renewal fee of \$20.00 to the board on or before January 1 of each succeeding year. Before a renewal of license is issued by the board, each licensee shall furnish the board with satisfactory evidence that he has attended, not less than 1 2-day educational conference conducted by the Michigan state chiropractic society within the current calendar year, or that he has attended an equivalent educational conference. The educational conference shall be conducted by the society before September 1 of each year. The equivalent educational conference shall be one approved or ratified by the board as meeting the educational and professional requirements of the profession. The secretary of the board shall, at least 30 days prior to January 1 of each year, notify each licensee of the provisions of this section, and if any licensee fails to comply with the provisions hereof, the renewal of his license shall be withheld, but the licensee may be reinstated by the board upon subsequent compliance with the provisions of this section.

HISTORY: Am. 1941, p. 183, Act 139, Eff. Jan. 10, 1942;—CL 1948, 338.154;—Am. 1955, p. 86, Act 53, Imd. Eff. May 10;—Am. 1962, p. 89, Act 101, Eff. Mar. 28, 1963;—Am. 1968, p. 118, Act 73, Imd. Eff. Jun. 4.

338.155 License; record of county clerk, fee.

Sec. 5. Every person who receives a license to practice chiropractic from the board of chiropractic examiners shall before beginning the practice of his profession in this state record said license or a certified copy thereof with the county clerk of the county in which he expects to practice. Until such license is filed for record, the holder thereof shall exercise none of the rights or privileges conferred therein. The county clerk shall keep in a book provided for that purpose a complete list of all the licenses recorded by him with the date of the recording of such licenses. Each holder of a license shall pay to the county clerk a fee of \$2.00 for making such record.

HISTORY: CL 1948, 338.155;—Am. 1963, p. 89, Act 73, Eff. Sep. 6.

338.156 Chiropractic; definition; x-ray use.

Sec. 6. The license provided for in this act shall entitle the holder thereof to practice chiropractic in the state of Michigan, and for the purpose of this act chiropractic is defined as “the locating of misaligned or displaced vertebrae of the human spine, the procedure preparatory to and the adjustment by hand of such misaligned or displaced vertebrae and surrounding bones or tissues, for the restoration and maintenance of health.” A licensed doctor of chiropractic under this act may use x-ray and such analytical instruments as are approved by the Michigan board of chiropractic examiners in the examination of patients solely for the purpose of locating misaligned or displaced vertebrae of the human spine and for the procedures preparatory thereto.

The terms “chiropractic”, “doctor of chiropractic”, “chiropractor” and “all licensed doctors of chiropractic” mean a practitioner of chiropractic as defined in this act.

HISTORY: CL 1948, 338.156;—Am. 1968, p. 118, Act 73, Imd. Eff. Jun. 4.

338.157 License; refusal, suspension or revocation; causes; complaint, hearing, appeal.

Sec. 7. The board may refuse, or suspend for a limited period, the license of any chiropractor for any of the following causes:

(a) His conviction of a felony or of a misdemeanor involving moral turpitude, in either of which cases a certified copy of the court record shall be conclusive evidence, upon receipt of which the board shall revoke or suspend the license of the person so convicted.

(b) For any violation of any of the provisions of this act.

(c) For fraud or deceit in procuring admission to practice.

(d) For habitually using drugs or intoxicants to the extent of rendering him unfit for the practice of chiropractic, or for gross immorality.

(e) For violation of any of the rules and regulations adopted by the board.

(f) For being guilty of wilful and gross malpractice, or wilful or gross neglect in the practice of chiropractic.

(g) For obtaining any fee by fraud or misrepresentation.

(h) For being guilty of false, fraudulent or misleading advertising or advertising in which grossly improbable statements are made; or advertise in any publication or media free services or consultation, or the prices for which his services are available; or having professional connection with any person or any firm or corporation who advertises contrary to the provisions of this section.

(i) For failure to maintain a satisfactory standard of competency in the practice of chiropractic.

If any person makes an accusation against any licensee under this section, it shall be reduced to writing, verified by some person familiar with the facts and 3 copies filed with the secretary of the board. If the board deems the charges made are sufficient, if true, to warrant suspension or revocation of license, it shall make an order fixing the time and place for a hearing and requiring the accused to appear and answer thereto such order, together with a copy of the charges to be served upon the accused, at least 20 days before the date set for a hearing, either personally or by registered mail sent to his last known post-office address. The person accused shall appear at the time and place fixed in the order and answer the charges and make his defense thereto unless for sufficient cause the board shall assign some other date. If he shall not appear, the board may hear and determine the matter in his absence. If the accused pleads guilty, or if after hearing he shall be found guilty by the board of any of the charges made, it may revoke or suspend his license for a limited period, shall enter the order upon its records, and shall notify the clerk of the county where he is registered of the cancellation or suspension of his license, who shall in turn enter such cancellation or suspension on the registration record in his office. Upon such hearing the board and accused may be represented by counsel, and the board shall have the power to take depositions and compel the attendance of witnesses by the issue of subpoenas under its seal and signed by the secretary. A licensee feeling himself aggrieved by the decision of the board under this section may, within 10 days after the revocation or suspension of his license, take an appeal or certiorari to the circuit court of the county in which he resides by filing with the clerk of the court an affidavit setting forth the substance of the proceedings had by the board and the errors of law or questions of fact upon which he relies and serving any member of the board with a copy thereof. The board shall, within 10 days of the service of such a copy, file with the county clerk a transcript of the proceedings had before it whereupon the circuit court is hereby vested with jurisdiction to hear and determine the questions of law and fact involved, as in writs of certiorari or appeals from justices of the peace, except that if the board prevails, the judg-

ment of the circuit court shall be that the decision of the board be affirmed, and if the licensee prevails, the judgment of the court shall be that the proceedings against him be dismissed. Pending the hearing of the certiorari or appeal, the action of the board suspending or revoking the license shall be stayed.

HISTORY: Am. 1941, p. 183, Act 139, Eff. Jan. 10, 1942;—CL 1948, 338.157;—Am. 1968, p. 119, Act 73, Imd. Eff. Jun. 4.

338.158 Unlicensed practicing; penalty.

Sec. 8. Any person who shall practice chiropractic or hold himself out to the public as a chiropractor without having first obtained a license from the board of chiropractic examiners is guilty of a misdemeanor. Any person who is convicted of a second violation of any of the provisions of this section is guilty of a felony.

HISTORY: CL 1948, 338.158;—Am. 1968, p. 120, Act 73, Imd. Eff. Jun. 4.

338.159 Board of chiropractic examiners; revenues, disposition; compensation and expenses.

Sec. 9. All moneys received by the board shall be paid promptly into the state treasury and shall be credited to the general fund of the state to be disbursed as appropriated by the legislature and a receipt for the same shall be filed by the secretary of the board in the office of the auditor general. Each of the members shall receive \$20.00 per day for each day actually engaged in the duty of his office for not to exceed a total of 30 days in each year and his actual and necessary expenses.

HISTORY: Am. 1935, p. 44, Act 30, Imd. Eff. Apr. 27;—CL 1948, 338.159;—Am. 1955, p. 86, Act 53, Imd. Eff. May 10;—Am. 1968, p. 120, Act 73, Imd. Eff. Jun. 4.

Sec. 10. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Sec. 11. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 122, 1939, p. 223; Eff. Sep. 29.

AN ACT to regulate the practice of dentistry and dental surgery; to provide for the examination, licensing, registration and regulation of persons who may practice the same; to provide for written work authorizations from dentists or physicians to dental laboratories; to provide for the disposition of moneys received under this act; and to provide penalties for violations of this act. Am. 1961, p. 315, Act 198, Eff. Sep. 8.

The People of the State of Michigan enact:

338.201 State board of dentistry; membership, qualifications, appointment, terms.

Sec. 1. The practice of dentistry shall be under the supervision of a board to be known as the Michigan state board of dentistry. Said board shall consist of 7 reputable dentists, each of whom shall have been graduated from a reputable dental college, shall have practiced his profession in this state for at least 5 years, and shall have been a resident of this state for at least 5 years, 2 of whom shall be residents of the upper peninsula. The present members of the board now in existence shall continue in office until the expiration of the term for which they were respectively appointed. The governor shall annually hereafter appoint 1 member of said board, with the advice and consent of the senate, and shall fill any vacancy in like manner for an unexpired term, by appointment from a list of 3 licensed dentists recommended to him by the Michigan state dental society. Each member shall hold office for a term of 7 years, or until

the appointment and qualification of his successor. No member of a dental faculty may be eligible to membership on the board.

HISTORY: CL 1948, 338.201;—Am. 1955, p. 86, Act 54, Imd. Eff. May 10.

CITED IN OTHER SECTIONS: Sections 338.201 to 338.221 are cited in §§ 16.427 and 550.351.

338.202 Board of dentistry; regulatory powers, organization, powers, officers, meetings, examinations, reports.

Sec. 2. The board shall adopt rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for its own organization and for the practice of dentistry in this state, and for carrying out the provisions of this act, and may amend, modify and repeal said rules and regulations from time to time. The board shall also have the power to appoint such committees, special examiners, officers and employees and to incur such expenses, as it may deem necessary or proper to carry out the provisions of this act, the expense thereof to be charged and paid as other expenditures of the board. The president and secretary of the existing board shall continue in office until their respective terms as such shall expire. Thereafter said board shall elect a president and secretary from its membership, each of whom shall hold office for a term of 1 year. It shall hold 1 regular meeting each year in the city of Ann Arbor in the month of June and such special meetings as may be necessary at such times and places as it may determine. A majority of the board shall constitute a quorum. The board shall hold 3 examinations in each year, 1 in the month of June and 2 at such time and place as may be fixed by the board, at which applicants to practice dentistry in the state of Michigan may be licensed by the board. Two of the examinations shall be held in the city of Ann Arbor and one examination in the city of Detroit. The board shall have power to send 2 delegates to the meetings of the national association of dental examiners, and charge the expense thereof, per diem excluded, to the business of the board. The secretary shall keep a full record of its proceedings and a complete registry of all licensed dentists and dental hygienists and dental graduates to whom permits are issued, as hereinafter provided. A transcript of any entry in such record or registry certified by the secretary shall be competent evidence of the facts therein stated. Upon this act becoming effective, the secretary shall mail a copy of the same to every licensed dentist and oral hygienist within the state, and each year thereafter a copy of the same, with any amendments thereto, to those to whom the board has granted licenses during the year. Said board shall prepare and file with the state administrative board such reports as may be required by the state administrative board, which reports may be printed and bound in such form and in such quantities as the board of state auditors may deem necessary. The expense of such printing and binding shall be charged as an expenditure of said board.

HISTORY: CL 1948, 338.202;—Am. 1961, p. 315, Act 198, Eff. Sep. 8.

338.203 Secretary; bond, salary; members, compensation, receipts and disbursements.

Sec. 3. The secretary shall give bond in such amount as the board may fix for the faithful discharge of his duties as custodian of the moneys paid to the board. He shall receive such salary as is appropriated by the legislature. Each of the members, other than the secretary, shall receive for each day actually engaged in the duties of his office a per diem of \$30.00, not to exceed the sum of \$1,200.00 per year, and his actual and necessary expenses. Annually the legislature shall appropriate for the expenses of the board, but in no case shall the appropriations exceed the receipts of the board. All moneys received by said board shall be deposited in the general fund of the state. The

amounts necessary for the expenditures of the board shall be paid out of the state treasury in accordance with the accounting laws of the state upon vouchers signed by the chairman of the board.

HISTORY: CL 1948, 338.203;—Am. 1955, p. 87, Act 54, Imd. Eff. May 10;—Am. 1961, p. 316, Act 196, Eff. Sep. 8.

338.204 Dentists; license required.

Sec. 4. Except as herein otherwise provided, it shall be unlawful for any person to practice or engage in the practice of dentistry or dental surgery in any of its branches, other than:

1. Those who are duly registered and licensed dentists in this state under the provisions of either Act No. 235 of the Public Acts of 1933, or the laws of this state in force at the time of their license and registration; and

2. Those duly licensed and registered under the provisions of this act.

HISTORY: CL 1948, 338.204.

NOTE: Act 235, 1933, above referred to, was repealed by this act.

338.205 Dentists; examination, dental college qualification.

Sec. 5. No person desiring to practice dentistry shall be licensed until he shall have satisfactorily passed an examination by said board. Every applicant for examination must be a citizen of the United States, or have declared his intention of becoming such. In cases where the applicant has declared his intentions of becoming a citizen, but has not completed his qualifications for citizenship, a temporary license may be issued for the duration of the minimum time required to complete citizenship. Upon completion of the requirements for citizenship the board may issue a regular license without further examination. It remains within the province of the board, before admitting an applicant graduated from a college of a foreign country to examination, to require such applicant to take such post-graduate work in a college of this country as will satisfy the board that such applicant is on an equal basis with graduates of reputable dental colleges of the United States. All applicants who have been graduated from a reputable dental college in the United States or foreign country may be required to furnish a certificate signed by the faculty or secretary of the school, college or university from which said applicant was graduated, certifying as to the character of and to the proficiency attained by said applicant throughout his curriculum of study. Every applicant for such examination shall furnish satisfactory proof supported by affidavit that he is of good moral character and a graduate of a reputable dental college duly organized under the laws of this state or any other of the United States or of any other country. Said board is hereby authorized to ascertain and determine what shall constitute a reputable dental college, but to be considered reputable, the following qualifications shall be necessary:

1. It must be chartered under the laws of the state in which it is located and operated, and authorized by its charter to confer the degree of doctor of dental surgery or doctor of dental medicine;

2. It must give annually a full course of lectures and instructions by a competent faculty and corps of instructors in the following subjects: Physiological chemistry, embryology, anatomy, histology, hygiene, bacteriology, pathology, materia medica, therapeutics, oral surgery, metallurgy, operative dentistry, prosthetic dentistry, crown and bridge work and orthodontia; the curriculum of instruction to consist of not less than 4 terms in 4 separate academic years and each term to be of not less than 32 weeks of 5 ½ days in each week;

3. It must have apparatus and equipment ample and sufficient for the ready and full teaching of the above named subjects; and

4. It must require matriculates to have a preliminary education equal to 60 semester hours in a college or university approved by said board.

HISTORY: CL 1948, 338.205.

338.206 Examination; application, fee, subjects, tests, subsequent examinations, false statement, penalty.

Sec. 6. Every candidate for examination shall file a written application on a form prescribed by the board, shall present his license or diploma for inspection, and shall pay to the secretary a fee of \$35.00. The applicant shall present himself before the board for examination at a date not later than the second regular meeting of the board next after filing his application, in default of which said fee shall be forfeited to said board. The examination shall be written or oral, or both, and shall include such subjects as may be designated by the board at any meeting of the board held 6 months prior to such examination. The board may also require such practical tests, working operations and demonstrations as may be designated by the board. The examination papers of each applicant shall be preserved by said board and may be inspected for 6 months after the date of his examination. During such period any unsuccessful applicant, by depositing \$50.00 with the secretary, shall have the privilege of having his examination papers re-read by the board in the presence of himself and any one representing him. If upon such re-reading the board shall determine that the examination papers of the applicant should have entitled him to pass, a license shall be issued to him and said deposit refunded, but said deposit shall otherwise be forfeited to the board. Any applicant who shall fail to pass an examination shall have the right to apply for a subsequent examination, in which case he shall pay to the secretary a fee of \$25.00 for each subsequent examination: Provided, however, That said board may for a sufficient cause remit said fee for such subsequent re-examination. Any applicant who shall fail to pass the examination upon his first trial will be given credit for such subjects as he may be entitled to, but such credits will be extended only until the second following board examination. If the applicant fails to pass his examination on the second trial, the applicant shall on any third or subsequent trial be required to take an examination in all subjects the same as on his original first application. Any person who in any affidavit or application for examination shall wilfully make a false statement in a material regard shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished as provided by the laws of this state for the crime of perjury.

HISTORY: CL 1948, 338.206.

338.207 License; fees, duplicates, removal out of county, reports.

Sec. 7. The board shall issue to each person who shall successfully pass the examination a license under its seal duly authenticated by the signatures of the board members. No person, not previously registered under the laws of this state in the county where his office is located, shall engage in the practice of dentistry until he shall have registered such license in the office of the clerk of the county where he intends to practice. The county clerk shall register the same in a book provided and kept for that purpose, for which he shall be paid a fee of \$2.00 in each case by the person offering the same for registration. The board shall declare a license void unless it is so registered within 6 months from the date when the holder begins practice in said county. A duplicate license may be issued by the board in case of the neglect, failure or refusal to register within said period, but only upon payment to the board the sum of \$25.00 as a penalty. In case of the removal of a registered dentist to another county within the state, he shall cause his license to be registered in the same manner and within the same time as above provided. On September 1 in each year, every county clerk in the state shall send to the secretary of the board a complete list of all dentists and dental hygienists who registered in his county during the preceding year on blanks to be sent

to the county clerk by the board. Every person operating or controlling any dental office or rooms shall promptly report to the board the name or names of all registered dentists and dental hygienists in his employ, together with their place of residence and shall also report whenever any registered dentist or dental hygienist shall leave his employ.

HISTORY: Am. 1947, p. 387, Act 257, Eff. Oct. 11;—CL 1948, 338.207;—Am. 1963, p. 31, Act 30, Eff. Sep. 6.

338.208 Specialist; license, qualifications, examination, fee.

Sec. 8. No dentist shall announce or hold himself out to the public as limiting his practice to, or as being especially qualified in, or as giving special attention to, any branch of dentistry, without first having obtained a license therefor from the board as hereinafter provided. The board, upon satisfactory proof that the applicant has had a minimum of 1 year of post-graduate work in any one of the several recognized branches of dentistry in an approved college or university, or its equivalent, to be determined by the board, or has complied with any additional requirements of the board, may issue a license to such dentist authorizing such dentist to hold himself out, or to announce, to the public that he is especially qualified in, or limits his practice to, or gives special attention to, such recognized branch of the dental profession. Examinations shall be theoretical and practical. The theoretical examinations shall be in writing and include all the subjects represented in that recognized branch of dentistry in which the applicant desires to specialize. Written examinations may be supplemented by oral examinations. Demonstrations of the applicant's skill shall also be required. A special license shall be required for the practice of each recognized branch of dentistry in order for a dentist to hold himself out to the public as limiting his practice to, or being especially qualified in, or giving special attention to, any branch of dentistry. The fee for such examination and special license shall be \$100.00. Any applicant who shall fail to pass an examination shall have the right to apply for a subsequent examination, in which case he shall pay to the secretary a fee of \$25.00 for each subsequent examination: Provided, however, That said board may for a sufficient cause remit said fee for such subsequent re-examination.

HISTORY: CL 1948, 338.208;—Am. 1955, p. 87, Act 54, Imd. Eff. May 10.

338.209 Dental hygienist; license, qualifications, examination, fee, schools, permitted practice.

Sec. 9. Said board may also issue licenses to dental assistants to be known as dental hygienists. Every candidate for examination as a dental hygienist shall pay to the secretary of the board a fee of \$15.00 and shall furnish satisfactory proof that he is a graduate of an accredited high school in this state, or a school of like and equal standing in any other state or country, or has in earned units of study the equivalent necessary for graduation, and has earned a diploma or certificate from a reputable school of dental hygienists having a curriculum of not less than 2 separate academic years, and each term to be of not less than 32 weeks of 5 ½ days in each week. The board may ascertain and determine what shall constitute such reputable school. Every applicant who shall successfully pass such examination as may be prescribed by the board shall be granted a license as a dental hygienist which shall be recorded in the same manner as provided in section 7 of this act. Any applicant who shall fail to pass an examination shall have the right to apply for a subsequent examination, in which case he shall pay to the secretary a fee of \$10.00 for each subsequent examination: Provided, however, That said board may for a sufficient cause remit said fee for such subsequent re-examination. Such licensed dental hygienists may remove calcareous deposits, accretion and stains from the teeth, and may prescribe or apply ordinary mouth washes of soothing character, but shall not perform any other operation on the teeth, mouth or tissues of the oral cavity, or administer any therapeutic remedies to diseased portions

of teeth or their surrounding tissues. A hygienist may operate in the office of a legally licensed dentist, in a state or municipal institution, or in public schools, or under a board of health, or in a public clinic, authorized by said board, but shall not operate except under the supervision of a licensed dentist. The board may revoke or suspend the license of any registered dentist who shall permit any dental hygienist operating under his supervision to perform any operation other than those permitted under the provisions of this section.

HISTORY: CL 1948, 338.209.

338.210 Dental graduate permit; qualifications, fee, permitted practice, period.

Sec. 10. Said board may also issue a dental graduate permit upon payment of a fee of \$10.00 to any person who is a graduate of a reputable dental college as approved by the board, but who shall not yet have been licensed as a dentist by said board. Any person receiving such permit may practice dentistry in any state or municipal institution, or hospital, or public school, or under a board of health, or in any public clinic, authorized by said board under the direct supervision of a licensed dentist, but not otherwise; nor shall any permit authorize such person to practice for a period longer than the interim between its date of issue and the next regular examination held by the board for applicants for licenses as dentists. Permits shall be granted only to such graduates as have a definite offer of a position in a state or municipal institution, or hospital, or public school, or board of health, or public clinic, authorized by the board, and only after proper credentials of the applicant for such a permit have been examined and accepted by the board.

HISTORY: CL 1948, 338.210.

338.211 Annual license fees; revocation or suspension, notice, reinstatement.

Sec. 11. On or before October 1, 1961, and on or before October 1 of each year thereafter, excepting the year in which he is originally licensed, every registered dentist shall pay to the secretary of the board \$10.00 as an annual license fee and every registered dental hygienist shall pay to the secretary of the board \$5.00 as an annual license fee. The board may revoke or suspend the license of any person who fails to pay the fee on or before October 1, but revocation or suspension shall not be ordered except after 30 days' written notice of the delinquency by registered mail to the last known address of the person, during which period the person may pay the fee, together with such penalty, not exceeding \$5.00, as may be determined by the board. If any license is revoked or suspended, the same may be reissued or reinstated upon the payment of the accrued fees and such penalties, not exceeding \$10.00, as may be determined by the board.

HISTORY: Am. 1947, p. 291, Act 205, Imd. Eff. Jun. 13;—CL 1948, 338.211;—Am. 1955, p. 87, Act 54, Imd. Eff. May 10;—Am. 1961, p. 316, Act 198, Eff. Sep. 8.

338.212 Practice of dentistry; evidence.

Sec. 12. A person practices dentistry, within the meaning of this act, when it shall be shown:

(1) That he uses a dental degree, or designation, or card, device, directory, poster, sign, or other means whereby he represents himself or permits himself to be represented as being able to diagnose, treat, prescribe or operate for any disease, pain, deformity, deficiency, injury or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues.

(2) That he is a manager, proprietor, operator or conductor of a place where dental operations are performed.

(3) That he performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, either to himself or to another person or agency.

(4) That he, or his employee or employees, use a Roentgen or X-ray machine for dental treatment, radiograms, or for dental diagnostic purposes.

(5) That he extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws, or repairs or fills cavities in human teeth.

(6) That he offers and undertakes, by any means or method, to diagnose, treat or remove stains or accretions from human teeth or jaws.

(7) That he uses or administers anesthetics in the treatment of dental or oral diseases or in any preparation incident to a dental operation of any kind or character.

(8) That he takes impressions of the human tooth, teeth, jaws, or performs any phase of any operation incident to the replacement of a part of a tooth, teeth or associated tissues.

(9) That he examines clinical material in a dental office or contracts or agrees to render or perform, either personally or through another, a dental service or services.

(10) That he performs any operation included in the curricula of recognized dental schools or colleges.

HISTORY: CL 1948, 338.212;—Am. 1961, p. 316, Act 198, Eff. Sep. 8.

338.213 Exemptions from act.

Sec. 13. The following practices, acts and operations are exempt from the operation of this act:

(1) The rendering of dental relief in bona fide emergency cases in the practice of his profession by a physician or surgeon, licensed as such and registered under the laws of this state.

(2) The practice of dentistry in the discharge of their official duties by dentists while in the armed forces of the United States; and the United States public health service, or the United States veterans' administration.

(3) The practice of dentistry by students in dental schools or colleges approved by the board, when acting under the direction and supervision of registered and licensed dentists acting as instructors.

(4) The practice of dentistry by licensed dentists of other states or countries at meetings of the Michigan state dental society, or its successor or component parts thereof, alumni meetings of dental colleges, or any other like dental organizations, while appearing as clinicians.

(5) The use of Roentgen or other rays for making radiograms or similar records of dental or oral tissues under the supervision of a licensed dentist or physician, but such service shall not be advertised, by any name whatsoever, as an aid or inducement to secure dental patronage. No corporation shall advertise that it leases, owns or operates a Roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues of the oral cavity, or administering treatment thereto for any disease thereof.

(6) The filling of written work authorizations by dental laboratories for constructing, repairing or altering prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for or as a part of natural teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(7) The practice of dentistry by those licensed to practice dentistry in other states, who are graduates of schools accredited by the council on dental education of the American dental association, while they are in the employ of philanthropic founda-

tions or the state department of health operating programs of dental service directed by dentists regularly licensed in this state.

HISTORY: Am. 1945, p. 94, Act 98, Eff. Sep. 6;—CL 1948, 338.213;—Am. 1961, p. 317, Act 198, Eff. Sep. 8.

338.213a Dental laboratory; definition; work authorizations.

Sec. 13a. (1) The term “dental laboratory”, as used in this act means any dental workroom, whether operated as a part of a dental office or otherwise, by any person, association, corporation, or other entity other than a licensed dentist or physician, engaged in, or holding out to any person as being engaged in, either directly or indirectly, constructing, repairing or altering prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for or as a part of natural teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(2) Written work authorizations shall be in a form prescribed by regulations of the board and shall contain the following:

- (a) The name and address of the laboratory to do such work.
- (b) Identification of the patient by name or number.
- (c) The date on which it was written.
- (d) The description of the work to be done, with diagrams, if necessary.
- (e) A specification of the type and quality of materials to be used.
- (f) The signature of the dentist or physician, his complete address and the number of his state license.

(3) Upon completion of the prescribed work, it shall be returned to the prescribing dentist or physician or his office with the name or number of the written work authorization accompanying the invoice. Each work authorization or a carbon copy thereof shall be retained and filed by the issuing dentist or physician and by the dental laboratory doing the work for a period of at least 3 years. The filed work authorization or carbon copy thereof shall be available for inspection by the board or its representatives during such period.

(4) No dental laboratory shall have in its possession any prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for or as a part of natural teeth or jaws or associated structures or for the correction of malocclusions or deformities, either completed or being fabricated, without having in its possession a written work authorization therefor.

(5) No dental laboratory shall advertise, solicit, represent or hold itself out in any manner to the general public that it will sell, supply, furnish, construct, repair or alter prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for or as a part of natural teeth or jaws or associated structures or for correction of malocclusions or deformities.

(6) The board, its agents or employees may inspect dental laboratories to determine their compliance with this act. Any dental laboratory which violates any provisions of this act, or refuses to allow the board, its agents or employees to inspect the work authorizations or prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for or as a part of natural teeth or jaws or associated structures for the correction of malocclusions or deformities in its possession, is subject to such penalties as are provided in this act.

HISTORY: Add. 1961, p. 318, Act 198, Eff. Sep. 8.

338.214 Manager; definition; revocation of license of dentist for dealing with unlicensed person.

Sec. 14. The terms “manager,” “proprietor,” “operator” or “conductor” as used in this act shall be deemed to include any person:

1. Who employs operators or assistants; or
2. Who places in the possession of an operator, assistant or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment or office; or
3. Who retains the ownership or control of dental material, equipment or office and makes the same available in any manner for use by operators, assistants or other agents: Provided, however, That the above shall not apply to bona fide sales of dental material or equipment.

A licensee of dentistry who shall enter into any of the above described arrangements with an unlicensed manager, proprietor, operator or conductor may have his license suspended or revoked by the board.

HISTORY: CL 1948, 338.214.

338.215 Corporations prohibited from practicing dentistry; posting of name of employed dentist; exception.

Sec. 15. No corporation shall practice or continue to practice, offer or undertake to practice or hold itself out or continue to hold itself out, as practicing dentistry. Every person practicing dentistry as an employe of another shall cause his name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where such practice is conducted: Provided, however, That nothing herein contained shall prohibit a licensed dentist from practicing dentistry as the agent or employe of any charitable institution or hospital.

HISTORY: CL 1948, 338.215.

338.215a Dentistry clinics; operation by nonprofit corporations, conditions.

Sec. 15a. The provisions of this act shall not prohibit the establishment of dental clinics by nonprofit corporations organized for this purpose or by trustees of health and welfare funds if:

(a) The clinics are erected, financed and operated from trust funds which are derived from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees and which are subject to the terms, conditions and regulations of the labor-management relations act of 1947, as amended by Public Law 86-257, 1959, (United States Code, title 29, sections 141 et seq) and the federal welfare and pension plan disclosure act (United States Code, title 29, sections 301 et seq).

(b) The clinics are established and operated for the benefit of employees represented or employed by the labor organization, their dependents and retirees.

(c) All persons employed by the clinic to practice dentistry are licensed under this act.

HISTORY: Add. 1965, p. 79, Act 46, Imd. Eff. Jun. 8.

338.216 Dentistry; unlawful practices.

Sec. 16. It shall be unlawful for any person to practice dentistry or to operate or be a partner in the operation of, or control as proprietor, manager or otherwise, or to have any financial interest in the proceeds or receipts of or from, other than compensation as employe in the usual course of the practice, or to receive any part or percentage of the proceeds or receipts of or from, in lieu of rent or any part of the rent of any room or office, where dental work is done, provided or contracted for in any county of this state, not being at the time a dentist licensed to practice as such in this state and registered in the office of the county clerk of such county as herein provided. It shall be unlawful for any person to practice dentistry or to practice as a dental hygienist whose license or permit to practice has been revoked or suspended. It shall be unlaw-

ful for any person to practice dentistry or to practice as a dental hygienist without at all times keeping his license conspicuously displayed in his operating room and in any office where there are more dental chairs than 1 without having the license of each practitioner so displayed. It shall be unlawful for any person to employ any carrier or solicitor for the purpose of procuring patients for dental work to be done. It shall be unlawful for any person to practice dentistry or to operate or control as proprietor, manager or otherwise any room or office where dental work is done or contracted for, or in any way to advertise the same under any false or assumed name, or under the name of a corporation, company, association, trade name or under any name other than that under which his license was granted. It shall be unlawful for any person to advertise to the public any commercial dental laboratory or dental technician or dental clinic.

No person or persons shall own, or be financially interested in, or manage more than 1 office for the practice of dentistry in any location or locations and operate them under his or their own name, with employed operators. No dentist or dentists shall be associated or connected with, in any manner, any offices or rooms where the profession of dentistry is practiced unless such dentist or dentists shall be actually engaged for the major portion of their time in the practice of dentistry at such office or rooms: Provided, however, That the provisions of this paragraph shall not apply where a licensed dentist, with the approval of the board, shall choose to practice dentistry, under his own name, 1 or more days of a given week in 1 location other than the location of his principal office.

HISTORY: CL 1948, 338.216.

338.217 Dentistry; unlawful advertising practices.

Sec. 17. Excepting as in this act provided, it is unlawful for dentists to:

- (1) Make use of any advertising statements of a character tending to mislead or deceive the public.
- (2) Circulate any statement as to the skill or method of practicing dentistry of any dentist through any media, means, agencies or devices of an advertising nature.
- (3) Advertise professional superiority or the performance of professional services in a superior manner.
- (4) Advertise price, cost, charge, fee or terms of credit for professional services, or for materials used in the practice of dentistry, or comparative values thereof, since in a professional health service and because of the nature of the services involved, the prices must be variable.
- (5) Advertise bargains, cut rates, or special values in dental service or productions with or without specifying the time they shall apply.
- (6) Advertise any free dental work or free examinations.
- (7) Advertise to guarantee any dental services.
- (8) Advertise to perform any dental operation painlessly.
- (9) Advertise or circulate reports of cases or statements of patients in any way whatsoever.
- (10) Advertise by any means, the using of any secret anesthetic, drug, formula, medicine, method or system.
- (11) Employ any person to obtain, contract for, sell or solicit patronage, or make use of free publicity press agents.
- (12) Advertise by means of large display signs, or glaring light signs, electric or neon, or such signs containing as part thereof the representation of a tooth, teeth, bridge-work, plates of teeth or any portion of the human head, or use specimens of such in

display, directing the attention of the public to any such person engaged in the practice of dentistry.

(13) Advertise artificial teeth, bridgework or dentures by the use of any representation of a tooth, teeth, bridgework or denture, or of any portion of the human head, or advertise dental plates, or restorations, or the materials used in their construction, under any fictitious, misleading, fancy or unscientific name.

(14) Give a public demonstration of skill or methods of practicing dentistry for the purpose of securing patronage. Any dentist may publicly announce by way of newspaper or professional card that he is engaged in the practice of dentistry, giving his name, degree, office location where he is actually engaged in practice, office hours, telephone numbers and residence address, and, if he limits his practice to a specialty, he may state same.

(15) Use the services of a dental laboratory without furnishing a written work authorization to the dental laboratory and a carbon copy to the patient for constructing, repairing or altering prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for or as a part of natural teeth or jaws or associated structures or for the correction of malocclusion or deformities.

(16) Fail to retain a written work authorization or carbon copy thereof furnished to a dental laboratory for a period of 3 years, or refuse to allow the board, its agents or employees to inspect the file of written work authorizations or copies thereof.

(17) Receive any rebate, or other thing of value, directly or indirectly from any dental laboratory.

HISTORY: CL 1948, 338.217;—Am. 1961, p. 318, Act 198, Eff. Sep. 8.

338.218 License; revocation or suspension, grounds.

Sec. 18. The board shall have the power, and it shall be its duty, and it is hereby authorized, to suspend for a limited period or to revoke the license of any licensed dentist or any licensed dental hygienist for any of the following reasons:

1. His conviction of a felony or of a misdemeanor involving moral turpitude, in either of which cases a certified copy of the court record shall be conclusive evidence, upon receipt of which the board shall revoke or suspend the license of the person so convicted;

2. For fraud or deceit in procuring admission to practice dentistry or oral hygiene;

3. For habitually using drugs or intoxicants to the extent of rendering him unfit for the practice of dentistry or oral hygiene, or for gross immorality;

4. For being guilty of wilful and gross malpractice or wilful and gross neglect in the practice of dentistry or oral hygiene;

5. For conducting the practice of dentistry so as to permit directly or indirectly an unlicensed person to perform work which under this act can legally be done only by persons licensed to practice dentistry or oral hygiene in this state;

6. For practicing dentistry under a corporate, assumed, trade or firm name in violation of the provisions of this act;

7. For violation of the rules and regulations for the practice of dentistry, provided for in section 2 hereof;

8. For employing solicitors or cappers for the purpose of procuring patients for dental work to be done;

9. For attracting or attempting to attract any person on the public streets by means of any public demonstration of any phase of dental surgery or by offering, selling or giving away any cure or any nostrum or premium in order to induce such person or persons to enter any dental office, or room;

10. For obtaining any fee by fraud or misrepresentation;
11. For being guilty of false, fraudulent or misleading advertising;
12. For having failed to pay license fees as herein provided;
13. For holding himself out as specially qualified in, or limiting his practice to, or giving special attention to, a branch of dentistry, without a special license therefor;
14. For being guilty of dishonorable or unprofessional conduct in the practice of dentistry;
15. For the use of the name "clinic," "institute," or other title that may suggest a public or semi-public activity to designate what is in fact an individual or group private practice;
16. For failure to maintain a satisfactory standard of competency in the practice of dentistry; or
17. For a violation of any provision of this act, or for being a party to or assisting in any violation of any provision of this act.

HISTORY: CL 1948, 338.218.

338.219 License; suspension or revocation; notice, hearing, witnesses, findings, review.

Sec. 19. In case any person shall make an accusation against any licensee under any of the subdivisions of the preceding section, except the first subdivision, the same shall be reduced to writing, verified by some person familiar with the facts therein stated, and 3 copies thereof filed with the secretary of the board. If the board shall deem that the charges made are sufficient, if true, to warrant suspension or revocation of license, it shall make an order fixing the time and place for a hearing and requiring the accused to appear and answer thereto, such order, together with a copy of the charges to be served upon the accused at least 20 days before the date fixed for hearing, either personally or by registered mail, sent to his last known post office address. At the time and place fixed in said notice for said hearing, or at any time and place to which the said hearing shall be adjourned, the board shall hear the matter. The accused person shall have the right to be represented at any such hearing by counsel of his selection.

The president of the board shall have the right to administer oaths to witnesses and to issue subpoenas for the attendance of such witnesses at such hearing. Upon the request of the accused person, or his counsel, the said board shall issue subpoenas for the attendance of such witnesses in behalf of the accused, which subpoenas when issued shall be delivered to the accused person, or his counsel. Process for the attendance of witnesses shall be effective if served upon the person named therein anywhere within this state: Provided, That at the time of such service the fees now or hereafter provided by law for witnesses in civil cases in circuit court shall be paid or tendered to such person. In case of disobedience of a subpoena, the board or any party to such hearing may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses. Any of the circuit courts of the state within the jurisdiction of which such hearing is being held may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said board, and if so ordered give evidence touching the matter involved in the hearing. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

If the accused pleads guilty, or after hearing he shall be found guilty by the board of any of the charges made, it may revoke or suspend his license for a limited period, shall enter the order on its records, and shall notify the clerk of the county where he is registered of the cancellation or suspension of his license, as the case may be, who shall in turn enter such cancellation or suspension on the registration record in his office.

The findings of fact made by the board acting within its power shall, in the absence of fraud, be conclusive, but the supreme court shall have power to review questions of law involved in any final decision or determination of the board: Provided, That application is made by the aggrieved party within 30 days after such determination by certiorari, mandamus or by any other method permissible under the rules and practice of said court or the laws of this state, and to make such further orders in respect thereto as justice may require. Pending the review by the supreme court, the action of the board, suspending or revoking the license, shall be stayed.

HISTORY: CL 1948, 338.219.

338.220 Violation of act; penalty.

Sec. 20. Any person who shall violate any provision of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500.00, or by imprisonment in the county jail for not more than 1 year, or by both such fine and imprisonment in the discretion of the court. After conviction of any violation of any of the provisions of this act, any person who shall again violate any provision of this act, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than \$2,000.00, or by imprisonment in the state prison for not more than 2 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 338.220.

338.220a Violation of act; injunction.

Sec. 20a. Upon the violation of any provision of this act, any judge of the circuit court of the county where the violation occurs may restrain and enjoin the person, association, corporation or other entity from further violating any provision of this act. Injunctive relief may be granted upon the application of the board, the attorney general or the prosecuting attorney of the county where the violation occurs. This proceeding shall be in addition to and not in lieu of criminal prosecutions or proceedings to revoke or suspend licenses as authorized by this act.

HISTORY: Add. 1961, p. 319, Act 196, Eff. Sep. 8.

338.221 Construction of act.

Sec. 21. This act shall be deemed to be passed in the interests of the public health, safety and welfare of the people of this state, and its provisions shall be liberally construed to carry out its object and purposes.

HISTORY: CL 1948, 338.221.

Sec. 22. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 23. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 235, 1933.

Act 71, 1909, p. 111; Eff. Sep. 1.

AN ACT to regulate the practice of optometry; to create a state board of examiners in optometry; to prescribe their powers and duties; to provide for the licensing and registration of optometrists; to provide fees and the disposition thereof; and to provide penalties for violation of this act. Am. 1961, p. 132, Act 113, Eff. Sep. 8.

The People of the State of Michigan enact:

338.251 Board of examiners in optometry; membership, qualifications, powers, terms, vacancies, removal.

Sec. 1. The governor shall appoint, with the advice and consent of the senate, 5 electors of the state who shall constitute a board of examiners in optometry. All persons so appointed shall have been actively engaged in the practice of optometry in harmony with sections 7 and 8 of this act for at least 5 years preceding the time of such appointment.

Said board shall have authority and it shall be its duty as far as the provisions of this act permit:

(a) To make rules and regulations governing the practice of optometry and such other rules as may be necessary to carry out the provisions of this act;

(b) To administer such oaths and take such affidavits as are required by the provisions of this act, certifying thereto under their hand and the seal of the board;

(c) To assist in the prosecution of the violations of this act;

(d) To appoint an inspector whose duty it shall be to investigate all complaints as to the violation of this act, and to engage the services of other persons whenever deemed necessary and expedient; to assist in carrying out and enforcing the provisions thereof; and to fix the compensation of such inspector and such persons, which compensation shall be paid in the same manner as the per diem and expenses of members of the board are paid;

(e) To adopt a common seal to be affixed to its official documents;

(f) To keep a record of its proceedings, a register of persons licensed as optometrists and a register of licenses and certificates by it revoked;

(g) To make a report on or before the first day of July in each year to the governor of all its official acts during the preceding year, and of its receipts and disbursements and a full and complete report of the condition of optometry in this state: and to file a copy of such report with the secretary of state, the state auditor, and the Michigan historical commission.

The secretary and treasurer of said board shall furnish the governor whenever requested to do so, a complete and correct list of the registered optometrists under the provisions of this act who are severally holders of a certificate of registration issued upon examination, and the several appointments of the members of said board shall at all times be made from the list of registered optometrists so furnished to the governor. The persons so appointed shall hold office, respectively, 2 for 6 years, 2 for 4 years, and 1 for 2 years, beginning with the first day of November, 1909, and thereafter the governor shall appoint, before the first day of November of each biennial period, such number of persons qualified as aforesaid, as there are terms expiring to hold the office, for 6 years from the first day of November, next ensuing. The governor shall also fill vacancies however occasioned, and may remove any member for the continued neglect of the duties required by this act. Vacancies in said board shall be filled in accordance with the provisions of this act for the appointment of the original board, and any person appointed to fill a vacancy shall hold office during the unexpired term of the member whose place he fills. No member of any optical school or college or an instructor in optometry or connected in any way therewith, or any person connected with any manufacturing, wholesale or jobbing house of optical supplies or instruments used by optometrists shall be eligible to an appointment upon said board. The business of said board shall be transacted by and receive the concurrent vote of at least 3 members.

HISTORY: Am. 1913, p. 256, Act 147, Eff. Aug. 14;—CL 1915, 6795;—Am. 1923, p. 260, Act 164, Eff. Aug. 30;—Am. 1927, p. 957, Act 407, Eff. Sept. 5;—CL 1929, 6781;—CL 1948, 338.251;—Am. 1954, p. 343, Act 145, Imd. Eff. Apr. 23.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.252 Board of examiners; meetings, organization, term of officers, power to require affidavits, duty of treasurer.

Sec. 2. The members of said board shall meet at least twice a year and at such times as shall be deemed necessary and at such place or places as may be selected. At the first meeting the board shall organize by selecting 1 of its members as president and 1 as secretary and treasurer, each of whom shall hold his respective office for 2 years and said board shall have the power and authority to require sworn statements of affidavits from any and all persons, touching and concerning any matter within the jurisdiction of said board, and each member thereof shall have the power to administer oaths in all such matters within its said jurisdiction. The said treasurer shall give his bond to the people of the state of Michigan, with 2 or more sureties, to be approved by the other members of said board and the governor, in the penal sum of 1,000 dollars, or in such larger sum as said board or the governor may require, conditioned for the faithful discharge of the duties required of him by law, and to account for and pay over, as required by law, all moneys received by him as such treasurer.

HISTORY: Am. 1915, p. 119, Act 70, Eff. Aug. 24;—CL 1915, 6796;—CL 1929, 6782;—CL 1948, 338.252.

338.253 Optometry; applicant for examination, qualifications.

Sec. 3. (1) Applicants for examination shall be 21 years of age, of good moral character, possess an education equal to a 4 years' high school course, Michigan standard, and be a graduate in optometry of a university, school or college approved by the board, giving a course of at least 6 academic years. A transcript of both high school and college credits shall accompany the application.

Examination, subjects.

(2) The board may fix from time to time, the number of hours of actual clinical instruction and recitation necessary to constitute a year's attendance course at an optometric school or college. The board shall examine all applicants shown to have the necessary qualifications in normal, and abnormal, refractive, accommodative and muscular conditions and coordination of the eye, and subjective and objective optometry, the principles of lens grinding, frame adjusting, and such other subjects as may be deemed necessary by the board to determine the applicant's qualifications to practice optometry.

Certificate of registration.

(3) The examination shall be deemed satisfactorily passed and the applicant registered and given a certificate of registration, if he shall attain a standing of not less than 75% on all subjects submitted. The applicant shall apply for his certificate of registration within 6 months after he shall satisfactorily have passed the examination. Otherwise, the examination shall be considered and held void and of no effect. On all certificates awarded on examination, there shall be printed or stamped the words "Awarded on examination". On all certificates granted by reciprocity, there shall be printed or stamped the words "Registered by reciprocity".

Notice of location; fees.

(4) Before engaging in the practice of optometry, and after the certificate has been delivered to him, each registered optometrist shall notify the secretary of the board in writing of the place where he intends to begin practice, and of any subsequent changes of his office location, and any notice required to be given to him by the board may be given by mailing to such address. The board shall charge the following fees for examination, registration and renewal of certificates: \$50.00 for the standard examination, \$8.00 for the preliminary examination, \$10.00 for initial registration and \$20.00 annually for the renewal of certificate of registration. Where applicant has been duly

registered in another state the registration fee shall be \$50.00, and for the indorsement of a certificate to another state, \$5.00.

Registration by reciprocity.

(5) An applicant for certificate of registration who is a competent optometrist, a citizen of the United States, of good moral character, who has conducted a legal and ethical practice for at least 3 years immediately prior to his making application, who has been examined and passed a standard and not a so-called limited examination, and who has been granted a certificate of registration upon examination by the state board of optometrical examiners of another state which, through reciprocity, similarly accredits the holder of a certificate issued by the board of examiners of optometry of this state to full privileges of practice within the state, on the payment of a fee of \$50.00 to the board, and on filing in the office of the board a true copy of the certificate of registration duly attested by the president and secretary of the state board issuing it, and showing that the standard of educational requirements adopted and enforced by the board is equal to that provided by this act, without further examination, may receive a certificate of registration, if the applicant has not previously failed at an examination held by the board.

Registration by exemption.

(6) This board, without examination, may grant a certificate of registration to a competent optometrist who is registered by exemption, or who did not pass a standard but a limited examination, and who has conducted a legal and ethical practice in another state for at least 10 years immediately prior to his making application for registration to this board, provided such applicant shall present a certificate from the state board of optometrical examiners from the state from which he removes, certifying that he is a citizen of the United States over the age of 21 years, is a legal, competent and ethical optometrist of good moral character, that he has conducted a legal and ethical practice for at least 10 years immediately prior to his making application for registration to this board and will declare under oath or affirmation that he will conduct an ethical practice of optometry in this state; that the board of examiners in optometry of such other state shall permit in like manner by law the recognition of like certificate issued by the board when presented to such other board by a legal practitioner of optometry from this state, who is registered under the exemption clause of this or preceding acts who may wish to remove to a practice in such other state. The board, without examination, may grant a certificate of registration to an applicant, who has never failed a Michigan examination for optometrists, who is a competent optometrist of good moral character, who is a citizen of the United States and a graduate of a 2-year program in optometry prior to 1951, who has taken and passed a standard optometry examination of another state, and who has continuously resided in this state for not less than 20 years prior to the effective date of this amendatory act. Such applicant shall present a certificate of the board of the state whose standard examination he shall have passed, bearing the seal of the board and the signature of the secretary or chairman, and shall pay a fee of \$50.00 to the board.

Removal to another state.

(7) Any person, who is a legal, ethical and competent practitioner of optometry in this state, who has been duly licensed by the board, of good moral character, and known to the board as such, who shall desire to change his residence to another state, upon application to the board, and the payment of a fee of \$5.00, shall receive a special certificate over the signature of the president and secretary-treasurer, and bearing its seal, which shall attest the facts mentioned in the foregoing paragraphs of this section and give the date upon which he was registered and licensed. Every registered optometrist who desires to continue the practice of optometry shall annually, on or be-

fore July 1, pay to the secretary of the board a renewal registration fee of \$20.00 per annum, for which he shall receive a renewal of his certificate. In case of neglect to pay the renewal registration fee, the board may revoke such certificate and the holder thereof may be reinstated by complying with the condition specified in this act. But no certificate shall be revoked without giving 60 days' notice to the delinquent who within such period shall have the right to renewal of such certificate on the payment of the renewal fee, with a penalty of \$5.00. Retirement from practice for a period of not exceeding 5 years shall not deprive the holder of said certificate of the right to renew his certificate on payment of the lapsed fees, and the \$5.00 penalty. In addition to the renewal fee, the licensee shall present evidence satisfactory to the board that in the year preceding the application he attended an educational program of at least 12 hours. The board may exempt from this requirement those licensees who submit satisfactory proof that they were prevented from attending an educational program because of illness or other reason. A registered optometrist need not pay the renewal fee while in the armed forces of the United States.

HISTORY: Am. 1913, p. 257, Act 147, Eff. Aug. 14;—Am. 1915, p. 119, Act 70, Eff. Aug. 24;—CL 1915, 6797;—Am. 1919, p. 404, Act 225, Eff. Aug. 14;—Am. 1923, p. 261, Act 164, Eff. Aug. 30;—Am. 1927, p. 958, Act 407, Eff. Sept. 5;—CL 1929, 6783;—CL 1948, 338.253;—Am. 1954, p. 344, Act 145, Imd. Eff. Apr. 23;—Am. 1955, p. 98, Act 61, Imd. Eff. May 13;—Am. 1961, p. 132, Act 113, Eff. Sep. 8;—Am. 1968, p. 136, Act 85, Imd. Eff. Jun. 4.

338.254 Certificate of registration; refusal to issue, revocation, grounds.

Sec. 4. The board of examiners in optometry shall refuse to issue the certificate of registration provided for in this act to any person who shall have been guilty of grossly unprofessional, unethical and dishonest conduct of a character likely to deceive the public, and may suspend or revoke such certificate for like reasons.

"Unprofessional and dishonest conduct" as used in this act is hereby declared to mean:

(a) The loaning of his license by any licensed optometrist to any person; the employment of "cappers" or "steerers" to obtain business; "Splitting" or dividing a fee with any person or persons; the advertising by any means whatsoever of optometric practice or treatment or advice in which untruthful, improbable, misleading or impossible statements are made;

(c) Continued practice by a person knowingly having a loathsome disease;

(d) Being guilty of offenses involving moral turpitude, habitual intemperance, or being habitually addicted to the use of morphine, opium, cocaine, or other drugs having a similar effect;

(e) The obtaining of any fee by intentional fraud or intentional misrepresentation or false pretenses;

(f) The use of any other term by a person registered under this act except the term "Optometrist" to designate his calling, occupation or profession except as herein otherwise provided;

(g) Employing either directly or indirectly any suspended or unlicensed optometrist to perform any work covered by section 7 of this act;

(h) Gross incompetence and malpractice.

Said board, after due notice and hearing, in accordance with the provisions of section 10 of this act shall revoke the certificate issued to any optometrist whose certificate of registration was obtained or issued through error, fraud, or perjury, or who shall have been guilty of grossly unprofessional, unethical and dishonest conduct of a character likely to deceive the public, or who shall be guilty of an offense involving moral turpitude, when such offense shall have been established in a court of competent jurisdiction.

Whenever the certificate of any registered optometrist is revoked, it shall be the duty of the secretary and treasurer of said board to notify the county clerk of the

county in which said registered optometrist is legally registered, notifying him of the revocation of said certificate, and it shall be the duty of such county clerk to make proper entry upon the records of his office showing such revocation.

HISTORY: CL 1915, 6796;—Am. 1919, p. 405, Act 225, Eff. Aug. 14;—Am. 1927, p. 961, Act 407, Eff. Sept. 5;—CL 1929, 6784;—CL 1948, 338.254.

Subd. (b) of this section was omitted from the section as enacted.

338.255 Certificate; recording, fee, display, memorandum of sales.

Sec. 5. Every person to whom a certificate of registration shall be issued shall immediately thereafter cause the same to be recorded in the office of the county clerk of the county in which the person principally carries on the practice of optometry, for which recording the county clerk shall receive a fee of \$1.00. Every registered optometrist shall display his certificate of registration in a conspicuous place in the principal office wherein he practices optometry, and whenever required to, shall exhibit such certificate to the said board or its representatives, and whenever practicing the said profession of optometry outside or away from his said principal office or place of business, he shall deliver to the customer or person whom he fits with glasses a memorandum of purchase which shall contain his signature, home and post-office address, and the number of his certificate of registration.

HISTORY: Am. 1913, p. 258, Act 147, Eff. Aug. 14;—CL 1915, 6799;—Am. 1927, p. 962, Act 407, Eff. Sept. 5;—CL 1929, 6785;—Am. 1947, p. 398, Act 258, Eff. Oct. 11;—CL 1948, 338.255.

338.256 Fees and charges; salaries and expenses, limitations.

Sec. 6. All fees and charges of said board shall be paid to the treasurer, who shall deposit the same with the state treasurer to the credit of the general fund. The said board shall cause to be paid all necessary expenses incurred in the administration of this act, including reasonable compensation of the examiners. Each board member other than the secretary-treasurer shall receive \$25.00 per day for attending business meetings of the board and conducting examinations: Provided, That there shall not be more than 20 days of compensated meetings per year. The secretary-treasurer of the board, state optometric inspectors, or other persons shall be paid such amount for their services as shall be appropriated by the state legislature plus the necessary actual expenses incurred by them in the discharge of such duties: Provided, That all expenses of the members of said board or made necessary for carrying out the provisions of this act shall be paid out of the general fund but shall not exceed the fees received by said board under the provisions of this act from applicants and registrants, and from no other source whatsoever.

HISTORY: Am. 1913, p. 258, Act 147, Eff. Aug. 14;—CL 1915, 6800;—Am. 1919, p. 405, Act 225, Eff. Aug. 14;—Am. 1927, p. 962, Act 407, Eff. Sept. 5;—CL 1929, 6786;—Am. 1933, p. 57, Act 61, Imd. Eff. April 25;—CL 1948, 338.256;—Am. 1955, p. 99, Act 61, Imd. Eff. May 13.

338.257 Practice of optometry; definition; inapplicability of act.

Sec. 7. The practice of optometry is hereby defined as being either 1 or any combination or part of the following:

(a) The examination of the human eye to ascertain the presence of defects or abnormal conditions which may be corrected, remedied or relieved, or the effects of which may be corrected, remedied or relieved by the use of lenses or prisms, or other mechanical devices;

(b) The employment of objective or subjective physical means to determine the accommodative or refractive conditions or the range or powers of vision or muscular equilibrium of the human eye;

(c) The adaptation or the adjustment of the lenses or prisms to correct, relieve or remedy any defect or abnormal condition or to correct, relieve or remedy the effect of any defect or abnormal condition of the human eye; or

(d) The examination of the human eye for contact lenses and the fitting or insertion of contact lenses to the eye.

(e) The employment of objective and subjective means for the examination of the human eye for the purpose of ascertaining any departure from the normal; measuring the powers of vision, and adapting lenses for the aid thereof. The provisions of this act shall not be considered or construed to apply to physicians and surgeons duly licensed to practice medicine or surgery within the provisions of Act No. 237 of the Public Acts of 1899, or acts amendatory thereto, or duly licensed to practice osteopathic medicine or surgery within the provisions of Act No. 162 of the Public Acts of 1903, as amended, nor shall said provisions apply to prevent persons selling spectacles or eyeglasses on prescription from any duly qualified optometrist or physician; nor to prevent a person or persons selling glasses as an article of merchandise and not trafficking or attempting to traffic upon assumed skill.

HISTORY: CL 1915, 6801;—Am. 1919, p. 406, Act 225, Eff. Aug. 14;—Am. 1923, p. 262, Act 164, Eff. Aug. 30;—Am. 1927, p. 963, Act 407, Eff. Sept. 5;—CL 1929, 6787;—CL 1948, 338.257;—Am. 1961, p. 134, Act 113, Eff. Sep. 8.

338.258 Construction of act; unlawful acts, penalty.

Sec. 8. Nothing in this act shall be construed as conferring on the holder of any certificate of registration issued by said board, the title “doctor”, “oculist” or “ophthalmologist”, or any other word or abbreviation indicating that he is engaged in the practice of medicine or surgery, or the treatment of diseases of or injuries to the human eye, or to the right to use drugs or medicine in any form for the treatment or examination of the human eye.

It shall be unlawful:

(a) For any person registered under this act to practice medicine or surgery within the provisions of Act No. 237 of the Public Acts of 1899, or acts amendatory thereto, or duly licensed to practice osteopathic medicine or surgery within the provisions of Act No. 162 of the Public Acts of 1903, as amended, or to use any title or appellation used in a sense to indicate the practice of medicine, or to use the title “doctor”, or the prefix “Dr.”, unless such title has been properly conferred upon said person by a state university or legally chartered college or school of optometry legally empowered to confer such title of doctor or doctorate degree. Any person registered under this act, if he uses the title or appellation of “doctor” or “Dr.”, shall add thereto the word “optometrist”.

(b) For any optometrist registered under this act to advertise in any manner whatsoever the service of an oculist or ophthalmologist in conjunction with his or her practice of optometry unless such oculist or ophthalmologist be actually employed in the office of such optometrist to practice medicine or surgery within the provisions of Act No. 237 of the Public Acts of 1899, or duly licensed to practice osteopathic medicine or surgery within the provisions of Act No. 162 of the Public Acts of 1903, as amended.

(c) For any person not registered under the provisions of this act and not being the possessor of a certificate of registration in force and not lapsed or revoked or who has not paid the annual renewal fee in this act provided to be paid to practice optometry as defined in section 7 of this act.

(d) For any person except registered optometrists under the provisions of this act whose certificate of registration has not been revoked or lapsed to hold himself out by the use of any sign, newspaper, advertisement, pamphlet, circular, or any other means as qualified to practice optometry.

(e) For any person except those registered under the provisions of this act, and whose certificate of registration has not been revoked, to have in his possession any trial lenses, trial frames, graduated test cards, or other appliances or instruments for the purpose of rendering assistance to his patrons in the selection of lenses, spectacles or eyeglasses, or to use in testing the eyes for the sale of spectacles or eyeglasses, lenses other than the lenses actually sold, or to sell precision lenses or replace broken lenses

in spectacles or eyeglasses except upon prescription of a regularly licensed optometrist or physician.

(f) For any person except those registered under the provisions of this act and whose certificate of registration has not been revoked, or any person registered and licensed to practice medicine or surgery within the provisions of Act No. 237 of the Public Acts of 1899, or acts amendatory thereto, or duly licensed to practice osteopathic medicine or surgery within the provisions of Act No. 162 of the Public Acts of 1903, as amended, to prescribe or sell glasses to be worn by a child under 15 years of age.

(g) For any person to canvass from house-to-house or at any place of employment, either in person or through solicitors or agents, for the purpose of selling glasses, eye examinations or optometric services.

(h) For any person, registered under this act, or any individual, firm or corporation engaged in the sale of merchandise of any description who maintains or operates, or who allows to be maintained or operated in connection with said merchandise business, an optometric department, or who rents or subleases to any person or persons for the purpose of engaging in the practice of optometry therein, any part of premises in which such person, persons, firm or corporation is engaged in mercantile business, to publish or circulate, or print or cause to be printed, by any means whatsoever, any advertisement or notice in which said advertisement or notice appears, any untruthful or misleading statement, or anything calculated or intended to mislead or deceive the public or any individual or to quote prices of glasses, or to use in such advertisement the statement "Eyes Examined Free", or words of similar import.

(i) For any person to advertise glasses or lenses, frames or their supporting accessories, with or without frame or mounting at a price, with or without examination of eyes or professional services, or at a price with such phrases as "as low as", "and up", "lowest prices", or words or phrases of similar import; or to offer any gift, premium or discount in conjunction with the practice of optometry. The exemptions accorded to physicians and surgeons and the other persons from the provisions of this act as set forth in subsection (e) of section 7 shall not apply to the provisions of section 8 of this act.

Any person making a sworn statement or affidavit in connection with any matter relating to this act proved to be false shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 9 of this act.

HISTORY: Am. 1913, p. 259, Act 147, Eff. Aug. 14;—Am. 1915, p. 120, Act 70, Eff. Aug. 24;—CL 1915, 6802;—Am. 1919, p. 406, Act 225, Eff. Aug. 14;—Am. 1923, p. 263, Act 164, Eff. Aug. 30;—Am. 1927, p. 963, Act 407, Eff. Sept. 5;—CL 1929, 6788;—Am. 1937, p. 354, Act 223, Eff. Oct. 29;—CL 1948, 338.258;—Am. 1961, p. 135, Act 113, Eff. Sep. 8.

338.259 Violation of act; penalty.

Sec. 9. Any person violating any of the provisions of this act shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 300 dollars or imprisonment in the county jail, not to exceed 4 months, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 6803;—Am. 1919, p. 407, Act 225, Eff. Aug. 14;—CL 1929, 6789;—CL 1948, 338.259.

338.260 Charges against certificate holders or applicants; hearing, rein-statement.

Sec. 10. Any person who is a holder of a certificate of registration or who is an applicant for examination for certificate of registration, against whom is preferred any charge, shall be furnished by the board with a copy of the complaint and shall have a hearing before the board, at which hearing he may be represented by counsel. At such hearing witnesses may be examined for and against the accused respecting the charges, which examination shall be conducted in the manner usually followed in the taking of testimony before commissions in this state. The suspension of certificate of registration by reason of the use of stimulants or narcotics may be revoked when the

holder thereof shall have been adjudged by said board to be cured and capable of practicing optometry.

HISTORY: Add. 1919, p. 407, Act 225, Eff. Aug. 14;—CL 1929, 6790;—CL 1948, 338.260.

Sec. 11. (This was a severing clause section.)

HISTORY: Add. 1919, p. 407, Act 225, Eff. Aug. 14;—CL 1929, 6791;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

338.262 Interpretation of terms.

Sec. 12. Wherever in this act the terms “physicians” and “surgeons” appear, they shall be interpreted as meaning such persons as are licensed to full and unlimited privileges to practice medicine and surgery as provided for in Act No. 237 of the Public Acts of 1899, and acts amendatory thereto, or duly licensed to practice osteopathic medicine or surgery within the provisions of Act No. 162 of the Public Acts of 1903, as amended, and shall not refer to persons licensed to practice a system of treatment of human ailments or diseases as provided for in section 3, subdivision 3, Act No. 237 of the Public Acts of 1899, or acts amendatory thereto, nor to persons who are legally licensed under other public acts to use the title “Doctor”, or who are licensed under other public acts to a greater or less degree to engage in the “actual diagnosing, curing or relieving in any degree, or professing or attempting to diagnose, treat, cure or relieve any human disease, ailment, defect or complaint, whether of physical or mental origin, by attendance or by advice, or by prescribing or furnishing any drug, medicine, appliance, manipulation or method, or by any therapeutic agent whatsoever,” as set forth in section 9 of Act No. 237 of the Public Acts of 1899, or acts amendatory thereto.

HISTORY: Add. 1927, p. 965, Act 407, Eff. Sep. 5;—CL 1929, 6792;—CL 1948, 338.262;—Am. 1961, p. 136, Act 113, Eff. Sep. 8.

Act 115, 1915, p. 189; Eff. Aug. 24.

AN ACT to provide for the examination, registration, regulation, licensing and re-registration of podiatrists, and for the punishment of offenders against this act. Am. 1939, p. 413, Act 221, Eff. Sep. 29;—Am. 1965, p. 677, Act 345, Imd. Eff. Jul. 23.

The People of the State of Michigan enact:

338.301 Podiatrist; definition.

Sec. 1. Within the meaning of this act, a podiatrist (chiropodist) is defined as a physician and surgeon who examines, diagnoses and treats abnormal nails, superficial excrescences occurring on the hands and feet, including corns, warts, callosities, bunions and arch troubles or one who treats medically, surgically, mechanically or by physiotherapy, ailments of the human foot, or one who is qualified as a podiatrist (chiropodist) within the meaning of this act, except as hereinafter provided, through a certificate of qualification or license issued by the board of registration in podiatry of the state of Michigan.

The words “chiropodist”, “chiropody” and “chiropodical” are synonymous with the words “podiatrist”, “podiatry” and “podiatric”.

HISTORY: CL 1915, 6804;—Am. 1923, p. 361, Act 223, Eff. Aug. 30;—Am. 1927, p. 103, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6793;—Am. 1939, p. 413, Act 221, Eff. Sep. 29;—CL 1948, 338.301;—Am. 1965, p. 677, Act 345, Imd. Eff. Jul. 23.

CITED IN OTHER SECTIONS: Sections 338.301 to 338.308a are cited in §§ 338.321, 400.14, 400.55, and 550.310.

338.302 License; applications, issuance, conditions; amputations, anesthetics.

Sec. 2. (1) On and after the date of the taking effect of this act, all persons desirous of practicing podiatry (chiropody) in this state shall make application upon a blank form authorized and furnished by the board of registration in podiatry to the secretary of the board for a license. This license shall be granted to such applicants after they

shall furnish satisfactory proof of being at least 21 years of age, a citizen of the United States of America, and of good moral character, but only upon compliance with the following conditions contained in either or any of subdivisions 1, 2 or 3 of this section. The certificate of qualification or license shall not authorize podiatrists to amputate the human foot or toes, or to use or administer anesthetics other than local.

Qualification by examination; internship; examination, subjects, time, passing mark, fees.

(2) The applicant shall be registered and issued a certificate of qualification or license if he shall satisfactorily pass an examination under the immediate authority and direction of the board, and upon satisfactorily passing such examination shall then complete a period of internship in a clinic or hospital approved by the board. Each program of internship shall be in accordance with standards established by the board and shall be approved by the board. Such a period of internship shall be for 1 full school year of not less than 8 months, consisting of a minimum number of 480 hours devoted to the practice of podiatry in all its branches. The requirement of a period of internship shall not apply to those students who are regularly registered as students in properly accredited schools of podiatry prior to January 1, 1960, nor to those graduates of legally organized and recognized schools of podiatry who had graduated from such schools prior to January 1, 1960. The examination shall be upon the following subjects: Anatomy, histology, physiology, chemistry, bacteriology, pathology, diagnosis and treatment, surgery, hygiene, materia medica, therapeutics, dermatology, practical podiatry, shoe therapy, physio-electro-therapy, medical jurisprudence, neurology, mechanical orthopedics, and such additional subjects made necessary by advances in podiatric education as the board may designate. The above subjects shall be limited in their scope to podiatry as defined in section 1 of this act. Regular examinations shall be held in June of each year, the dates to be set by the board, at Detroit and Lansing, and at such other times and places as the board may designate.

(a-1) The applicant shall file with the secretary of the board, at least 6 months prior to examination, or at a lesser time if so determined, within the discretion of the board, a certified statement from his or her respective high school, academy, or an equivalent institution, showing subjects and credits earned.

(a-2) The applicant shall file with the secretary of the board, at least 1 month prior to an examination, an approved application, through a blank furnished by the board, covering the detail of his personal history and his preliminary and professional education, and such other evidence of qualifications as the board may require.

(b) The board may make such rules and regulations governing the conduct of the examinations as it shall deem necessary, and wilful violation of such rules and regulations shall subject the applicant to the loss of the examination and fee.

(c) The examinations shall be made as practical as possible in order to test the qualifications of the applicant as a practitioner of podiatry, the method of which shall be written and clinical.

(d) An average of at least 75% of correct answers in all the subjects listed under this section, and not less than 50% on any 1 subject, or group of subjects, shall be required of every applicant.

(e) An accepted applicant for examination, as noted in subdivision 2 of this section, shall have a diploma with a degree of doctor of surgical chiropody (podiatry) or its equivalent from a legally incorporated, regularly established and recognized school of podiatry within the states, territories, districts and provinces of the United States of America having as a minimum requirement a 4 years' day course of at least 9 months each, representing a total of not less than 4,000 hours: Provided, That such applicant shall have, prior to the beginning of his course in podiatry, or registration or matricula-

tion in a recognized school of podiatry, as a minimum requirement a 4 years' course in a recognized and reputable high school, academy, or an equivalent institution, or an equivalent credential and shall present satisfactory evidence to the board of having completed 2 years of work leading to a degree in the sciences and arts in a college approved by the north central association of secondary schools and colleges, or the equivalent thereof; in accordance with the detailed standard set by the board: Provided, That this requirement of preliminary education shall not apply to those students in recognized schools of podiatry who are regularly registered as students in such recognized schools of podiatry prior to September 1, 1964. A higher requirement of professional education shall not apply to those graduates of legally organized and recognized schools of podiatry who had graduated from such schools prior to September 1, 1964. A diploma issued by an accredited school of podiatry shall be recognized as a qualification under this act in the event only of its representing the actual standards of preliminary and professional education within the provisions of this act. The applicant for examination under this section shall pay to the board a fee of \$50.00 prior to the examination and an additional fee of \$25.00 for each re-examination. The board of registration in podiatry shall from time to time adopt standards of preliminary and professional education involving podiatry qualifications, but no high schools, academy, secondary school, college or school of podiatry, or other institution or board shall be approved and designated, or its diploma or certificate be recognized by said board under section 2 of this act, unless in the judgment of the board it conforms with such standards.

Qualification by reciprocity; fees.

(3) The applicant may be registered and given a certificate of qualification or license if he presents satisfactory proof of the possession of a certificate of podiatry qualification or license which has been issued to said applicant at least 2 years prior to filing application for reciprocal privileges, the said certificate having been issued within the states, territories, districts or provinces of the United States of America, where the requirements for such certificate of qualification or license of said applicant at the date of his certificate of qualification or license shall be deemed by the said board to be equivalent to those of this act and where a state from which the applicant has received a license has reciprocal privileges with the state of Michigan. The fee for registration of applicants of this class shall be \$50.00, and for the endorsement of an applicant to another state, \$25.00.

False statements, penalty, forfeiture of registration.

(4) If any person shall unlawfully obtain and procure himself to be registered under this act, whether by false and untrue statements contained in his application to the board of registration in podiatry, or by presenting to the board a false or untrue diploma, certificate or license, or one fraudulently obtained, he is guilty of a felony, punishable by a fine of not exceeding \$500.00 or by imprisonment in the county jail for not more than 1 year, or both, and shall forfeit all rights and privileges obtained or conferred upon him by virtue of such registration.

Perjury.

(5) Any person who shall swear falsely to any affidavit or oral testimony made or given by virtue of the provisions of this act or the regulations of the board of registration in podiatry is guilty of perjury.

Refusal of license or renewal; unprofessional and dishonest conduct.

(6) The board of registration in podiatry may refuse to issue or continue a certificate of qualification or license provided for in this act, to any person guilty of grossly unprofessional and dishonest conduct. The words "unprofessional and dishonest conduct" as used in this act are hereby declared to mean:

- (a) The wilfully betraying of a professional secret of a patient.
- (b) Having professional connection with, or lending one's name to an illegal practitioner of podiatry, or having professional connection with any person who has been convicted in a court of competent jurisdiction of a criminal offense, where the said conviction is had after his having obtained his certificate or license to practice podiatry, or having professional connections or associations with any firm or corporation holding themselves out in any manner contrary to this act and it shall be unlawful for any person or persons to practice under any name except his or her proper name, or to employ, directly or indirectly, students or unlicensed podiatrists to diagnose or treat human feet.
- (c) Being guilty of offenses involving moral turpitude, habitual intemperance, or being habitually addicted to the use of morphine, opium, cocaine, or other drugs having a similar effect, or of prescribing or giving away any substance or compound containing alcohol or drug for other than legal and legitimate therapeutic purposes.
- (d) The obtaining of any fee on the assurance that an incurable disease can be permanently cured.
- (e) Being guilty of wilful and gross malpractice or wilful and gross neglect in the practice of podiatry.
- (f) Being guilty of, directly or indirectly, in any manner or by any means, splitting or sharing any fee or charge received from any patient, or receiving any gratuity, rebate or portion of any fee or charge made by any person or firm to any one sent or referred to said person or firm by said podiatrist.

HISTORY: CL 1915, 6805;—Am. 1917, p. 487, Act 230, Eff. Aug. 10;—Am. 1927, p. 103, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6794;—Am. 1939, p. 413, Act 221, Eff. Sep. 29;—CL 1948, 338.302;—Am. 1955, p. 89, Act 56, Imd. Eff. May 10;—Am. 1958, p. 262, Act 206, Imd. Eff. May 5;—Am. 1960, p. 101, Act 100, Eff. Aug. 17;—Am. 1965, p. 677, Act 345, Imd. Eff. Jul. 23.

338.302a Board of registration in podiatry; appointment, term, removal, officers, meetings.

Sec. 2a. A board of examiners is hereby established, to be known by the name and title of "board of registration in podiatry". The governor shall, within 30 days after this act shall become effective, appoint 3 persons who have been licensed podiatrists for a period of at least 5 years in the state of Michigan as members of this board. The first member of the board appointed by the governor shall serve for a term of 2 years. The second member of said board shall serve for a term of 4 years. The third member of said board appointed by the governor shall serve for a term of 6 years. Upon the expiration of the terms of each of the members herein named, the governor shall appoint his successor for a term of 6 years by and with the advice and consent of the senate. The governor shall have the power to remove from office members of the board for neglect of duties as required by this act, or for malfeasance in office and incompetency, or for unprofessional conduct. The governor shall have authority to fill any vacancy by and with the advice and consent of the senate. The board of registration in podiatry shall, within 2 weeks after their appointment, meet at the state capitol at Lansing, and shall then elect a president from their own members and a secretary. The secretary shall give to the treasurer of the state of Michigan a bond in the penal sum of \$1,000.00, with sufficient sureties, to be approved by the governor, for the faithful discharge of his duties. The board shall hold 1 regular meeting in each year on the second Tuesday of June, and such additional meetings not exceeding 6 each year at such times and places as it may determine. The board may require sworn statements or affidavits from any and all persons touching and concerning any matter within its jurisdiction.

Rules and regulations.

The board may make and promulgate rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts

of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for the administration of this act.

Podiatry fund, receipts, compensation, expenses.

All moneys received by said board shall be paid to the state treasurer monthly, and shall be credited to the podiatrist fund of the state, and a receipt for the same shall be filed by the secretary of the said board in the office of the auditor general. The incidental and traveling expenses of said board, and such salary to the secretary as said board may fix, shall be paid from such fund. The members of said board shall receive a \$30.00 per diem and necessary traveling and lodging expenses when on official business of the board, and in no case shall any more be paid them than was actually expended. Such incidental and traveling expenses and per diem rate shall be approved by the board and paid as provided by the accounting laws of the state. The amount so paid shall not exceed the amount received by the treasurer of the state from said board in advance, as herein specified; and as much of said receipts as may be necessary is hereby appropriated for the compensation and expenses of said board as aforesaid. All printing, postage and other contingent expenses necessarily incurred by the secretary shall be approved by the board and shall be sent to the auditor general of the state who shall issue his warrant upon the state treasurer for the amounts due, as in case of other bills and accounts under the provisions of law. All funds accruing under the provisions of this act shall be paid to the state treasurer as aforesaid and shall be carried on the books of the state treasurer and known as the podiatrist fund. Any balance remaining at the end of the fiscal year, after the payment of all necessary expenses, shall revert to the general fund.

HISTORY: Add. 1927, p. 106, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6795;—Am. 1939, p. 416, Act 221, Eff. Sep. 29;—CL 1948, 338.302a;—Am. 1955, p. 92, Act 56, Imd. Eff. May 10;—Am. 1958, p. 264, Act 206, Imd. Eff. May 5;—Am. 1965, p. 679, Act 345, Imd. Eff. Jul. 23.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.303 License; filing with county clerk, fee, list.

Sec. 3. The person receiving a certificate of qualification or license shall file the same, or a certified copy thereof, with the county clerk in the county where he resides, and said clerk shall file said certificate or the certified copy thereof and enter a proper memorandum thereof in a book to be provided and kept for that purpose, and may collect therefor a fee of \$2.00 for each certificate or copy thus filed. And said county clerk shall on the first day of each month, furnish to the secretary of said board, a list of all certificates filed in his office during the preceding month, on a blank provided for that purpose, and upon notice to him of the change of location or death of a person granted a certificate of qualification or license, or upon the revocation of the certificate of qualification or license granted such person, said county clerk shall enter at the appropriate places in the record so kept by him a memorandum of said facts, so that the record so kept by said county clerk shall correspond with the records of said board, so kept by the secretary thereof. In case a person having thus filed a certificate of qualification or license shall remove to another county of the state, he shall procure from said county clerk a certified copy of said certificate or license, and file the same with the said county clerk of the county to which he shall so remove. Said county clerk shall file and enter the same with like effect as if the same were the original certificate or license.

HISTORY: CL 1915, 6906;—CL 1929, 6796;—Am. 1947, p. 388, Act 258, Eff. Oct. 11;—CL 1948, 338.303;—Am. 1963, p. 88, Act 72, Eff. Sep. 6.

338.304 License; annual renewal fee, education program, revocation, display.

Sec. 4. In addition to the initial license fee herein provided, each licensed podiatrist shall pay an annual renewal license fee of \$25.00 to the secretary of the board of registration in podiatry, on or before June 1 of each year, and he shall present evidence sat-

isfactory to the board that in the year preceding the application he attended a 1-day educational program. The board may exempt from this requirement those licensees who submit satisfactory proof that they were prevented from attending an educational program because of illness or other reason.

If the license is not renewed within 3 months after June 1 of each year, the license shall become automatically revoked, and the secretary of the board shall notify such delinquent podiatrist of the revocation of his license. Any podiatrist whose license shall have thus been revoked shall be entitled to a new license only upon the payment of a fee of \$50.00 to the secretary of the board, in addition to the annual license fee hereinbefore provided. Sums of money so collected shall be paid over to the state treasurer in the podiatrist fund, to be expended as herein provided. Each podiatrist licensed under this act shall display his license in a conspicuous place in the established office and registered address and place of practice as registered with the secretary of the board where he shall practice podiatry. The provisions of this section shall not apply where a licensed podiatrist shall choose to practice podiatry, under his own name, in locations other than the location of his principal office.

HISTORY: CL 1915, 6807;—Am. 1927, p. 107, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6797;—Am. 1939, p. 417, Act 221, Eff. Sep. 29;—CL 1948, 338.304;—Am. 1955, p. 92, Act 58, Imd. Eff. May 10;—Am. 1958, p. 265, Act 206, Imd. Eff. May 5;—Am. 1961, p. 19, Act 17, Eff. Sep. 8;—Am. 1965, p. 680, Act 345, Imd. Eff. Jul. 23.

338.305 Unlawful practice; penalty.

Sec. 5. Any person who shall practice podiatry in this state, or who shall advertise in any form or hold himself out to the public as a podiatrist, and who is not the lawful possessor of a certificate of qualification or license issued under and pursuant to the provisions of this act, or without first complying with the provisions of this act, is guilty of a misdemeanor.

HISTORY: CL 1915, 6808;—Am. 1927, p. 108, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6798;—CL 1948, 338.305;—Am. 1960, p. 104, Act 100, Eff. Aug. 17;—Am. 1965, p. 680, Act 345, Imd. Eff. Jul. 23.

338.306 Inapplicability of act.

Sec. 6. This act shall not apply to the commissioned surgeons of the United States army, navy, air force, or marine hospital service in the actual performance of their official duties, nor to other licensed members of the healing arts who are authorized under the laws of this state to examine, diagnose and treat the hand and foot, nor to a visiting podiatric physician and surgeon called into consultation in this state from another state where he is duly qualified under the laws of that state to practice podiatry.

HISTORY: CL 1915, 6810;—Am. 1927, p. 108, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6799;—CL 1948, 338.306;—Am. 1959, p. 64, Act 65, Imd. Eff. Jun. 5;—Am. 1965, p. 681, Act 345, Imd. Eff. Jul. 23.

338.307 Practice of podiatry by corporations unlawful.

Sec. 7. It is unlawful for any person or persons to incorporate under the laws of this state for the purpose of practicing podiatry within this state, and it is unlawful for any foreign corporation organized for such purpose to attempt to practice podiatry within this state. This section shall not prohibit podiatrists associating themselves together in the same suite of offices and practicing podiatry.

HISTORY: CL 1915, 6810;—Am. 1927, p. 108, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6800;—CL 1948, 338.307;—Am. 1965, p. 681, Act 345, Imd. Eff. Jul. 23.

In its original form this section dealt with the subject matter now covered in Sec. 8.

338.308 Use of titles; evidence of practicing.

Sec. 8. If any person shall use the name or title "podiatrist" (chiropodist), "M.Cp.", "D.S.C.", "D.S.P.", "D.P." or "D.P.M." or the words "foot specialist", "foot correctionist", "foot culturist", or podiatric physician and surgeon, or other words which would designate him as a podiatrist or imply that he was or is qualified to practice podiatry under the provisions of this act, it shall be deemed prima facie evidence of practicing within the meaning of this act.

The name or title "physician and surgeon" as used in this act shall not confer any privileges of practice upon any podiatrist other than those specifically conferred by the language in section 1 of this act, nor may any podiatrist hold himself out to the public or in any way designate himself as a "physician and surgeon" unless the phrase "of the foot" is used in conjunction therewith. Whenever the term "physician and surgeon of the foot" is used, no words or parts of the term may be emphasized through the use of larger type or letters.

HISTORY: CL 1915, 6811;—Am. 1927, p. 108, Act 77, Imd. Eff. Apr. 26;—CL 1929, 6801;—Am. 1939, p. 417, Act 221, Eff. Sep. 29;—CL 1948, 338.308;—Am. 1965, p. 681, Act 345, Imd. Eff. Jul. 23.

The subject matter of this section before the amendatory act of 1927 appeared in Sec. 7. The original Sec. 8 dealt with the making of lists of chiropodists by assessing officers.

338.308a Manufacturers and dealers in corrective appliances.

Sec. 8a. This act shall not apply to manufacturers of and dealers in shoes or corrective appliances for the prevention, correction or relief of foot ailments. Such manufacturers and dealers shall not be entitled to practice podiatry unless duly licensed so to do as hereinbefore provided.

HISTORY: Add. 1923, p. 361, Act 223, Eff. Aug. 30;—CL 1929, 6802;—CL 1948, 338.308a;—Am. 1965, p. 681, Act 345, Imd. Eff. Jul. 23.

Sec. 9. (This was a repeal and severing section.)

HISTORY: CL 1915, 6812;—CL 1929, 6803;—Am. 1939, p. 417, Act 221, Eff. Sept. 29;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

Act 164, 1965, p. 260; Imd. Eff. Jul. 15.

AN ACT to define and regulate the practice of physical therapy; to provide for the examination, licensing and registration of physical therapists; and to provide penalties for violations.

The People of the State of Michigan enact:

338.321 Practice of physical therapy; definitions.

Sec. 1. As used in this act:

(a) "Physical therapy" or "physiotherapy" means the treatment of any bodily or mental disorder of any person, or the prevention of such disorder, by the use of the physical, chemical and other properties of heat or cold, air, light, water, electricity, sound, massage, mechanical devices and therapeutic exercise, including related rehabilitation procedures. The use of Roentgen rays and radium for diagnostic or therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term physical therapy or physiotherapy.

(b) "Physical therapist" or "physiotherapist" means a person who practices physical therapy under the prescription and direction of a person licensed and registered in the state to practice under Act No. 237 of the Public Acts of 1899, as amended, being sections 338.51 to 338.59 of the Compiled Laws of 1948, or under Act No. 162 of the Public Acts of 1903, as amended, being sections 338.101 to 338.109 of the Compiled Laws of 1948, or under Act No. 115 of the Public Acts of 1915, as amended, being sections 338.301 to 338.308a of the Compiled Laws of 1948, or a person who is licensed and registered to practice medicine and surgery within other states, districts and territories of the United States, and provinces of Canada.

HISTORY: New 1965, p. 260, Act 164, Imd. Eff. Jul. 15.

CITED IN OTHER SECTIONS: Sections 338.321 to 338.337 are cited in § 16.427.

338.322 State board of physical therapy registration; members, number, qualifications, appointment, terms, vacancies.

Sec. 2. (1) There is created a state board of physical therapy registration, hereinafter referred to as the "board", to administer the provisions of this act. The board shall consist of 7 members, citizens of the United States and residents of this state, com-

posed of 4 physical therapists, who shall have had not less than 5 years of experience in the practice of physical therapy in this state and shall continue to practice physical therapy in this state, and who, except for members of the original board, are registered in this state, 2 persons licensed and registered in this state to practice under Act No. 237 of the Public Acts of 1899, as amended, and 1 person licensed and registered in this state to practice under Act No. 162 of the Public Acts of 1903, as amended.

(2) The governor, with the advice and consent of the senate, shall appoint the members of the board for terms of 3 years. The terms of office of the members first appointed shall begin when they are appointed and qualify and shall continue thereafter for the following periods: 2 members for 1 year, 2 for 2 years, 3 for 3 years, the terms to end June 30 of the respective years. Upon the expiration of such terms and all terms thereafter the governor shall appoint a successor to the member whose term expires for a term of 3 years. For each of the terms of physical therapists, the Michigan chapter of the American physical therapy association may submit to the governor a list of 3 physical therapists, and the governor may appoint from such a list of persons recommended. The Michigan state medical society may submit a list of 3 persons qualified to serve on the board for each term to be filled by a person licensed and registered in this state to practice under Act No. 237 of the Public Acts of 1899, as amended, and the Michigan association of osteopathic physicians and surgeons may submit a list of 3 persons qualified to serve on the board for each term to be filled by a person licensed and registered in this state to practice under Act No. 162 of the Public Acts of 1903, as amended, and the governor may appoint from such lists.

(3) Vacancies in the board shall be filled by appointment by the governor in like manner for the balance of an unexpired term, and each member shall serve until his successor is appointed and qualified. No member of the board shall serve more than 2 terms consecutively.

HISTORY: New 1965, p. 280, Act 164, Imd. Eff. Jul. 15.

338.323 Registration board; chairman, elections, terms, secretary, quorum, compensation, regulations, examinations.

Sec. 3. Within 30 days after the appointment of the members of the board, they shall meet and elect from their members a chairman who shall serve for 1 year or until his successor is elected and qualified. The secretary of the state board of registration in medicine shall be the secretary of the board. Each member of the board shall take and subscribe to the oath of office required by law. A majority of the board constitutes a quorum for the transaction of business. The secretary shall keep a record of all proceedings of the board. The members shall serve without salary, but shall be entitled to their actual expenses as may be provided by law. The board shall prescribe such reasonable rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, relative to the qualifications, examination and registration of applicants, as may be found necessary for the performance of its duties. As to any matters coming under its jurisdiction, the board in session may take such testimony as it may deem necessary in the exercise of its powers and the performance of its duties under the provisions of this act. Any member of the board or the secretary may administer oaths in the taking of such testimony. The board shall pass upon the qualifications of applicants for registration, provide the necessary lists of examination questions, conduct or approve all examinations, and determine those applicants

who successfully pass the examination. The board shall determine and maintain a list of approved schools which they deem afford adequate educational programs in physical therapy.

HISTORY: New 1965, p. 261, Act 164, Imd. Eff. Jul. 15.

338.324 Registration board; employees, records, list of registrants.

Sec. 4. The board shall furnish such secretarial, clerical and other assistance as may be required, whose pay shall be derived from the budget allotment for the administration of this act for registration of physical therapists. The board shall keep a record of all physical therapists registered under this act. The register shall show the names of every living registrant, his last known place of business and last known place of residence, and the date and number of his registration certificate. Once each year the board shall compile a list of physical therapists registered in this state. A copy of the list shall be made available to any interested person in the state upon request and payment of a reasonable amount as determined by the board.

HISTORY: New 1965, p. 261, Act 164, Imd. Eff. Jul. 15.

338.325 Applicants; registration form, content, moral character and fitness qualifications, fee.

Sec. 5. An applicant for registration as a physical therapist shall make written application on a form provided by the board and furnish satisfactory proof that he is at least 20 years of age, of good moral character, has completed a program of physical therapy education in a school approved by the board, and shall pass to the satisfaction of the board an examination compiled or approved by it to determine his fitness for practice as a physical therapist. At the time of making application for registration, the applicant shall pay the board a fee of \$35.00, no portion of which shall be returned.

HISTORY: New 1965, p. 261, Act 164, Imd. Eff. Jul. 15.

338.326 Examinations; number, subjects, re-examination fee.

Sec. 6. The board shall approve and conduct examinations for registration of physical therapists not less than 2 times a year and at such places as it may determine. The examination shall include the following subjects: anatomy, neuroanatomy, physics, physiology, kinesiology, pathology and psychology; physical therapy as applied to medicine, surgery, orthopedics, pediatrics and neurology; medical ethics; physical therapy theory and procedures; and such other subjects as the board may deem necessary. In the event of failure, application for re-examination may be made not more than 2 times. Each application for re-examination shall be accompanied by payment of a fee of \$35.00.

HISTORY: New 1965, p. 261, Act 164, Imd. Eff. Jul. 15.

338.327 Registration without examination; condition, fees.

Sec. 7. The board may register as a physical therapist without examination under one of the following conditions:

(a) A person who makes written application for such registration within 6 months after the effective date of this act, who furnishes satisfactory proof that he is at least 20 years of age, of good moral character, has completed a program of physical therapy education in a school approved by the board, has been practicing or has been qualified to practice physical therapy in this state for 6 months prior to the effective date of this act, and who at the time of making application for registration pays the board a fee of \$35.00, no portion of which shall be returned.

(b) A person who furnishes satisfactory proof that he is a physical therapist registered under the laws of another state, commonwealth, province, district, territory or foreign country where requirements for registration are deemed by the board to be equivalent to those imposed by section 5, or has previously passed a qualifying exami-

nation for physical therapists which is acceptable to the board, and who at the time of making application for registration pays the board a fee of \$35.00, no portion of which shall be returned.

HISTORY: New 1965, p. 262, Act 164, Imd. Eff. Jul. 15.

338.328 Registration; practicing physical therapist in hospitals, qualifications.

Sec. 8. The board may register as a physical therapist a person who makes written application for registration within 6 months of the effective date of this act, and who, in lieu of completion of a program of physical therapy education in a school approved by the board, furnishes satisfactory proof that he was practicing physical therapy in any duly accredited hospital in this state for at least 10 years prior to the effective date of this act under the prescription and direction of a person licensed and registered in this state to practice under Act No. 237 of the Public Acts of 1899, as amended, under Act No. 162 of the Public Acts of 1903, as amended, or under Act No. 115 of the Public Acts of 1915, as amended, is of good moral character, has obtained a high school education or its equivalent as determined by the board, and who at the time of making application for registration pays the board a fee of \$35.00, no portion of which shall be returned.

HISTORY: New 1965, p. 262, Act 164, Imd. Eff. Jul. 15.

338.328a Registration; extension of time for filing application.

Sec. 8a. The board, for good cause shown, may extend the time for filing applications provided for in sections 7 and 8 beyond the 6 months' period but not beyond July 15, 1967.

HISTORY: Add. 1966, p. 78, Act 53, Imd. Eff. Jun. 7.

338.329 Registration; practicing physical therapist under direction of licensed practitioners, qualifications, fee.

Sec. 9. The board may register as a physical therapist each person who makes written application for registration within 1 year of the effective date of this act, and who, in lieu of completion of a program of physical therapy education in a school approved by the board, furnishes satisfactory proof that he was practicing physical therapy in this state on and for at least 5 years prior to the effective date of this act under the prescription and direction of a person licensed and registered in this state to practice under Act No. 237 of the Public Acts of 1899, as amended, under Act No. 162 of the Public Acts of 1903, as amended, or under Act No. 115 of the Public Acts of 1915, as amended, is of good moral character, has obtained a high school education or its equivalent as determined by the board and who passes the examination approved and conducted by the board. At the time of making application for registration, the applicant pays the board a fee of \$35.00, no portion of which shall be returned.

HISTORY: New 1965, p. 262, Act 164, Imd. Eff. Jul. 15.

338.330 Certificate of registration.

Sec. 10. The board shall register as a physical therapist each applicant who proves, to the satisfaction of the board, his fitness for registration under the terms of this act. The board shall issue to each person registered a certificate of registration which shall be prima facie evidence of the right of the person to whom it is issued to represent himself as a physical therapist in this state, subject to the conditions and limitations of this act.

HISTORY: New 1965, p. 263, Act 164, Imd. Eff. Jul. 15.

338.331 Temporary certificate; issuance without examination, qualifications, fee.

Sec. 11. The board may issue without examination a temporary certificate of registration to practice physical therapy for a period not to exceed 1 year to any person who makes written application, is at least 20 years of age, of good moral character, has completed a program of physical therapy education in a school approved by the board, who submits satisfactory proof that he is in this state on a temporary basis and who at the time of making application for registration shall pay the board a fee of \$25.00, no portion of which shall be returned.

The board may issue a temporary permit to practice physical therapy to a person eligible for examination for the period intervening between the date of such eligibility and the date the results of the examination of such person are announced. No more than 1 such permit shall be issued to any eligible person.

HISTORY: New 1965, p. 263, Act 164, Imd. Eff. Jul. 15.

338.332 Extension of registration; filing, fee, lapse, delinquent fee.

Sec. 12. Applications for extension of registration shall be filed with the board on or before December 31 of each year, accompanied by a fee of \$25.00. All registrations issued under the provisions of this act not so extended shall automatically lapse on March 31. An application for extension of registration after April 1 shall be granted only on payment of a fee of \$15.00. The \$15.00 delinquent fee shall be in effect for the balance of the year, after which reapplications satisfying all conditions of registration must be made.

HISTORY: New 1965, p. 263, Act 164, Imd. Eff. Jul. 15.

338.333 Fees; disposition.

Sec. 13. All fees collected under this act shall be deposited in the state treasury to the credit of the general fund.

HISTORY: New 1965, p. 263, Act 164, Imd. Eff. Jul. 15.

338.334 Registration; refusal to grant, suspension or revocation, grounds.

Sec. 14. The board may refuse to grant registration to any physical therapist or may suspend or revoke the registration of any physical therapist for any of the following grounds:

- (a) Obtaining or attempting to obtain registration by fraud or deception.
- (b) Having been adjudged mentally incompetent by a court of competent jurisdiction.
- (c) Gross negligence in the practice of physical therapy.
- (d) Conduct unbecoming a person registered as a physical therapist or detrimental to the best interest of the public.
- (e) Conviction of a felony or of a crime involving moral turpitude.
- (f) Habitual indulgence in the use of narcotics or other habit forming drugs, or excessive indulgence in the use of alcoholic liquors.
- (g) Undertaking to practice physical therapy independent of the prescription and direction of a person licensed and registered in this state to practice under Act No. 237 of the Public Acts of 1899, as amended, under Act No. 162 of the Public Acts of 1903, as amended, or under Act No. 115 of the Public Acts of 1915, as amended, or a person who is licensed and registered to practice medicine and surgery within other states, districts and territories of the United States, and provinces of Canada.

HISTORY: New 1965, p. 263, Act 164, Imd. Eff. Jul. 15.

338.335 Violation of act; penalties.

Sec. 15. A person who is not registered under this act as a physical therapist or whose registration has been suspended or revoked, or whose registration has lapsed

and has not been renewed, who uses in connection with his name the words or letters physical therapist, physiotherapist, registered physical therapist, licensed physical therapist, physical therapy technician, P.T., R.P.T., L.P.T., P.T.T., or any other letters, words or insignia indicating or implying that he is a physical therapist, or who in any other way, orally, in print, by sign, directly or by implication, represents himself as a physical therapist, is guilty of a misdemeanor. The prosecuting attorney may petition the circuit court for an injunction prohibiting violations of this section. This section takes effect 1 year after the effective date of this act.

HISTORY: New 1965, p. 264, Act 164, Imd. Eff. Jul. 15.

338.336 Scope of practice; limitation.

Sec. 16. A person registered under this act as a physical therapist shall not treat human ailments other than by physical therapy as defined in this act unless duly licensed or registered so to do under the laws of this state.

HISTORY: New 1965, p. 264, Act 164, Imd. Eff. Jul. 15.

338.337 Devices or procedures; use by licensed practitioners of other professions.

Sec. 17. Nothing in this act shall restrict, limit, or prohibit any person the use of devices or procedures included in section 1 (a) of this act as preparatory or pertinent to the exclusive practice of the profession for which he is licensed by the state, if he does not represent himself by any title or abbreviation as set forth in section 15.

HISTORY: New 1965, p. 264, Act 164, Imd. Eff. Jul. 15.

338.351-338.362 Repealed. 1958, p. 41, Act 36, Imd. Eff. Apr. 7;—1967, p. 182, Act 149, Eff. Nov. 2.

Sections related to nurses and trained attendants; educational requirements, regulation, licensing; officers and powers of board of nursing; consultants; exceptions.

Act 7, 1925, p. 15; Imd. Eff. Mar. 18.

AN ACT to authorize the employment of public health nurses by counties.

The People of the State of Michigan enact:

338.381 County nurse; employment, appropriation.

Sec. 1. Each county of the state, through its board of supervisors, is hereby authorized and empowered, subject to the provisions of this act, to employ public health nurses, and to appropriate such sums of money at [as] it may deem necessary to hire such nurses and defray their necessary and actual expenses in connection with such employment.

HISTORY: CL 1929, 6817;—CL 1948, 338.381.

338.382 County nurse; qualifications.

Sec. 2. No contract for the employment of any person as a public health nurse as herein authorized shall be valid until such nurses before their employment as public health nurses shall be duly registered as required by law and shall furnish to the Michigan department of health satisfactory evidence of having received a course of training of at least 4 months in public health nursing given under a recognized school, college, or university, or at least 8 months' experience in public health nursing work under supervision of an organized staff.

HISTORY: CL 1929, 6818;—CL 1948, 338.382.

CITED IN OTHER SECTIONS: The above section is cited in § 329.504.

338.383 County nurse; reports, rules, objections.

Sec. 3. Such nurses will receive the aid and advice of the Michigan department of health in regard to nursing problems and shall make such written reports through the board employing them to the state and local boards of health in such form and at such times as shall be prescribed by the Michigan department of health. All public health nurses employed under the provisions of this act shall be governed by the rules and regulations of the Michigan department of health: Provided, That no person who objects thereto or no minor whose parent or guardian objects thereto, shall be compelled to receive health examination, instruction or treatment.

HISTORY: CL 1929, 6819;—CL 1948, 338.383.

STATE BOARD OF HEALTH: Abolished; powers and duties transferred to the state health commissioner, see Compilers' § 325.4.

338.384 County health nurse committee; membership, appointment, term, duties.

Sec. 4. The work of the public health registered nurse may be directed by a local committee of not more than 5 members, known as the county health nurse committee, composed of the chairman of the county board of supervisors, and 4 other persons as may be appointed by the board of supervisors, who shall hold office for a term of 3 years from the date of their appointment and until their successors shall be appointed and installed into office: Provided, however, That the first committee appointed shall consist of 4 members, the first 2 of which shall continue for a period of 3 years or until their successors in office are appointed and installed, and the second 2 members shall be appointed for a period of 2 years, or until their successors in office shall be appointed and installed.

HISTORY: CL 1929, 6820;—CL 1948, 338.384.

338.385 Violation of act; penalty.

Sec. 5. Any person employed and serving as a nurse under this act who shall violate any of the provisions thereof shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6821;—CL 1948, 338.385.

Act 277, 1921, p. 522; Eff. Aug. 18.

AN ACT to authorize townships to employ nurses and to provide for their compensation.

The People of the State of Michigan enact:

338.391 Township nurse; employment, appropriation.

Sec. 1. The inhabitants of any township shall have the power at any legal meeting, by a vote of the qualified electors thereof, to grant and vote money for the purpose of employing a public nurse or nurses for said township.

HISTORY: CL 1929, 6822;—CL 1948, 338.391.

338.392 Township nurse; contract, limited powers, duties, violations, penalty.

Sec. 2. Whenever the qualified electors of any township have voted any money for the employment of a public nurse or nurses for said township, the township board may contract or provide for the services of a public nurse or nurses for such township and shall provide for the payment of such services out of funds voted for that purpose. Said board may employ 1 or more such nurses who shall devote their whole time to such

work, or they may be employed for part time, or for special cases, or said board may in its discretion join with any other township, townships, or municipalities in procuring and paying for the services of a nurse or nurses for the common benefit of such organizations: Provided, That no person employed or appointed under the provisions of this act shall diagnose or attempt to diagnose any case, prescribe or attempt to prescribe drugs or treatment other than ordinary and temporary means, nor use his or her position to promote the business or for the financial gain of any particular physician, surgeon, osteopath, dentist, oculist, optometrist, or any other specialist or practitioner, or in discrimination for or against any particular method or school of healing the practitioners of which are legally practicing in this state in the treatment of human abnormalities: Provided further, That no person who objects thereto or no minor whose parent or guardian objects thereto, shall be compelled to receive medical or physical examination, medical instruction or medical treatment of any nature, nor shall any instruction in sex hygiene and kindred subjects be given by lecturers or otherwise by such nurses in the public schools of this state. Any person employed and serving as nurses under this act who shall violate any of the provisions thereof shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1923, p. 210, Act 145, Eff. Aug. 30;—CL 1929, 6823;—CL 1948, 338.392.

338.393 Declaration of necessity.

Sec. 3. This act is hereby declared to be immediately necessary for the preservation of the public peace, health and safety.

HISTORY: CL 1929, 6824;—CL 1948, 338.393.

338.401-338.434 Repealed. 1953, p. 142, Act 138, Eff. Oct. 2;—1955, p. 300, Act 198, Imd. Eff. Jun. 17;—1962, p. 151, Act 151, Eff. Mar. 28, 1963.

Sections regulated practice of pharmacy in state of Michigan and prescribed penalties.

338.461 Repealed. 1962, p. 151, Act 151, Eff. Mar. 28, 1963.

Section authorized and required state board of pharmacy to issue certificates to registered pharmacists in certain instances.

Act 359, 1927, p. 858; Eff. Sep. 5.

AN ACT to regulate the ownership of pharmacies, drug stores and apothecary shops, and to provide a penalty for the violation of the provisions of this act.

The People of the State of Michigan enact:

338.481 Ownership of pharmacies and drug stores; requirements, exception.

Sec. 1. Every pharmacy, drug store or apothecary shop shall be owned by a registered pharmacist and no partnership or corporation shall own a drug store, pharmacy or apothecary shop unless at least 25 per cent of all stock is held by registered pharmacists, except that any corporation, organized and existing under the laws of the state of Michigan, or any other state of the United States, authorized to do business in the state of Michigan and empowered by its charter to own and conduct pharmacies, drug stores or apothecary shops and which, at the time of the passage of this act, owns and conducts a drug store or stores, pharmacy or pharmacies, apothecary shop or shops in the state of Michigan may continue to own and conduct the same and may establish and own additional pharmacies, drug stores or apothecary shops in accordance with provisions of this article: Provided, That any such corporation which shall not continue to own at least 1 of the pharmacies, drug stores or apothecary shops theretofore owned by it, or ceases to be actively engaged in the practice of pharmacy in the state

of Michigan, shall not be permitted thereafter to own a drug store, pharmacy or apothecary shop: And provided further, That any person not a registered pharmacist who at the time of the passage of this act owns a pharmacy, drug store or apothecary shop in the state of Michigan, may continue to own and conduct the same in accordance with existing laws and regulations: And provided further, That the administrator, executor or trustee of the estate of any deceased owner of a pharmacy, drug store or apothecary shop, or the widow, heirs or next of kin of such deceased owner, may continue to own and conduct such pharmacy, drug store or apothecary shop in accordance with existing laws and regulations: Provided further, That this act shall not apply to stores or shops in which patent or proprietary medicines and ordinary domestic or household remedies, such as the sale of is provided for in section 18 of Act No. 134, Public Acts of 1885, are the only drugs and medicines sold at retail.

HISTORY: CL 1929, 6861;—CL 1948, 338.481.

NOTE: Sec. 18 of Act 134 of 1885, above referred to, is Compilers' repealed § 338.418. See § 338.1101 et seq.

338.482 Violation of act; penalty.

Sec. 2. Any individual, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than 500 dollars and cost of prosecution.

HISTORY: CL 1929, 6862;—CL 1948, 338.482.

Act 353, 1925, p. 653; Eff. Aug. 27.

AN ACT to establish the Michigan state board of accountancy, to grant the board the usual and necessary administrative powers, to define a public accountant, to define the status of a certified public accountant, to prescribe conditions under which firms and corporations may practice public accounting, to provide for the granting and issuing of certificates to accountants who qualify under the provisions of this act, to provide for revoking and cancelling certificates so issued, to provide an annual registration fee, to regulate the practice of public accounting, to prohibit the practice thereof by non-registered persons, to provide for the employment of non-registered persons, to provide a penalty for violations of its provisions, and to repeal all acts and parts of acts inconsistent with the provisions thereof.

The People of the State of Michigan enact:

338.501 Board of accountancy; appointment, qualifications, term, oath, removal, vacancy.

Sec. 1. Within 60 days after this act takes effect, the governor shall appoint 4 citizens of the United States who are residents of this state, who, together with himself as an ex-officio member, shall constitute and serve as the Michigan state board of accountancy, hereinafter called the board. Three members of the board first appointed shall be selected by the governor from certified public accountants holding certificates obtained in this state, who have been practicing in the state for at least 5 years, 1 of whom shall be appointed for a term ending July 1, 1927, 1 for a term ending July 1, 1928, and 1 for a term ending July 1, 1930, and, upon the expiration of each of said terms and of each succeeding term, a member shall be appointed for a term of 4 years. Each successor to these 3 members shall be selected from certified public accountants holding certificates obtained in this state, who have been practicing in this state for at least 5 years. One member of this board shall be a practicing attorney, in good standing in the courts of the state, appointed in the first instance for a term ending July 1, 1929, and, upon the expiration of said term and of each succeeding term, a member shall be appointed for a term of 4 years, such successors to be practicing attorneys in

good standing as hereinbefore mentioned. Each member of the board shall receive a certificate of appointment from the governor and, before entering upon his duties, he shall file with the secretary of state the constitutional oath of office. Any member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty, but only after he has had an opportunity to be heard in his own behalf. Any vacancy that may occur for any cause shall be filled by the governor for the unexpired term under the same conditions that govern regular appointments. Every member shall hold office until his successor is appointed and qualifies.

HISTORY: CL 1929, 8637;—CL 1948, 338.501.

FORMER ACTS: Act 92 of 1905; Act 240 of 1913, being CL 1915, 6896-6905.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.502 Accountancy board; powers; seal, open hearing; standards of professional conduct.

Sec. 2. The board, being charged with the responsibility for the administration of this act, shall have power to design and use a seal, compel the attendance of witnesses, administer oaths, take testimony and receive proofs concerning all matters within its jurisdiction. It shall formulate rules for its guidance, not inconsistent with the provisions of this act, and print the same for distribution. It may prescribe a standard of professional conduct and formulate reasonable rules defining unethical practice for public accountants: Provided, however, That before they are officially printed, as provided for in section 14, a copy of the same and of any changes or amendments which may be thereafter proposed shall be mailed to every holder of a certificate issued under the provisions of this act at least 60 days prior to a date named, at which date an open hearing shall be held by the board for the purpose of receiving and considering objections to any of the suggested provisions. Every person practicing as a public accountant in the state, as described in section 8, shall be governed and controlled by the rules and standards adopted by the board.

HISTORY: CL 1929, 8638;—CL 1948, 338.502.

338.503 Accountancy board; officers, report, records, evidence, confidentiality.

Sec. 3. The board shall annually elect 1 of its accountant members as chairman, 1 as vice chairman, and 1 as secretary-treasurer, while the lawyer member shall be designated as counsel. It shall make an annual report to the governor. It shall keep all applications filed, all documents under oath, a record of its proceedings, and shall maintain a register of the names and addresses of all persons applying for, and of those receiving, certificates under this act, any of which, or a certified copy thereof, shall be prima facie evidence of all matters covered by them. Any application, document or other information filed by or concerning an applicant shall not be disclosed by the board to anyone without the prior permission of the applicant to do so, except that nothing herein shall prevent the board from making public announcement of the names of persons receiving certificates under this act.

HISTORY: CL 1929, 8639;—CL 1948, 338.503;—Am. 1967, p. 662, Act 306, Eff. Nov. 2.

338.504 Accountancy board; meetings, quorum, examination, notice, time, place.

Sec. 4. Three members shall constitute a quorum at any meeting of the board for which a notice of 3 days has been given by the chairman or secretary. If less notice is given, 4 members must be present. Meetings, at which examinations will be given, shall be held at least twice each year. The times and places for holding said examinations shall be advertised at least 3 consecutive days in daily newspapers published in 5 different cities, at least 30 days prior to the dates of such examinations, and notices of the same shall be mailed to all certificate holders and to all applicants for certificates under this act. The board may require applicants to appear in person to answer ques-

tions or produce evidence to sustain facts which will determine whether the qualifications of the applicant are as prescribed by this act and the rules of the board.

HISTORY: CL 1929, 8640;—CL 1948, 338.504.

338.505 Accountancy board; fees, compensation, expenses.

Sec. 5. The board shall charge each applicant for any certificate a fee of 25 dollars. The fee shall accompany the application, which must be made on a blank provided by the board. All money received by the board shall be paid into the state treasury. The members of the board shall receive as compensation for their services 10 dollars per day for the time actually spent, and the necessary expenses incurred in the discharge of their duties as such members. All bills for compensation and expenses shall be allowed in open meeting of the board and referred to the state officials for payment in the manner prescribed by law. All money paid into the state treasury in any year in excess of expenditures shall be noted in the budget required by the accounting system of the state.

HISTORY: CL 1929, 8641;—CL 1948, 338.505.

338.506 Registration card; issuance, fee, interim registration.

Sec. 6. The board shall, in December of each year, issue a registration card to any holder of a C.P.A. certificate, or to any holder of a certificate of authority, which card shall be good until December 31 of the next succeeding year, charging therefor a fee of \$10.00. A registration card shall also be issued to any firm or corporation which has complied with the provisions of section 12 or section 13, for which a fee of \$25.00 shall be charged. Interim registrations shall be issued to individuals, firms and corporations who have complied with the provisions of this act within the year.

HISTORY: CL 1929, 8642;—CL 1948, 338.506;—Am. 1962, p. 445, Act 200, Imd. Eff. Jun. 7;—Am. 1967, p. 662, Act 306, Eff. Nov. 2.

338.507 Register of accountants; distribution; registration after withdrawal from practice or issuance of register.

Sec. 7. The board shall, in January of each year, prepare a printed register which shall contain, following a copy of this act, an alphabetical list of the names, certificate numbers, business connections and addresses of all certified public accountants to whom such registration cards have been issued for that year, and an alphabetical list of the names of the firms of certified public accountants to whom such registration cards have been issued for that year, together with an alphabetical list of the names, certificate numbers, business connections and addresses of all holders of certificates of authority to whom such registration cards have been issued for that year, and an alphabetical list of the firms and corporations practicing public accounting to whom such registration cards have been issued for that year. A register shall be mailed to every person listed therein, to every county clerk, probate clerk, circuit court clerk and bank cashier in the state, and to such other person or concerns as the board, in its discretion, may determine is for the public welfare. This register shall contain at the beginning the following statement: "Any person receiving this list is requested to send the secretary of the Michigan state board of accountancy the name and address of any person, firm, or corporation, known to be practicing as a public accountant whose name does not appear in this register. The names of persons giving such information will not be divulged." Failure to secure a registration card for any year shall not disqualify the holder of a certificate from securing a card for a future year, if the certificate holder decides to return to the practice of public accounting. When registration cards are secured after the annual register is issued, such individuals shall not be subject to the penalty prescribed in section 24 or section 25, provided the cards were secured prior to charges having been preferred against them that they were practicing unlawfully.

HISTORY: CL 1929, 8643;—CL 1948, 338.507.

338.508 Practice of accountancy; definition.

Sec. 8. A person, either individually, or as a member of a firm or corporation, shall be deemed to be in practice as a public accountant, within the meaning and intent of this act:

(a) Who holds himself or herself out to the public in any manner as one who is skilled in the knowledge, science, and practice of accounting, and as qualified to render professional service therein as a public accountant for compensation; or

(b) Who maintains an office for the transaction of business as a public accountant, or who, except as an employee of a public accountant, practices accounting, as distinguished from bookkeeping for more than 1 employer; or

(c) Who offers to prospective clients to perform for compensation, or who does perform on behalf of clients for compensation, professional services that involve or require an audit or verification of financial transactions and accounting records; or

(d) Who prepares or certifies for clients, reports of audit, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports which are to be used for publication or for credit purposes, or are to be filed with a court of law or with any other governmental agency, or for any other purpose; or

(e) Who, in general or as an incident to such work, renders professional assistance to clients for compensation in any or all matters relating to accounting procedure and the recording, presentation and certification of financial facts.

HISTORY: CL 1929, 8644;—CL 1948, 338.508.

338.509 Practice without registration illegal; exception.

Sec. 9. No person may legally practice in this state as a certified public accountant or as a public accountant, either in his or her own name, under an assumed name, as a member of a firm, as an officer of a corporation, or as an employee, except as provided in section 27, unless he or she shall have been granted a certificate by the board and secured a registration card for the current year.

HISTORY: CL 1929, 8645;—CL 1948, 338.509.

338.510 Use of titles.

Sec. 10. Any person who has received from the board a certificate of his qualifications to practice as a certified public accountant, as hereinafter provided, shall be styled and known as a "certified public accountant" and no other person shall assume to use such title or the abbreviation "C.P.A." or any other word, words, letters or figures to indicate that the person using the same is a certified public accountant. The terms "chartered accountant" and "certified accountant" and the abbreviation "C.A." are specifically prohibited as being prima facie misleading to the public. Any person who has received from the board a certificate of authority, as hereinafter provided, shall be styled and known as a "public accountant" and no other person, other than a certified public accountant, shall assume to use such designation to indicate that such person is entitled to practice as a public accountant.

HISTORY: CL 1929, 8646;—CL 1948, 338.510.

338.511 Registration of existing accountants.

Sec. 11. All persons practicing individually or under an assumed name, all firms, and all corporations engaged in public accounting in the state of Michigan, at the date of the passage of this act, and intending to continue to so practice, must register with the board, before January 1, 1926, giving the names and addresses of every person practicing as principal or under such assumed name, the names and addresses of every mem-

ber of the firm, and the names and addresses of every officer of the corporation, together with the names and addresses of all persons in their employ in the state at that date who hold C.P.A. certificates. No charge shall be made for this registration.

HISTORY: CL 1929, 8647;—CL 1948, 338.511.

338.512 Use of firm name and titles; use of existing assumed names.

Sec. 12. Any firm, every member and resident manager of which is a certified public accountant, after registering the firm name with the board, may use the designation "certified public accountants" in connection with the firm name. When firms so registered secure annual registration cards, the name of the firm shall be listed in the annual register together with the names of the members and managers thereof, resident in the state, with the designation C.P.A. after each name, and the names of nonresident members who hold certificates issued by the board may also be listed. All other firms may use the designation "public accountants" in connection with the firm name. When firms so registered secure annual registration cards, the name of the firm shall be listed in the annual register together with the names of the members and managers thereof, resident in the state, every certified public accountant being indicated by the initials C.P.A. and the names of nonresident members who hold certificates issued by the board may also be listed. An assumed name, in use prior to the passage of the act, may be used the same as a firm name provided the individual persons practicing as principal under that name hold certificates issued by the board and provided such persons have complied with Act No. 101 of the Public Acts of 1907, as amended, being sections 445.1 to 445.5 of the Compiled Laws of 1948.

HISTORY: CL 1929, 8648;—CL 1948, 338.512;—Am. 1967, p. 663, Act 306, Eff. Nov. 2.

338.513 Practice of accounting by existing corporations; use of titles and corporate names.

Sec. 13. Any corporation, organized under the laws of this state, which was, under the authority of its articles of incorporation and in accordance with the laws of the state, practicing public accounting, as described in section 8, in the state at the date of the passage of this act, may apply for a certificate of authority to practice public accounting and the board shall issue 1 in accordance with the provisions of this act. Such corporations may use the designation "public accountants" in connection with the corporate name: Provided, That whenever the corporate name is so used, except in directory listings, the names of the president, secretary, and manager of its public accounting department shall be indicated, at least 1 of whom shall be a certified public accountant. When corporations so registered secure annual registration cards, the names of the corporations shall be listed in the annual register together with the names of the president, secretary, and the manager of its public accounting department, every certified public accountant being indicated by the initials "C.P.A."

HISTORY: CL 1929, 8649;—CL 1948, 338.513.

338.514 Standards of professional conduct; publication, acceptance, oath.

Sec. 14. If and when the board shall have prescribed a standard of professional conduct or shall have formulated reasonable rules defining unethical practice for public accountants, the same shall be printed as part of the application blanks for both certificates and registration cards and every applicant for either a certificate or registration card shall subscribe to the same when making application. Before the board issues a certificate to any person under this act, such person shall file with the board the following oath or affirmation, which shall be taken before an officer authorized to admin-

ister oaths: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully perform and discharge the duties of a certified public accountant (or public accountant) to the best of my ability and in accordance with the law".

HISTORY: CL 1929, 8650;—CL 1948, 338.514.

338.515 Repealed. 1967, p. 665, Act 306, Eff. Nov. 2.

Section related to accountants; applicants for certificates, general qualifications, aliens.

338.515a Applicants for certificate; qualifications.

Sec. 15a. The board shall grant a certificate of examination to any person who:

(a) At the time of writing the examination prescribed herein is a citizen of the United States or has duly declared his intention of becoming a citizen.

(b) Is a resident of this state, has a place of business in this state or is employed in this state.

(c) Is of good moral character.

(d) Meets the educational requirements of section 16a.

(e) Successfully passes a written examination in theory of accounts, accounting practice, auditing, commercial law as affecting public accounting and such other related subjects as the board determines appropriate.

HISTORY: Add. 1967, p. 663, Act 306, Eff. Nov. 2.

338.516 Repealed. 1967, p. 665, Act 306, Eff. Nov. 2.

Section related to educational qualifications for certified public accountants.

338.516a Examination requirements; education, institution standards, waiver.

Sec. 16a. (1) The following educational requirements shall be met prior to examination:

(a) Prior to January 1, 1975, applicants for a certificate of examination must have completed at least a 4-year high school course of study or have received an equivalent education prior to the date of application, the value of equivalents offered to be determined by the board. Said applicants must have had at least 4 years' continuous practical experience in public accounting immediately preceding the date of application, the efficiency of the experience to be judged by the board. The board may accept evidence of sufficient technical education in accountancy in lieu of 1 year of public accounting experience, and the requirement as to continuous experience immediately preceding the date of application may be waived if the applicant has had 6 years of practical experience in public accounting, the last year of which immediately preceded the application, or

(b) Completion of at least a curriculum required for a baccalaureate degree with a major in accounting or its equivalent at an educational institution recognized by the board.

(c) After January 1, 1975, all applicants shall have completed a curriculum required for a baccalaureate degree with a major in accounting or its equivalent at an educational institution recognized by the board.

(2) The board may prescribe standards for recognition of educational institutions for the purposes of this act.

(3) The board may waive the educational requirements for any person if it is satisfied that he is as well equipped educationally as if he met the applicable educational requirements.

HISTORY: Add. 1967, p. 663, Act 306, Eff. Nov. 2.

338.517 Waiver of education requirements and examination.

Sec. 17. In the case of any applicant who, prior to September 23, 1949, has maintained an office in the state for the practice of public accounting as defined or described in this act on his or her own account for 20 or more years, or who has been in practice in the state for 20 or more years as a public accountant, as defined or described in this act, the board shall waive the requirements as to education and examination specified in this and/or any other section of this act, and issue to such applicant a certificate as a certified public accountant.

HISTORY: CL 1929, 8653;—CL 1948, 338.517;—Am. 1949, p. 145, Act 139, Eff. Sep. 23;—Am. 1967, p. 664, Act 306, Eff. Nov. 2.

338.518 Repealed. 1967, p. 665, Act 306, Eff. Nov. 2.

Section related to issuance of certificate as certified public accountant based on practical experience and satisfactory examination.

338.518a C.P.A. certificate; fee; qualifying experience.

Sec. 18a. (1) The board shall grant a certificate of certified public accountant upon the payment of an additional fee of \$25.00 to a person who satisfies all of the requirements of section 15a, has attained the age of 21 years, and meets the requirements of experience as provided in this section.

(2) For a person who, at the time of applying for a certificate of certified public accountant, has completed:

(a) The educational requirements of subdivision (a) of subsection (1) of section 16a, the experience requirement shall be 4 years.

(b) The educational requirements of subdivision (b) or (c) of subsection (1) of section 16a, the experience requirement shall be 2 years.

(3) Qualifying experience shall have been obtained within a period of 6 years immediately prior to granting of the certificate as a certified public accountant and shall have included work of a type normally directed toward the expression of an independent opinion on financial statements. The experience shall have been obtained in a responsible audit position (1) under the direction and supervision of a certified public accountant of this or any other state, or (2) in a governmental agency either: (a) in auditing the books and accounts or financial activities of partnerships, corporations or other persons engaged in 3 or more distinct lines of commercial or industrial business in accordance with generally accepted auditing standards; or (b) in auditing the books and accounts or financial activities of 3 or more distinct governmental agencies or independent organizational units, not an employer of the applicant, in accordance with generally accepted auditing standards, and in which the results of such auditing are reported to a third party; or (c) in reviewing financial statements and supporting material covering the financial condition and operations of entities engaged in 3 or more distinct lines of commercial or industrial business to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles and applicable laws and governmental regulations; or (d) any combination of (a), (b) or (c). The board shall be the sole and final judge of the qualification of experience under this section.

HISTORY: Add. 1967, p. 664, Act 306, Eff. Nov. 2.

338.519 Certificate; issuance under interstate and foreign reciprocity.

Sec. 19. The board may, in its discretion, issue a certificate as a certified public accountant to any applicant who holds a valid and unrevoked certificate as a certified public accountant issued by or under the authority of another state or political subdivision of the United States, or who holds a valid and unrevoked certificate as a chartered accountant issued by or under the authority of a foreign country, provided the applicant has complied with the requirements of this act and the rules of the board, and (a) the original certificate was secured as the result of an examination which in the judgment of the board was the equivalent of the standard established by it or (b) the

holder has been maintaining an office for the practice of public accounting under the authority of such certificate for a period of 10 years.

HISTORY: CL 1929, 8655;—CL 1948, 338.519.

338.520 Certificate of authority; issuance to existing accountants.

Sec. 20. The board shall issue a certificate of authority to practice as a public accountant to each applicant before January 1, 1926, who furnishes satisfactory evidence that he or she was maintaining an office in the state for the practice of public accounting on his or her own account at the date of the passage of this act, and has been in continuous practice, during the whole or a portion of the regular business hours of each day, as a public accountant in the state since that date, or, that he or she had been in responsible charge of accounting engagements as an employed member of the staff of a certified public accountant, or of a public accountant, or of a firm of public accountants, or of a corporation practicing public accounting in the state, for a period of at least 4 years immediately prior to the passage of this act.

HISTORY: CL 1929, 8656;—CL 1948, 338.520.

338.521 Certificate; qualifications of applicant, rights of holder.

Sec. 21. The board shall require the same information from each applicant for a certificate of authority as it requires from an applicant for a certificate as a certified public accountant. Applicants for certificates of authority shall comply with the requirements of this act and the rules of the board, in so far as they are applicable. No certificate of authority shall be granted after January 1, 1926, except, as provided in section 15, to persons who have passed an examination as a certified public accountant and who have not yet secured their full citizenship papers. Certificates of authority confer the legal right to practice as a public accountant but do not confer any added title or designation.

HISTORY: CL 1929, 8657;—CL 1948, 338.521.

338.522 Repealed. 1967, p. 665, Act 306, Eff. Nov. 2.

Section related to C.P.A. certificate of examination, subjects, qualification and rights.

338.523 Disclosure and confidentiality of professional information.

Sec. 23. Except by written permission of the client, or person, or firm, or corporation employing him, or the heirs, successors or personal representatives of such employer, a certified public accountant, or a public accountant, or a person employed by a certified public accountant or by a public accountant shall not be required to, and shall not voluntarily, disclose or divulge information of which he or she may have become possessed relative to and in connection with any examination of, audit of, or report on, any books, records, or accounts which he or she may be employed to make. The information derived from or as the result of such professional service shall be deemed confidential and privileged. This section shall not be construed as prohibiting the disclosure of information to a third party having an interest in or relying on an opinion rendered by a certified public accountant.

HISTORY: CL 1929, 8659;—CL 1948, 338.523;—Am. 1967, p. 664, Act 306, Eff. Nov. 2.

338.524 Unlawful and unprofessional conduct; penalty.

Sec. 24. Any person:

(a) Who shall use any other term than certified public accountant, or the abbreviation C.P.A., to indicate that he or she is a public accountant with a specially granted title; or

(b) Who shall announce by printed or written statement that he or she holds membership in any society, association or organization of professional public accountants, unless such society, association or organization has been officially recognized by the board; or

(c) Who shall, when practicing under an assumed name, or as a member of a firm, or as an officer of a corporation, announce, either in writing or by printing, that the assumed name, firm, or corporation is practicing as a certified public accountant; or

(d) Who shall, as a member of a firm announce, either in writing or by printing, that the firm is practicing as "certified public accountants" unless all members of the firm and the resident manager are holders of valid and unrevoked certificates issued by or under the authority of a state or other political subdivision of the United States, and the firm is registered with the board; or

(e) Who shall, as a member of a firm, announce, either in writing or by printing, that the firm is practicing as "public accountants" unless all members and managers of the firm, resident in the state, are holders of certificates granted by the board and the firm is registered with the board; or

(f) Who shall, as an officer of a corporation, permit it to practice as a public accountant unless it is registered with the board, has received a certificate of authority from the board, and either the president, secretary, or manager of its public accounting department is the holder of a certificate as a certified public accountant; or

(g) Who holds himself or herself out to the public as a certified public accountant or who assumes to practice as a certified public accountant unless he or she has received a certificate as such from the board; or

(h) Who holds himself or herself out to the public as a public accountant or who assumes to practice as a public accountant unless he or she has received a certificate of authority from the board; or

(i) Who shall practice as a certified public accountant or as a public accountant after his or her certificate has been revoked; or

(j) Who shall practice as an individual, or, as a member of a firm or as an officer of a corporation, practice or permit the firm or corporation to practice as a certified public accountant or as a public accountant unless a registration card has been secured for the current year; or

(k) Who shall sell, buy, give or obtain an alleged certificate as a certified public accountant, or a certificate of authority, or a registration card in any other manner than is provided for by this act; or

(l) Who shall attempt to practice as a certified public accountant or as a public accountant under guise of a certificate not issued by this board, or under cover of a certificate obtained illegally or fraudulently; or

(m) Who shall certify to any false or fraudulent report, certificate, exhibit, schedule or statement; or

(n) Who shall attempt by any subterfuge to evade the provisions of this act while practicing as a public accountant; or

(o) Who shall, as an individual, or as a member of a firm or as an officer of a corporation, permit to be announced by printed or written statement that any report, certificate, exhibit, schedule or statement had been prepared by a certified public accountant or by a public accountant when the person who prepared the same was not such certified public accountant or public accountant, shall be deemed guilty of a misdemeanor, the penalty for which shall be not more than 500 dollars for each offense, or imprisonment in the county jail for a period not exceeding 6 months, or by both such fine and imprisonment at the discretion of the court.

HISTORY: CL 1929, 8660;—CL 1948, 338.524.

338.525 Certificate or registration card; revocation or suspension, appeal.

Sec. 25. Any certificate or registration card issued by the board may be revoked and cancelled, or suspended for a definite period, or the holder thereof may be officially

censured by the board after a hearing, for reasons indicated in section 24, or for unprofessional conduct, or for unethical practice, or for any other sufficient cause, or it may direct that action at court be brought or it may both revoke, suspend, or censure and institute action at court: Provided, That written notice shall have been mailed to the holder of such certificate, at his last known address, at least 30 days before any hearing thereon, stating the charge which has been preferred and appointing a time for a hearing by the board. At all such hearings, the attorney general of the state, or an assistant designated by him, shall be present and represent the interests of the public. The certificate holder shall have the right to be represented by counsel. No action of said board, however, revoking, cancelling or suspending such certificate or registration card, for any offense other than those enumerated in section 24 upon which there shall have been a prior conviction, unappealed from, shall be operative if the person, firm or corporation whose certificate or registration card shall have been so revoked, cancelled or suspended, shall file in the chancery division of the circuit court of the county of which such person, firm or corporation is a resident or maintains an office, a petition setting forth the facts of such revoking, cancelling or suspending of such certificate or registration card, and praying the court for a hearing on the charges preferred against the holder of such certificate or registration card, and praying for an order to show cause directed against said board requiring said board to appear and plead to said petition in the same manner as in actions in chancery in circuit courts. Said matters shall thereupon proceed to hearing and decree the same as in actions in chancery in circuit courts. The burden of proof of such charges shall be upon said board. At all such hearings the attorney general of the state, or an assistant designated by him, shall be present and represent the interests of the public. The costs of the prevailing party may be taxed as the court may deem just and right under the circumstances. If the prayer of such petition be granted, the action and order of said board revoking, cancelling or suspending such certificate or registration card, shall thereupon become void and of no effect. If the prayer of said petition be denied, the action and order of said board shall become valid, effective and enforceable.

HISTORY: CL 1929, 8661;—CL 1948, 338.525.

338.526 Evidence of practice; proof of single act, sufficiency.

Sec. 26. The display of a card, sign, advertisement, a directory listing, or the issuance of a letterhead bearing a person's name as a practitioner of public accounting as described in section 8, shall be presumptive evidence by implication, in any hearing or prosecution against such person, that the person whose name is so carried thereon is responsible for the same and that he or she is announcing himself or herself thereby to practice public accounting. In any hearing or prosecution under this act, the proof of a single act prohibited by law shall be sufficient without proving a general course of conduct.

HISTORY: CL 1929, 8662;—CL 1948, 338.526.

338.527 Practice without registration; out-of-state C.P.A., assistant to registered accountant, attorneys, auditors.

Sec. 27. Nothing contained in this act shall apply to holders of state granted C.P.A. certificates from other states who may be temporarily in this state on professional business incident to their regular practice in the states of their domicile, but with neither residence nor office in this state. Nothing contained in this act shall prevent the employment by a certified public accountant, or by a public accountant, or by a firm or corporation furnishing public accounting services as principal, of non-registered persons to serve as accountants in various capacities as needed: Provided, That such non-registered persons work under the control and supervision of certified public accountants or accountants with certificates of authority: And provided further, That they do

not issue any statements or reports over their own names, except such office reports as are customary: And provided further, That such non-registered persons are not in any manner held out to the public as public accountants as described in section 8.

Nothing contained in this act shall imply that a practicing attorney, who, in connection with his professional work, prepares reports or presents records of a form or character usually prepared and presented by accountants, has become a public accountant within the meaning of this act as described in section 8. Nothing contained in this act shall apply to any person who may be employed by more than 1 person, firm or corporation for the purpose of keeping books, making trial balances or statements, and preparing audits or reports, provided such audits or reports are not used or issued by the employers as having been prepared by a public accountant.

HISTORY: CL 1929, 8663;—CL 1948, 338.527.

338.528 Exchange of certificates issued under prior acts.

Sec. 28. The provisions of this act shall not be construed to invalidate any certificates heretofore granted under Act. No. 92 of the Public Acts of 1905 or Act No. 240 of the Public Acts of 1913, or as amended by an act approved May second, 1917, except that all certificates of registration and of authority issued under the provisions of those acts are hereby revoked and cancelled and the board is directed to issue to the holders thereof, in exchange therefor, certificates as certified public accountants, making no charge therefor.

HISTORY: CL 1929, 8664;—CL 1948, 338.528.

Sec. 29. (This was a severing clause section.)

HISTORY: CL 1929, 8665;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

Sec. 29a. (This was an expense authorization section.)

HISTORY: CL 1929, 8666;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Sec. 30. (This was a repeal section.)

HISTORY: CL 1929, 8667;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 240, 1937, p. 375; Imd. Eff. Jan. 1, 1938.

AN ACT to license and regulate the practice of architecture, professional engineering and land surveying; to create separate state boards of registration for architects, professional engineers and land surveyors, and to prescribe their powers and duties; to impose certain powers and duties upon the state and the political subdivisions thereof in connection with public work; and to provide penalties for the violation of the provisions of this act. Am. 1970, p. 64, Act 20, Imd. Eff. May 8.

The People of the State of Michigan enact:

338.551 Architects, professional engineers and land surveyors; registration.

Sec. 1. In order to safeguard life, health and property, any person practicing or offering to practice the profession of architecture, profession of engineering or of land surveying, shall hereafter be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice the profession of architecture, the profession of engineering or of land surveying, in this state, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is an architect, a professional engineer, or a land surveyor, unless such person has been duly registered or exempted under the provisions of this act.

HISTORY: CL 1948, 338.551.

CITED IN OTHER SECTIONS: Sections 338.551 to 338.576 are cited in §§ 125.333, 125.1008, 338.1313, 348.1354, 408.332, and 408.659.

338.552 Architects, professional engineers and land surveyors; definitions.

Sec. 2. (1) The term "architect" as used in this act shall mean a person who, by reason of his knowledge of mathematics, the physical sciences, and the principles of architectural design, acquired by professional education and practical experience is qualified to engage in architectural practice as hereinafter defined.

(2) The practice of architecture within the meaning and intent of this act includes any professional service such as consultation, investigation, evaluation, planning, design or responsible supervision of construction, alteration or repair in connection with any public or private structures, buildings, equipment, works or projects when such professional service requires the application of the principles of architecture or architectural design. No registered architect shall be engaged or interested in the sale of building materials or have any interest in any project or structure, prejudicial to his professional interest therein, excepting such projects and structures as are not required by this act to be designed by a registered architect.

(3) The term "professional engineer" as used in this act shall mean a person who, by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined.

(4) The practice of professional engineering within the meaning and intent of this act includes any professional service, such as consultation, investigation, evaluation, planning, design or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects, when such professional service requires the application of engineering principles and data, except as hereinafter defined.

(5) The term "land surveyor" as used in this act shall mean a person who engages in the practice of land surveying as hereinafter defined.

(6) The practice of land surveying within the meaning and intent of this act includes surveying of areas for their correct determination and description and for conveyancing, or for the establishment or reestablishment of land boundaries and the plotting of lands and subdivisions thereof.

(7) No person shall publicly use the term "architect," "professional engineer" or "land surveyor" in connection with his name unless such person is registered under the terms of this act.

(8) The term "board" as used in this act shall mean each of the state boards of registration for architects, professional engineers and land surveyors, provided for by this act or a specific board as required by the context.

HISTORY: Am. 1941, p. 504, Act 294, Eff. Jan. 10, 1942;—CL 1948, 338.552;—Am. 1952, p. 436, Act 260, Eff. Sep. 18;—Am. 1961, p. 253, Act 177, Eff. Sep. 8;—Am. 1970, p. 64, Act 20, Imd. Eff. May 8.

338.553 Separate state boards of registration; creation; members, appointment, terms, oath, vacancies, removal.

Sec. 3. Separate state boards of registration for architects, professional engineers and land surveyors are created. Each board shall be vested with the administration of the provisions of this act applicable to the profession to which the board pertains. The architects board shall consist of 3 architects, 1 professional engineer who shall be a member of the board of registration for professional engineers and 1 land surveyor who shall be a member of the board of registration for land surveyors. The professional engineers board shall consist of 3 professional engineers, 1 architect who shall be a member of the board of registration for architects and 1 land surveyor who shall be a member of the board of registration for land surveyors. The land surveyors board shall consist of 3 land surveyors, 1 professional engineer who shall be a member of the board of registration for professional engineers and 1 architect who shall be a member

of the board of registration for architects. Board members shall be appointed by the governor for terms of 4 years each, except that of the members of the boards first appointed 1 shall hold office for 1 year, 1 for 2 years, 1 for 3 years and 2 for 4 years, as may be designated by the governor. Members of a board shall qualify by taking and filing the constitutional oath of office with the secretary of state, and shall hold office until the appointment and qualification of their successors. On the expiration of the term of any member, the governor shall appoint an architect, professional engineer or land surveyor to take the place of the member whose term on the board is expiring. Each member of the board shall be a citizen of the United States and a resident of this state. Vacancies shall be filled for the balance of any unexpired term, in the same manner as the original appointment. The governor may remove any member of a board for misfeasance, malfeasance or nonfeasance in office, after hearing.

HISTORY: CL 1948, 338.553.—Am. 1970, p. 64, Act 20, Imd. Eff. May 8.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.553a Registration boards; joint meetings.

Sec. 3a. Recognizing a commonality of interest between the 3 professions licensed under this act and the similarity of practice of some aspects of such professions, a joint meeting of the 3 boards shall be held at least once annually at a time and place determined by the department of licensing and regulation. Where the operations of 2 or more of the professions overlap or require coordination and correlation, the boards for the professions involved shall meet jointly on the call of the chairman of any board involved to act as an integrating body to consider and recommend matters of policy.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 37, Act 32, Imd. Eff. Dec. 27;—Am. 1970, p. 65, Act 20, Imd. Eff. May 8.

338.554 Registration board; compensation; employees and assistants, compensation and expenses.

Sec. 4. Members of the board shall serve without compensation but shall be entitled to their actual and necessary traveling and other expenses incurred in the performance of their official duties. The board shall have power to appoint such employees and assistants as shall be necessary for the proper exercise of the powers hereby granted. Employees and assistants shall receive their actual and necessary expenses incurred in the discharge of their official duties. Compensation and expenses of all assistants and employees shall be paid from the appropriation made therefor by the legislature. The board is authorized to incur such expense as shall be required to carry out the provisions of this act, to be paid from the appropriation made therefor by the legislature.

HISTORY: CL 1948, 338.554.

338.555 Registration board; organizational, regular and special meetings, notice; officers; quorum.

Sec. 5. A board shall hold an organization meeting within 60 days after this amendatory act of 1970 shall become effective, and thereafter shall hold at least 2 regular meetings each calendar year. Special meetings shall be held at such times as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws may provide. The board shall elect or appoint annually a chairman, a vice-chairman and a secretary who need not be a member of the board. Three members shall constitute a quorum for the transaction of business at least 2 of whom shall be members of the profession administered by the board.

HISTORY: CL 1948, 338.555;—Am. 1970, p. 65, Act 20, Imd. Eff. May 8.

338.556 Registration board; rules and regulations; seal.

Sec. 6. The board shall have power to promulgate rules and regulations, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties, including methods of procedure in proceedings before the board. The board shall adopt an official seal.

HISTORY: CL 1948, 338.556.

338.557 Registration board; power to subpoena witnesses and administer oaths; aid of circuit court.

Sec. 7. Any member of the board may issue a subpoena requiring any person to appear before the board and be examined with reference to any matter within the scope of the inquiry or investigation being conducted by the board and to produce any books, papers or documents. Any member of the board, or its authorized agent, may administer an oath to a witness in any matter before the board. In case of disobedience of a subpoena the board may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses and the producing of books, papers and documents. Any of the circuit courts of the state within the jurisdiction of which any such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said board and produce books, papers and documents if so ordered and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by said court as a contempt thereof.

HISTORY: CL 1948, 338.557.

338.558 Fees; deposit in state treasury; restrictions on expenses of board.

Sec. 8. All fees received under the provisions of this act shall be forwarded monthly to the state treasury and deposited therein in a special segregated fund, to be available for the purpose of this act. The expenses of carrying out the provisions of this act shall not exceed in any fiscal year the amount received from fees under the provisions of this act.

HISTORY: CL 1948, 338.558.

338.559 Secretary; duties, bond.

Sec. 9. The secretary of the board shall have charge of the offices of the board and of its records and shall perform the duties usually appertaining to such office; he shall give a surety bond, running to the people of the state of Michigan, in such sum as the board shall determine. The premium on said bond shall be considered a necessary expense of the administration of the provisions of this act.

HISTORY: CL 1948, 338.559.

338.560 Records of proceedings of registration board; register of applicants, contents.

Sec. 10. The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show (a) the name, age, and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was rejected; (g) whether a certificate of registration was granted; (h) the date of the action of the board; and (i) such other information as may be deemed necessary by the board.

The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

On or before the fifteenth day of January in each odd numbered year, the board shall make a report to the governor and to the legislature, setting forth the workings of said board during the period covered by said report, and containing the findings and recommendations of said board.

HISTORY: CL 1948, 338.560.

338.561 Annual roster of registrations; copy filed with secretary of state.

Sec. 11. A roster showing the names and business addresses of all registered architects and all registered professional engineers and all registered land surveyors shall be prepared by the secretary of the board during the month of February of each year, commencing in the year following the date on which this law becomes effective. Copies of this roster shall be placed on file with the secretary of state, and furnished to the public upon request.

HISTORY: CL 1948, 338.561.

338.562 Applicants for registration; qualifications, credit for experience, education; examinations.

Sec. 12. (1) An applicant for examination for registration shall be a citizen of this state except as provided in section 20; of good moral character over 21 years of age and, except as provided in this section, have had not less than 8 years of practical experience in architectural or engineering work or land surveying, under the direction or supervision of a registered architect, professional engineer or land surveyor, or of an architect, engineer or surveyor of equivalent professional standing, or be a graduate in architecture or engineering of a college or school acceptable to the board, and have had not less than 4 years of experience of a nature satisfactory to the board. The satisfactory completion of each year of a course in architecture or engineering with or without graduation in a school or college acceptable to the board shall be considered as equivalent to a year of satisfactory experience and graduation in a 4-year course other than architectural or engineering in a school or college acceptable to the board shall be considered as equivalent to 2 years of satisfactory experience. Credit for an additional year of experience shall be given to applicants with a master's degree in architecture or engineering. No applicant shall receive credit for more than 5 years of experience because of educational qualifications. Beginning January 1, 1977, applicants for registration shall have a baccalaureate degree or equivalent education. Any person who has commenced the taking of examinations provided hereunder shall be permitted to complete the taking of those examinations notwithstanding any provisions hereto to the contrary.

(2) An applicant upon payment of the fees required under this act shall be granted examinations in such appropriate subjects as the board may require.

(3) The board shall hold examinations at least once a year covering all of the several parts of its requirements. An applicant may take the examinations as follows:

(a) An applicant who successfully completes studies which will be followed by a baccalaureate degree in a professional school or college acceptable to the board or who before January 1, 1973 completes 4 years' practical experience acceptable to the board may take an examination which will indicate his understanding of the theory pertaining to his profession. An applicant who passes this examination is not required to repeat it regardless of when he takes the examination required by paragraph (b).

(b) An applicant who satisfies the requirements of subsection (1) of section 12 may take an examination which will indicate his experience qualifications to practice his profession.

(4) The board shall issue certificates of registration only to those applicants who meet the requirements of this section.

(5) Any person having the necessary qualifications prescribed in this act to entitle him to registration shall be eligible for such registration though he may not be practicing his profession at the time of making his application.

HISTORY: C.L. 1948, 338.562;—Am. 1969, p. 288, Act 141, Imd. Eff. Jul. 31;—Am. 1970, p. 65, Act 20, Imd. Eff. Mar. 5.

338.563 Registration; applications, contents, fees.

Sec. 13. Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of his technical work, and shall contain not less than 5 references, of whom 3 or more shall be architects or professional engineers or land surveyors having personal knowledge of his architectural or engineering or land surveying experience.

The registration fee for architects and professional engineers shall be \$70.00, \$30.00 of which shall accompany application, the balance to be paid upon issuance of certificate. When a certificate of qualification issued by the national council of architectural registration boards or the national bureau of engineering registration is accepted as evidence of qualification, the total fee for registration as architect or professional engineer shall be \$70.00.

The registration fee for land surveyors shall be \$70.00, which shall accompany application.

Should the board deny the issuance of a certificate of registration to any applicant, the initial fee deposited shall be retained as an application fee.

HISTORY: C.L. 1948, 338.563;—Am. 1952, p. 437, Act 260, Eff. Sep. 18;—Am. 1955, p. 94, Act 58, Imd. Eff. May 10;—Am. 1961, p. 178, Act 137, Imd. Eff. May 31;—Am. 1968, p. 269, Act 179, Eff. Nov. 15.

338.564 Examinations; time, place, scope; re-examination, fees, forfeiture.

Sec. 14. When examinations are required, they shall be held at such time and place as the board shall determine. The scope of the examinations and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise architectural and engineering works, which shall insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in architecture, in professional engineering, and in land surveying. A candidate failing on examination may apply for reexamination at the expiration of 6 months. Reexaminations shall be granted upon payment of a fee of \$20.00. Subsequent reexamination shall be granted upon payment of a fee of \$20.00. A candidate who pays the reexamination fee but does not write the next examination given shall forfeit his reexamination fee.

HISTORY: C.L. 1948, 338.564;—Am. 1955, p. 94, Act 58, Imd. Eff. May 10;—Am. 1968, p. 269, Act 179, Eff. Nov. 15;—Am. 1969, p. 288, Act 141, Imd. Eff. Jul. 31.

338.564a Examination grades; notice to applicant, comments of board; hearings.

Sec. 14a. The board shall mail written notice to an applicant of his grades on the several parts of an examination. On written request by an applicant filed with the board within 30 days after notice of his grades has been mailed to him, the board shall mail to him within a reasonable time the comments of the board on those parts of the examination which he failed to pass. Within 20 days after the comments are mailed the applicant may request an informal hearing before the board, or a hearing in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948. At either kind of hearing the applicant may be represented by an attorney. The decision of the board after

an informal hearing shall be recorded in its minutes and notice of the decision mailed to the applicant. If the applicant is dissatisfied with this decision he may request a hearing which shall be subject to Act No. 306 of the Public Acts of 1969.

HISTORY: Add. 1970, p. 66, Act 20, Imd. Eff. May 8.

338.565 Certificate of registration; issuance, seal.

Sec. 15. The board shall issue a certificate of registration upon payment of registration fees as provided for in this act, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this act. In case of a registered architect, the certificate shall authorize the practice of "architecture," in the case of a registered engineer, the certificate shall authorize the practice of "professional engineering," and in the case of a registered land surveyor, the certificate shall authorize the practice of "land surveying." Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and the secretary of the board under seal of the board.

The issuance of a certificate of registration by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered architect, a registered professional engineer, or of a registered land surveyor, while the said certificate remains unrevoked or unexpired.

Each registrant hereunder, who is required to file plans, specifications, and reports with public authorities, shall upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "registered architect," "registered professional engineer," or "registered land surveyor." Plans, specifications, plats, and reports issued by a registrant shall be stamped with the said seal when filed with public authorities, during the life of the registrant's certificate, but it shall be unlawful for any one to stamp or seal any documents with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or re-issued.

HISTORY: CL 1948, 338.565.

338.565a Plans; sealing, overlapping of professions.

Sec. 15a. (1) All sheets of plans, plats, drawings, specifications and reports, or where bound copies are submitted the index sheets of plans, specifications and reports, when submitted to governmental agencies for approval or record shall be sealed with the embossed or printed seal of persons registered under this act.

(2) Where overlapping of the professions is involved, the registered practitioner who seals the plans, drawings, specifications and reports may perform services in the field of the other if such other services are incidental to the architectural or engineering project as a whole.

HISTORY: Add. 1969, p. 289, Act 141, Imd. Eff. Jul. 31.

338.566 Certificate of registration; expiration, renewal notice.

Sec. 16. (1) A certificate of registration shall be renewed annually, but a certificate in effect on the effective date of this 1969 amendatory act shall continue until its expiration as provided therein or as otherwise provided in this section. The annual renewal fee for the holder of a personal license to practice as an architect, engineer or surveyor is \$15.00.

(2) An architect's, engineer's or surveyor's certificate shall expire and be renewed as follows:

(a) A triennial certificate expiring from July 1, 1969, to October 31, 1969, shall remain in effect without additional fees until October 31, 1969.

(b) A triennial certificate expiring from November 1, 1969, to June 30, 1970, shall be

renewed on or before its expiration date for a renewal fee of \$15.00, and the renewal certificate shall expire on October 31, 1970.

(c) A triennial certificate expiring from July 1, 1970, to October 31, 1970, shall remain in effect without additional fees until October 31, 1970.

(d) A triennial certificate expiring from November 1, 1970, to June 30, 1971, shall be renewed on or before its expiration date for a renewal fee of \$15.00, and the renewal certificate shall expire on October 31, 1971.

(e) A triennial certificate expiring from July 1, 1971, to October 31, 1971, shall remain in effect without additional fees until October 31, 1971.

(f) A triennial certificate expiring from November 1, 1971 to June 30, 1972, shall be renewed on or before its expiration date for a renewal fee of \$15.00 and the renewal certificate shall expire on October 31, 1972.

(3) A registrant who has not renewed his certificate on or before the date of its expiration shall pay, in addition to his certificate renewal fee, a reinstatement fee of \$5.00. No other penalty fees shall be assessed.

(4) The secretary of the board shall notify every person registered under this act of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for 1 year. The notice shall be mailed to the latest address on file with the secretary of the board at least 2 months in advance of the date of the expiration of the certificate. Renewal shall be effected by payment of a fee of \$15.00 accompanying an application by the registrant upon a form to be provided by the board, if the information contained therein and as may be otherwise obtained shall satisfy the board that the registrant is competent and qualified under this act to continue the practice of his profession.

HISTORY: CL 1948, 338.566;—Am. 1955, p. 95, Act 58, Imd. Eff. May 10;—Am. 1961, p. 177, Act 137, Imd. Eff. May 31;—Am. 1966, p. 269, Act 179, Eff. Nov. 15;—Am. 1969, p. 289, Act 141, Imd. Eff. Jul. 31.

338.567 Rights of firms, co-partnerships, corporations or joint stock associations to practice; limitations.

Sec. 17. An architectural or an engineering or a land surveying firm, or a co-partnership, or a corporation, or a joint stock association may engage in the practice of architecture, professional engineering, or land surveying in this state: Provided, That all partners, officers, and directors of such organizations shall be registered architects, registered professional engineers, or registered land surveyors.

HISTORY: CL 1948, 338.567.

338.568 Public works; supervision of registered architect, professional engineer or land surveyor; exception.

Sec. 18. It is unlawful for this state, or for any of its political subdivisions, or any county, city, town, township, village or school district to engage in the construction of any public work involving architecture or professional engineering, unless the plans and specifications and estimates have been prepared by, and the construction executed under the direct supervision of, a registered architect or a registered professional engineer, and unless any survey of land on which any such public work has been or is to be constructed shall be made under the supervision of a registered land surveyor. However, nothing in this section shall be held to apply to any public work wherein the contemplated expenditure for the completed project does not exceed \$5,000.00.

HISTORY: CL 1948, 338.568;—Am. 1970, p. 66, Act 20, Imd. Eff. May 8.

338.569 Exemptions from act; calculated floor area, definition.

Sec. 19. The following persons shall be exempt from the provisions of this act, to wit:

(a) A person not a resident of and having no established place of business in this state, practicing or offering to practice herein the profession of architecture, engineering, or land surveying, when such practice does not exceed in the aggregate more than 60 days in any calendar year, if the person is legally qualified by registration to practice the profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act, and if the state or country of which he is a resident grants equivalent reciprocal privileges to registered architects, registered professional engineers, and registered land surveyors of this state.

(b) A person not a resident of and having no established place of business in this state, or who has recently become a resident of this state, practicing or offering to practice herein for more than 60 days in any calendar year the profession of architecture, engineering, or land surveying, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this act. Such exemption shall continue only for such time as the board requires for the consideration of the application for registration, if such a person is legally qualified to practice the profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act, and if the state or country of which he is a resident grants equivalent reciprocal privileges to registered architects, registered professional engineers, and registered land surveyors of this state.

(c) Officers and employees of the United States of America or any agency or instrumentality thereof while engaged within this state in the practice of the profession of architecture, engineering, or land surveying for the United States of America, or any agency or instrumentality thereof.

(d) Architects, engineers, or surveyors employed by a railroad or other interstate corporation whose employment and practice is confined to the property of such corporation.

(e) Designers of manufactured products for the quality of which the manufacturer thereof assumes responsibility.

Nothing in this act shall require an employee or subordinate of a person holding a certificate of registration under this act or an employee of a person exempted from registration by classes (a) and (b) of this section to be registered as required by this act, if his work does not include responsible charge of design or supervision.

Nothing in this act shall be construed as requiring supervision by an architect or professional engineer on private single residences for which he has rendered other professional services as herein defined.

Nothing in this act shall prevent any owner from doing any of the architectural, engineering, or surveying work mentioned herein upon or in connection with the construction of buildings on his own property for his own use, nor be construed as preventing a person not registered under this act from planning, designing or supervising the construction of residence buildings not exceeding 3,500 square feet per building in "calculated floor area".

For the purpose of this act "calculated floor area" shall mean that portion of the total gross floor area, measured to the outside surfaces of exterior walls that is intended to become habitable, including heater and/or utility rooms. For the purpose of determining the "calculated floor area" the following spaces will not be considered: (a) crawl spaces, (b) unfinished and nonhabitable portions of basements and attics, (c) garages, (d) open porches, balconies and terraces.

HISTORY: CL 1948, 338.569;—Am. 1952, p. 437, Act 260, Eff. Sep. 18;—Am. 1967, p. 641, Act 300, Imd. Eff. Aug. 15.

338.570 Registration of nonresidents; fee.

Sec. 20. The board may, upon application therefor, and the payment of a fee of \$70.00, issue a certificate of registration as an architect, a professional engineer or land surveyor to any person who holds a certificate of qualification or registration issued to him by proper authority of the national council of state boards of engineering examiners, or of the national council of architectural registration, or of the national bureau of engineering registration, or of any state or territory or possession of the United States, or any country, if the requirements for the registration of architects, professional engineers or land surveyors under which said certificate of qualification or registration was issued do not conflict with the provisions of this act and are of a standard not lower than that specified in section 12 and if equal reciprocal privileges are granted to registrants of this state.

HISTORY: CL 1948, 338.570;—Am. 1952, p. 438, Act 260, Eff. Sep. 18;—Am. 1955, p. 95, Act 58, Imd. Eff. May 10;—Am. 1961, p. 177, Act 137, Imd. Eff. May 31;—Am. 1968, p. 270, Act 179, Eff. Nov. 15.

338.571 Certificate of registration; revocation, unlawful acts, re-issuance, replacement, fee.

Sec. 21. The board shall have the power to revoke the certificate of registration of any registrant who is found guilty of:

- (a) The practice of any fraud or deceit in obtaining a certificate of registration;
- (b) Any gross negligence, incompetency, or misconduct in the practice of architecture, professional engineering or land surveying as a registered architect, a registered professional engineer, or registered land surveyor.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within 3 months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed by registered mail with return receipt requested to the last known address of such registrant, at least 30 days before the date fixed for the hearing. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

If, after such hearing, 4 or more members of the board vote in favor of finding a violation of the provisions of this act, the board shall revoke the certificate of registration of such registered architect, registered professional engineer, or registered land surveyor.

The board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked: Provided, Five or more members of the board vote in favor of such re-issuance.

A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board, and a charge of 5 dollars shall be made for such issuance.

HISTORY: CL 1948, 338.571.

338.572 Violation of act; penalties; enforcement of act, public works, foreign registrants.

Sec. 22. (1) Any person who shall practice, or offer to practice, the profession of architecture, the profession of engineering or land surveying in this state without being registered or exempted in accordance with the provisions of this act, or any person presenting or attempting to use as his own the certificate of registration or the seal of

another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or any person who shall violate any of the provisions of this act, is guilty of a misdemeanor, and shall be fined not less than \$100.00, nor more than \$500.00, or imprisoned not exceeding 90 days, or both.

(2) All law enforcing officers of this state shall enforce the provisions of this act. The several prosecuting attorneys and the attorney general of the state shall prosecute any person violating any of the provisions of this act.

(3) A person shall not submit to any public official of this state or any political subdivision thereof for approval, a permit or for filing as a public record a plan, specification, report or land survey which does not bear 1 or more seals of a registered architect, registered professional engineer or registered land surveyor as required by this act, except for public works costing less than \$5,000.00 or residential buildings containing not more than 3,500 square feet of calculated floor area as defined herein.

(4) Nothing in this act shall apply to a person who is duly licensed to practice architecture, professional engineering or land surveying in another state while temporarily in this state to present a proposal for professional services.

HISTORY: CL 1948, 338.572;—Am. 1952, p. 438, Act 260, Eff. Sep. 18;—Am. 1967, p. 641, Act 300, Imd. Eff. Aug. 15;—Am. 1969, p. 289, Act 141, Imd. Eff. Jul. 31.

338.572a Unlawful practice; injunction.

Sec. 22a. If any person who is neither registered nor exempt, practices, offers to practice or is about to practice architecture, professional engineering or land surveying, the board, in addition to any other remedies, may bring an action to enjoin the person from practicing or offering to practice architecture, professional engineering or land surveying.

HISTORY: Add. 1969, p. 290, Act 141, Imd. Eff. Jul. 31.

338.573 Construction of act.

Sec. 23. This act shall not be construed to affect or prevent the practice of any other legally recognized profession.

HISTORY: CL 1948, 338.573.

Sec. 24. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

338.575 Registration board; quarters.

Sec. 25. The board of state auditors shall furnish suitable quarters for the operations of this board.

HISTORY: CL 1948, 338.575.

338.576 Effective date.

Sec. 26. This act shall become effective as of January 1, 1938.

HISTORY: CL 1948, 338.576.

Sec. 27. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 334, 1919, CL 1929, 8668-8690.

Act 314, 1941, p. 544; Eff. Jan. 10, 1942.

AN ACT to regulate the locating of section, quarter section and center section corners; to require the use of a standard marker therefor; to provide for the furnishing thereof; to provide for the preservation of the records thereof; to provide penalties for violations of the provisions of this act and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

338.591 Surveyors to use standard markers; record of survey filed.

Sec. 1. After the effective date of this act, whenever any registered land surveyor, whether a county surveyor or not, shall locate or reset any section corner or quarter section corner, or shall restore a lost section corner or quarter section corner or shall establish the center corner of any section, for any purpose, he shall mark such section corner or quarter section corner with a standard marker, as hereinafter specified, and shall make a full and complete record of said work, carefully describing in such record all evidence which was found on the ground, and from records, by which the location of said corner was identified and by what surveying process the proper position of such corner was determined, and describing such new witnesses, offset stakes or markers, and any other provisions which he made to provide for the perpetuation of such corner and within 10 days thereafter he shall cause to be filed in the public records of land surveys in the county in which the corner is located a true copy of such record, signed by the surveyor making such record. If the corner is so marked by the county surveyor he shall preserve such record in the files of his office. If the surveyor so marking such corner is not the county surveyor of said county, he shall file such record with the county surveyor in counties having a county surveyor, and in counties where there is no county surveyor, with the register of deeds thereof, who shall preserve such records in his office. All such records shall be kept as public records in the county court house.

HISTORY: CL 1948, 338.591.

338.592 Standard marker; construction, lettering, placing.

Sec. 2. The standard marker for indicating section corners and quarter section corners and center section corners in this state, after the effective date of this act, shall be made of bronze or copper, shall be circular in form, between 3 and 3 ½ inches in diameter, and the main portion thereof shall be of solid metal at least 1/2 inch thick. The lower portion shall be so constructed with standard threads that it may be screwed upon the end of a standard galvanized steel pipe of 1 inch, inside dimension, diameter. The phlange around said threads shall be at least 3/8 of an inch thick. Said marker shall be so constructed as by means of a lock washer, set screw, or other device, to prevent the unscrewing of the same from said pipe. The top of said marker shall contain the words "state of Michigan" and an arrow with the letter "N" indicating north, a diagram of a section which shall be 1 inch square with a horizontal line and vertical line bisecting the square to represent the quarter lines, the abbreviations 'Sec....., T....., R.....,' the words 'Set by ..., Date, ' and the words '\$50.00 fine for defacing or removing.' The surveyor shall stamp his initials and the date of setting said marker thereon at the time of setting said marker and shall indicate on the diagram on the top of the marker the location of the corner by stamping a letter 'O' at the proper intersection of lines. The surveyor shall use metal stamping dies making letters and numerals approximately 1/4 of an inch in height, for stamping said data on said marker. Said marker shall be placed upon the top of a galvanized steel pipe as aforesaid, which pipe shall be set into the ground at least 3 feet: Provided, however, That if because of rock formation, it is impossible to so set said pipe, the surveyor may secure said standard marker in some other permanent manner as best he can under the circumstances.

If because of some previously used marker, it is impossible to set said pipe upon said corner in a vertical position, the surveyor may set the same at an angle so as to bring the standard marker at the correct point.

When such section or quarter section or center section corner so marked is not in a public highway, said standard marker shall be set not more than 6 inches above the surface of the surrounding ground nor more than 6 inches below the surface of such

ground. When such corner occurs in a public highway which is not hard-surfaced, said marker shall be placed at least 6 inches below the surface of such highway. When any highway is hard-surfaced at such section or quarter section corner whether by concrete, tarvia or otherwise, a circular opening at least 6 inches in diameter shall be left at such corner and properly covered with a metal cover. Said uniform marker shall be placed in said opening beneath said cover.

Whenever a standard marker is placed in the roadbed of a public highway the surveyor shall establish 2 or more permanent markers at the edge of the right of way of said highway, recording the nature, bearings and distances thereof.

HISTORY: CL 1948, 338.592.

338.593 Standard marker; manufacture by prison industries, cost.

Sec. 3. Said standard markers, but not said pipe, shall be made by prison industries of Michigan under the direction of the state prison commission and said prison industries shall furnish the same to the several counties of the state at cost, which cost shall not exceed 75 cents per marker. Any registered land surveyor may obtain the same from the county at cost and shall furnish the same, together with the necessary steel pipe, to his client at cost. Every contract of employment of a registered land surveyor for work which involves the locating of any section or quarter section corner shall be construed to authorize such surveyor to obtain the necessary markers and pipe and to charge his employer for the cost thereof: Provided, however, That the board of supervisors of any county may by a majority vote thereof authorize such county to furnish such markers and pipe for use within said county to such surveyors free of charge.

HISTORY: CL 1948, 338.593.

338.594 Standard marker; destruction or removal; records as evidence; misdemeanor, penalty.

Sec. 4. Any person who defaces, destroys, alters or removes any standard marker or any witness marker, after the same has been set by a registered land surveyor as hereinbefore provided, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not to exceed \$50.00 or imprisonment in the county jail for not to exceed 30 days, or to both such fine and imprisonment in the discretion of the court. In any prosecution under this act the records in the office of the county surveyor shall be admissible in evidence and shall constitute prima facie evidence of the facts stated in such records.

HISTORY: CL 1948, 338.594.

338.595 Surveyor's license; revocation for noncompliance.

Sec. 5. Failure to comply with the provisions of this act shall be sufficient grounds for the revocation of the license of any registered land surveyor.

HISTORY: CL 1948, 338.595.

Sec. 6. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

338.601-338.625 Repealed. 1968, p. 692, Act 355, Eff. Jul. 1, 1969.

Sections related to regulation of barbers and hair cutters.

Act 309, 1941, p. 536; Eff. Jan. 10, 1942.

AN ACT to give the state board of examiners of barbers jurisdiction to investigate trade practices among barbers, haircutters, barber and haircutting schools and colleges; to enforce such regulations pertaining to reasonable service charges and reasonable hours of operation of barber shops, haircutting shops, barber and haircutting schools and colleges as will tend to eliminate unfair and insanitary practices; fixing territorial units for such regulations; regulating barber schools, haircutting schools and

colleges and practices therein; and repealing all acts and parts of acts in conflict herewith.

The People of the State of Michigan enact:

338.651 Declaration of public interests.

Sec. 1. The following provisions and regulations of this act are declared to be enacted in the interest of the public health, public safety and general welfare; the profession of barbering and haircutting and the operation of barber shops, haircutting shops, barber and haircutting schools and colleges are hereby declared to be affected with a public interest; in order to attain the purposes of this act in promoting fair competition and salutory and sanitary practices among barbers and haircutters, reasonable minimum charges should prevail for services customarily done by barbers or haircutters in barber shops or haircutting shops, and reasonable opening and closing hours for barber shops or haircutting shops, barber schools, haircutting schools or colleges should be established under the provisions hereof.

HISTORY: CL 1948, 338.651.

CONSTITUTIONALITY: See note under Sec. 9.

338.652 Barber shops; definitions.

Sec. 2. As used in this act, unless otherwise expressly stated or unless the context or subject matter otherwise requires, "barber board" or "board" means state board of examiners of barbers.

The word "person" as used in this act shall mean and include the plural as well as the singular, and any corporation, partnership or unincorporated or voluntary association unless the context shall require a different construction. The word "commodity" shall mean and include any tangible personal property, article or product of general use or consumption. The term "barber" shall mean and include any barber or haircutter licensed by the state board of examiners of barbers. The term "school" or "college" shall mean and include any place that teaches the art of barbering, haircutting or any other work customarily done by barbers and haircutters.

The term "cost" or "costs" shall mean and include cost of labor, equipment, materials and all other expenses incidental to the maintenance and operation of barber shops and haircutting shops.

HISTORY: CL 1948, 338.652.

338.653 Barber shops; minimum prices, hours; authority of state board of examiners of barbers, investigation of unreasonable practices.

Sec. 3. Whenever it shall appear to the state board of examiners of barbers that unfair or unreasonable economic practices prevail among barbers, haircutters, barber schools, haircutting schools and colleges, in any county of the state of Michigan, which may tend to make insecure the economic status of the barbers and haircutters therein, or that the hours of operation of barber shops and haircutting shops are unreasonably long or irregular and tend to make difficult adequate and timely sanitary inspections, or tend to impair the health or efficiency of barbers or haircutters or to endanger the health or safety of their patrons, it shall be the duty of the board to investigate and determine whether the conditions or practices above mentioned, or any of them, prevail in such county, and if found to exist or to be threatened by conditions existing therein, the board may by official order, after due notice and hearing as provided for herein, promulgate scales of reasonable minimum prices to be charged for barber and haircutting services in such county and may establish reasonable opening and closing hours for barber shops and haircutting shops therein and may make and promulgate such

other reasonable orders, rules and regulations as may be calculated to promote the purposes of this act as herein expressed.

If upon investigation, the board finds that any such regulations should be made applicable to 2 or more adjoining counties, the board may include all such counties under 1 order, and if the board finds that regulations to be imposed should vary in different localities within the same county, in order equitably to attain the objectives of this act, the board may make such different regulations for such different localities as will make such order adjustable to differing economic or social conditions therein.

HISTORY: CL 1948, 338.653.

338.654 Notice of investigations and hearing on promulgating scale of prices and hours; witnesses, considerations.

Sec. 4. The practice and procedure of the board with respect to any investigation authorized by this act shall be in accordance with rules and regulations to be promulgated by the board, which shall provide for a reasonable notice to all persons affected by such orders, opportunity to be heard either in person, or by counsel, and to introduce testimony in their behalf at any hearing to be held for that purpose.

At least 30 days before making any order promulgating a scale of minimum service charges or opening or closing hours, the board shall adopt a resolution to investigate barbering and haircutting and barber shops and haircutting shop conditions in any 1 or more certain counties of the state, and within 15 days after such resolution is adopted the board shall cause personal notice, registered mail, or posting in a legal publication in the county or counties wherein the minimum service charge or opening or closing hours are to be adopted by said board, to be mailed to the last known address of all duly licensed barbers or haircutters residing and then regularly engaged in barbering or haircutting in such county or counties, notifying them of the adoption of such resolution and fixing the time and place for the hearing of evidence as to conditions existing in such county or counties.

For the purpose of such investigation, or of any hearing which the board is authorized to conduct, the board, or any member thereof, shall have power to administer oaths, take depositions, issue subpoenas, compel the attendance of witnesses, and the production of books, papers, documents and other evidence. In case of disobedience of any person in complying with any order of the board, or a subpoena issued by the board or any of its members, or on the refusal of a witness to testify to any matter upon which he may be lawfully interrogated, the judge of any circuit court of the county in which the person resides, on application by any member of the board, shall compel obedience by attachment proceedings as for contempt as in the case of disobedience to a subpoena issued from such court, or a refusal to testify therein. The sheriff of the county in which such person resides shall serve all orders and subpoenas herein referred to, and each witness who shall appear in obedience to a subpoena before the board, or member, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the circuit court of this state, which shall be paid upon presentation of proper vouchers approved by any 2 members of the board. No witnesses subpoenaed at the instance of a party, other than the board or 1 of its members, shall be entitled to compensation unless the board shall certify that his testimony was material to the matter investigated.

In making any investigation as to conditions existing in the barber or haircutting profession, the board shall give due consideration to the costs incurred in the particular county under investigation with regard to adequacy of income of barber and haircutting shop operators to assure full compliance with all sanitary regulations imposed by any law of this state, and the board shall give due consideration to healthful and reasonable working conditions and hours of service in barber shops, and may employ

such competent and qualified persons as it deems necessary in determining costs and reasonable hours under the provisions of this act.

Said board shall after due notice and public hearing prescribe and publish minimum prices and opening and closing hours for all barber shops and haircutting shops in said county or counties.

HISTORY: CL 1948, 338.654.

338.655 Board of examiners; rules and regulations; service and publication of orders.

Sec. 5. The state board of examiners of barbers shall adopt and enforce all rules and orders necessary to carry out the provisions of this act. All orders approving minimum prices or opening and closing hours shall be printed and posted for public inspection in the office of the secretary of the board, and notice thereof shall be mailed to the last known address of each licensed barber or haircutter directly affected by such order, but failure to receive such notice shall not relieve any person from duty of compliance therewith.

Proof of service filed with said board that a licensed barber or haircutter has been notified, as heretofore stated, shall be prima facie evidence of knowledge of all orders of the board.

HISTORY: CL 1948, 338.655.

338.656 Board of examiners; orders, effect.

Sec. 6. All orders of the board promulgating schedules of prices to be charged for barber or haircutting service or fixing opening and closing hours for barber shops and haircutting shops shall remain in force and effect until rescinded, modified, or replaced by a new order promulgated by the board under the same procedure as provided herein for such original orders.

HISTORY: CL 1948, 338.656.

338.657 Barber schools; paying students prohibited; hours of operation.

Sec. 7. No barber school, haircutting school or college shall be approved by the state board of examiners of barbers who shall pay any wages, commission or gratuities of any kind to barber students or haircutting students for barber or haircutting work while in training or while enrolled as students in such school or college, and no barber or haircutting business for profit shall be operated by or in connection with any barber school, haircutting school or college. No barber school or haircutting school, operated in any county in which opening and closing hours are regulated under the provisions of this act, shall render any student training service to the public at any operating time prohibited to barber shops or haircutting shops in such county.

HISTORY: CL 1948, 338.657.

338.658 Licenses; grounds for denial, suspension or revocation, appeal.

Sec. 8. The board may decline to grant a barber's license or haircutter's license, or may suspend or revoke such license if already granted, upon due notice and opportunity of hearing to the applicant or licensee, or when satisfied that any such person has violated any order promulgated under the provisions of this act. Any applicant or licensee, considering himself aggrieved by any action of the board, may within 20 days after posting of the order of the board take an appeal from the action of the board to reverse, vacate or modify the order complained of, if, after hearing and upon consideration of the records, such court is of the opinion that such order was unlawful or unreasonable. Upon service of notice of such appeal the board shall with its answer file a transcript of the testimony in the hearing, and the original papers, or duly authenticated transcripts thereof, and other evidence in said court. No proceedings to vacate or reverse or modify a final order rendered by the board shall operate to stay the exe-

cution or effect thereof, unless the circuit court, or a judge thereof in vacation, on application and 4 days' notice to the board, shall allow such stay, in which event the petitioner shall be required to execute an undertaking in such sum as the court may prescribe, with sufficient surety to the satisfaction of the court, conditioned for the prompt payment of all damage arising from or caused by the delay in the enforcement of the order complained of.

Any order applying only to a person or persons named therein, shall be served by delivery of the order or a certified copy thereof, to such person by an authorized representative of the board or by the sheriff of the county in which such person resides, for services upon him in the same manner as summons is served in civil actions.

HISTORY: CL 1948, 338.658.

338.659 Applicability of act.

Sec. 9. The provisions of this act shall only be enforced in any county of the state having a population according to the last federal census of at least 500,000.

HISTORY: CL 1948, 338.659.

CONSTITUTIONALITY: Held unconstitutional as a local or special act where a general act can be made applicable. *Klosinski v. Michigan State Board of Examiners of Barbers*, 308 Mich. 70, 13 N.W. 2nd 211.

Sec. 10. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Sec. 11. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

338.662 Administration of act; payment of expenses.

Sec. 12. All expenses incidental to the administration of this act shall be paid from the funds of the state board of examiners of barbers in the manner and form governing other expenditures of that board.

HISTORY: CL 1948, 338.662.

Act 148, 1893, p. 238; Eff. Aug. 28.

AN ACT to prohibit the opening of barber shops on the first day of the week, commonly called Sunday, for the purpose of carrying on or engaging in the art or calling of hair cutting, shaving, hair dressing and shampooing, or in any work pertaining to the trade or business of a barber, on the said first day of the week, commonly called Sunday.

The People of the State of Michigan enact:

338.681 Barber shops; Sunday operation prohibited.

Sec. 1. That it shall be unlawful for any person or persons to carry on or engage in the art or calling of hair cutting, shaving, hair dressing and shampooing, or in any work pertaining to the trade or business of a barber, on the first day of the week, commonly called Sunday, except such person or persons shall be employed to exercise such art or calling in relation to a deceased person on said day.

HISTORY: CL 1897, 5920;—CL 1915, 7771;—CL 1929, 8712;—CL 1948, 338.681.

338.682 Barber shops; Sunday operation prohibited; exception.

Sec. 2. That it shall be unlawful for any such person or persons to keep open their shops or places of business aforesaid, on said first day of the week, commonly called

Sunday, for any of the purposes mentioned in section 1 of this act: Provided, however, That nothing in this act shall apply to persons who conscientiously believe the seventh day of the week should be observed as the Sabbath and who actually refrain from secular business on that day.

HISTORY: CL 1897, 5921;—CL 1915, 7772;—CL 1929, 8713;—CL 1948, 338.682.

338.683 Violation of act; penalty.

Sec. 3. Every person offending against the provisions of this act, shall, upon conviction thereof, be punished by a fine not less than 10 dollars nor more than 25 dollars for each offense or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 5922;—CL 1915, 7773;—CL 1929, 8714;—CL 1948, 338.683.

338.701-338.720 Repealed. 1965, p. 780, Act 383, Imd. Eff. Aug. 18;—1966, p. 26, Act 12, Eff. Sep. 1.

Sections licensed and regulated residential building contractors.

Act 78, 1955, p. 121; Eff. Oct. 14.

AN ACT to provide for the registration and regulation of foresters; to create a state board of registration for foresters and to prescribe its powers and duties; to authorize imposition and collection of fees; to authorize appropriations and disbursements therefrom; and to provide penalties for the violation of provisions of this act.

The People of the State of Michigan enact:

338.721 Registered foresters; license required; construction of act.

Sec. 1. No person shall use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a registered forester, unless he shall be licensed as hereinafter provided. Nothing contained in this act shall be construed as preventing any person, firm, partnership or corporation from practicing forestry, landscape architecture, or managing woodlands, forests or trees or from operating the removal of any products therefrom, or planting trees on any plat of land, in any manner desired. This act is for the benefit and protection of the public.

HISTORY: New 1955, p. 121, Act 78, Eff. Oct. 14.

338.722 Registered foresters; definitions.

Sec. 2. As used in this act:

(1) The term "forester" means a person who, by reason of his knowledge of the natural sciences, mathematics and the principles of forestry, acquired by forestry education, as set forth in section 12 (1) of this act, and/or practical experience, is qualified to engage in the practice of professional forestry as hereinafter defined;

(2) The term "registered forester" means a person who has been licensed pursuant to this act;

(3) The term "practice of professional forestry" means professional forestry services, including but not limited to consultation, investigation, evaluation, planning or responsible supervision of any forestry activities when such professional service requires the application of forestry principles and techniques; and

(4) The term "board" means the state board of registration for registered foresters.

HISTORY: New 1955, p. 121, Act 78, Eff. Oct. 14.

338.723 State board of registration for foresters; membership, oaths, appointment, term.

Sec. 3. A state board of registration for foresters is hereby created whose duty it shall be to administer the provisions of this act. The board shall consist of 5 foresters who shall be selected and appointed by the governor of Michigan by and with the advice and consent of the senate, and who shall possess the qualifications set forth under section 4 of this act. Each qualified member of the board shall receive a certificate of his appointment from the governor and before beginning his term of office shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duties. The 5 members of the initial board shall be appointed for terms of 1, 2, 3, 4 and 5 years, respectively. As [sic] least 2 members of the board shall be residents of the Upper Peninsula. On the expiration of the term of any member of the initial board, the governor shall, in the manner hereinbefore provided, appoint for a term of 5 years a registered forester having the qualifications set forth in section 4 of this act to take the place of the member whose term on said board is expiring. Each member shall hold office until the expiration of the term for which such member is appointed and until a successor shall have been duly appointed and qualified.

HISTORY: New 1955, p. 122, Act 78, Eff. Oct. 14.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.724 Foresters' registration board; members, qualifications.

Sec. 4. Each member of the board shall be a citizen of the United States and a resident of this state, qualify as a forester under the terms of this act, and shall have been engaged in the practice of professional forestry for at least 10 years.

HISTORY: New 1955, p. 122, Act 78, Eff. Oct. 14.

338.725 Foresters' registration board; compensation, expenses.

Sec. 5. Each member of the board shall receive not to exceed \$10.00 per day when actually attending to the work of the board or of any of its committees and for the time spent in necessary travel and, in addition thereto, may be reimbursed for all actual traveling and incidental expenses necessarily incurred in carrying out the provisions of this act.

HISTORY: New 1955, p. 122, Act 78, Eff. Oct. 14.

338.726 Foresters' registration board; removal, vacancies.

Sec. 6. The governor may remove any member of the board for official misconduct or habitual or wilful neglect of duty in the manner provided by law. Vacancies in the membership of the board shall be filled for the unexpired term in the same manner as for an appointment for a full term.

HISTORY: New 1955, p. 122, Act 78, Eff. Oct. 14.

338.727 Foresters' registration board; appointment, officers, meetings, quorum.

Sec. 7. The members of the initial board shall be named and appointed by the governor within 30 days after the effective date of this act. The board shall hold a meeting within 30 days after its members are first appointed and thereafter the board shall hold at least 2 regular meetings each year.

Meetings shall be held at such time and place as the by-laws of the board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide. The board shall elect annually the following officers: A chairman, a vice-chairman and a secretary. A quorum of the board shall consist of a majority of the qualified members serving thereon.

HISTORY: New 1955, p. 122, Act 78, Eff. Oct. 14.

338.728 Foresters' registration board; by-laws, rules, seal, witnesses.

Sec. 8. The board shall have the power to make all by-laws and rules reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it, pursuant to Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948. The board shall adopt and have an official seal. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to testify or to produce any books, papers or documents, the board may present its petition to any court of competent jurisdiction, setting forth the facts, and thereupon such court may, in a proper case, issue its subpoena to such person, requiring his attendance before said court and there to testify or to produce such books, papers and documents as may be deemed necessary and pertinent thereto. Any person failing or refusing to obey the subpoena of said court may be proceeded against in the same manner as for refusal to obey any other subpoena of said court.

HISTORY: New 1955, p. 122, Act 78, Eff. Oct. 14.

338.729 Foresters' registration board; disposition of receipts, payment of expenses.

Sec. 9. All moneys received by said board shall be paid to the state treasurer in accordance with the provisions of law and state regulation. Bills for all expenses incurred by the board, including such clerical help as shall be needed, shall be approved by said board and be paid in accordance with the accounting laws of the state within the appropriation made therefor by the legislature: Provided, That in no case shall the board expend in any fiscal year more moneys than the amount of fees collected.

HISTORY: New 1955, p. 123, Act 78, Eff. Oct. 14.

338.730 Foresters' registration board; records, registry of applicants, contents, reports.

Sec. 10. The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show the name, age and residence of each applicant; the date of the application; an address for the receipt of mail and the place of business of such applicant; his educational and other qualifications; whether or not an examination was required; whether the application was rejected; whether a license was granted; the date of the action of the board; and such other information as may be deemed necessary by the board. Annually, as of June thirtieth, the board shall submit to the governor a report on its transactions.

HISTORY: New 1955, p. 123, Act 78, Eff. Oct. 14.

338.731 Roster of registered foresters; distribution, filing.

Sec. 11. A roster showing the names and places of business of all registered foresters qualified according to the provisions of this act shall be prepared by the secretary of the board during the month of March of each year. Copies of such roster shall be mailed to each person so registered, placed on file with the secretary of state and made available to the public upon request.

HISTORY: New 1955, p. 123, Act 78, Eff. Oct. 14.

338.732 Foresters; qualifications of applicants for registration.

Sec. 12. (a) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a registered forester: (1) Graduation from a university or college with a curriculum in forestry acceptable to the board, including 1 3-credit course in each of the following subjects: Silviculture, forest protection, forest management, forest economics, and forest utilization; and a record of an additional 2 years' or more experience in forestry work of a character satisfactory

to the board, and indicating that the applicant is competent to practice professional forestry; or (2) successfully passing a written examination designed to show knowledge approximating that obtained through graduation from an acceptable 4-year curriculum in forestry, and a record of 4 years or more of active practice in forestry work of a character satisfactory to the board, and indicating that the applicant is competent to practice professional forestry: Provided, That after 5 years from the effective date of this act no person shall qualify as a registered forester unless such person shall have graduated from a university or college with a curriculum in forestry acceptable to the board, and who has a record of an additional 2 years or more of experience in forestry work of a character satisfactory to the board, and indicating that the applicant is competent to practice professional forestry; or (3) any person who shall have been engaged in the practice of professional forestry as defined in section 2 of this act for at least 10 years in a period of 25 years immediately preceding the effective date of this act and is of the age of 70 years or more shall be eligible for registration as a registered forester without reference to the requirements set forth in subdivisions (1) and (2) hereof: Provided, That such person files application for registration with the board within 3 months from the effective date of this amendatory act.

(b) No person shall be eligible for registration as a registered forester who is not of good character and reputation. The completion of the junior year of a curriculum in forestry in a university or college acceptable to the board shall be considered as equivalent to 2 years of the practice of professional forestry; the completion of the senior year of a curriculum in forestry, without graduation, in a university or college acceptable to the board, shall be considered as equivalent to 3 years of the practice of professional forestry.

HISTORY: New 1955, p. 123, Act 78, Eff. Oct. 14;—Am. 1958, p. 192, Act 169, Eff. Sep. 13.

338.733 Applications for registration; contents, fees.

Sec. 13. Applications for registration shall be made on forms prescribed and furnished by the board, shall contain statements made under oath as to citizenship, residence and the applicant's education and detailed summary of his technical work, and shall contain the names of not less than 5 persons, of whom 3 or more shall be foresters having personal or professional knowledge of his forestry experience. The forms shall also contain a code of ethics prepared and approved by the board. The registration fee for a certificate as a "registered forester" shall be fixed by the board, but not to exceed \$25.00, 1/2 of which fee shall accompany the application, the balance to be paid before issuance of the certificate. Should the applicant fail or refuse to remit the said remaining balance within 30 days after being notified by registered mail, that the applicant has successfully qualified, the applicant shall forfeit the right to have a certificate so issued and said applicant may be required to again submit an original application and pay an original fee therefor. Should the board deny the issuance of a certificate of registration to any applicant, the fee deposited shall be retained by the board as an application fee.

HISTORY: New 1955, p. 124, Act 78, Eff. Oct. 14.

338.734 Examinations and re-examinations; fees.

Sec. 14. When written examinations are required, they shall be held at such time and place as the board shall determine. The methods of procedure shall be prescribed by the board. A candidate failing an examination may apply for re-examination at the expiration of 6 months and shall be entitled to 1 re-examination without payment of an additional fee. Subsequent examinations may be granted upon payment of a fee to be determined by the board, but not in excess of \$25.00.

HISTORY: New 1955, p. 124, Act 78, Eff. Oct. 14.

338.735 Licenses; issuance, plans, maps and reports to be endorsed with license number.

Sec. 15. The board shall issue a license upon payment of the registration fee as provided for in this act to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this act. Licenses shall show the full name of the registrant, shall have a serial number and shall be signed by the chairman and secretary of the board under seal of the board. The issuance of a license by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered forester while the said license remains unrevoked or unexpired. Plans, maps, specifications and reports issued by a registrant shall be endorsed with his name and license number during the life of the registrant's license, but it shall be a misdemeanor for anyone to endorse any documents with said name and license number after the license of the registrant named thereon has expired or has been revoked, unless said license shall have been renewed or reissued. It shall be a misdemeanor for any registered forester to endorse any plan, specification, estimate or map unless he shall have actually prepared such plan, specification, estimate or map or shall have been in the actual charge of the preparation and/or responsible therefor.

HISTORY: New 1955, p. 124, Act 78, Eff. Oct. 14.

338.736 Licenses; renewal, fees, exceptions.

Sec. 16. Licenses shall expire 1 year after the date of their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify, at his last registered address, every person registered under this act of the date of the expiration of his license and the amount of the fee that shall be required for its renewal for 1 year; such notice shall be mailed at least 3 months in advance of the date of the expiration of said license. The fee for renewal of licenses shall be \$10.00. The board shall make an exception to the foregoing renewal provisions in the case of a person while on active duty in any of the armed forces of the United States.

HISTORY: New 1955, p. 124, Act 78, Eff. Oct. 14.

338.737 Registration; determination of eligibility.

Sec. 17. Registration shall be determined upon a basis of individual personal qualifications. No firm, company, partnership, corporation or public agency shall be licensed as a registered forester.

HISTORY: New 1955, p. 125, Act 78, Eff. Oct. 14.

338.738 Registered forester; use of title by reciprocity.

Sec. 18. A person not a resident of and having no established place of business in Michigan, or who has recently become a resident thereof, may use the title of registered forester in Michigan provided: (1) Such person is legally licensed as a registered forester in his own state or country and has submitted evidence to the board that he is so licensed and that the requirements for registration therein are at least substantially equivalent to the requirements of this act; and (2) the state or country in which he is so licensed observes these same rules of reciprocity in regard to persons originally licensed under the provisions of this act.

HISTORY: New 1955, p. 125, Act 78, Eff. Oct. 14.

338.739 License; revocation; preferment of charges, court review; replacement license, fees.

Sec. 19. The board shall have the power to revoke the license of any registrant who is found guilty by the board of fraud, deceit, gross negligence, incompetency or misconduct in the practice of professional forestry.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct in connection with any forestry practice against any registrant. Such charges shall be in writing, shall be sworn to by the person making them and shall be filed with the secretary of the board. All charges shall be heard by the board pursuant to its rules and regulations and subject to the requirements of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948. Any applicant whose license has been revoked by the board may apply for a review of the proceedings with reference to such revocation of his license by any court of competent jurisdiction, pursuant to said Act No. 197 of the Public Acts of 1952, as amended. A quorum of the board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked. A new license to replace any license revoked, lost, destroyed or mutilated may be issued, subject to the rules of the board, and upon payment of a fee of \$3.00.

HISTORY: New 1955, p. 125, Act 78, Eff. Oct. 14.

338.740 Violation of act; penalty, duties of officer.

Sec. 20. Any person who shall practice or offer to practice the profession of forestry as a registered forester in this state, without being registered in accordance with the provisions of this act, or any person who shall use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a registered forester, without being registered in accordance with the provisions of this act, or any person who shall present or attempt to use as his own the license of another, or any person who shall give any false or forged evidence of any kind to the board or any member thereof in obtaining a license, or any person who shall attempt to use an expired or revoked license, or any person, firm, partnership or corporation who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00. The board, or such person or persons as may be designated by the board to act in its stead, is empowered to prefer charges for any violations of this act in any court of competent jurisdiction. It shall be the duty of all duly constituted officers of the law of this state to enforce the provisions of this act and to prosecute any persons, firms, partnerships or corporations violating the same. The attorney general of the state or his designated assistant shall act as legal advisor of the board and render such assistance as may be necessary in carrying out the provisions of this act.

HISTORY: New 1955, p. 125, Act 78, Eff. Oct. 14.

Act 176, 1931, p. 278; Eff. Sep. 18.

AN ACT to regulate the occupations and practices of hairdressers, cosmeticians, beauty culturists, cosmetologists, and all branches of cosmetology; to create a state board of cosmetology, and to provide for the issuance by said board of certificates of registration and licenses entitling the holders thereof to engage in and to teach such occupations and practices; to insure the better education of such practitioners; to provide for rules regulating the proper conduct and sanitation of all cosmetological establishments and schools of cosmetology, and prescribing penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

338.751 Act concerning cosmetology; short title.

Sec. 1. This act shall be known as the "Act concerning cosmetology".

HISTORY: CL 1948, 338.751.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

338.752 Cosmetology act; definitions.

Sec. 2. As used in this act:

(a) "Board" means the state board of cosmetology.

(b) "Cosmetology" means any branch or any combination of branches of the occupation of a hairdresser, cosmetician, cosmetologist, beauty culturist, or any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of this act, which are now or may hereafter be practiced. The word cosmetology shall be defined and shall include the following practices or any 1 or a combination of the following practices: Arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, or similar work, upon the hair of any female, with the hands, or with mechanical or electrical apparatus or appliances, or by any means; cleansing, massaging, stimulating, manipulating, exercising, beautifying, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or similar work upon the scalp, neck, face, arms, bust or upper part of the body of any person, or the removing of superfluous hair from the upper part of the body of any person by the use of electrolysis, depilatories, waxes, or tweezers or manicuring the nails of any person. The provisions of this act shall not authorize any registered cosmetologist to cut or clip the hair of any male person unless he or she has first obtained a license to under the provisions of Act No. 382 of the Public Acts of 1927, as amended, being sections 338.601 to 338.625 of the Compiled Laws of 1948.

(c) A "cosmetological establishment or school of cosmetology" is any building, or any part thereof, completely partitioned off from any other business or dwelling, except a licensed barber shop wherein any of the herein classified occupations are practiced or taught for hire or compensation, and shall be subject to the provisions and within the meaning of this act as well as establishments shall be subject to rules and regulations adopted by the board and schools shall be subject to the curriculum set up by the board for schools of cosmetology.

(d) An "owner" is any person, firm, copartnership or corporation who conducts, or owns and conducts a cosmetological establishment, or school of cosmetology teaching any of the classifications herein.

(e) "Cosmetologist" means any person who engages in the practice of cosmetology, or in more than a majority of the branches thereof except the branch of electrolysis.

(f) "Instructor" means any person who is a "cosmetologist" and teaches any of the practices thereof in a school of cosmetology, the person shall be qualified as outlined in section 14.

(g) "Student" means any person at least 16 years of age engaged in learning the occupation of cosmetology or any of the branches of cosmetology in a school of cosmetology; except, this minimum age requirement shall not apply to a student enrolled in a program offered as a part of the regular curriculum of a public school and approved by the superintendent of public instruction. The word "apprentice" shall mean any person engaged in learning cosmetology or any of its branches in a cosmetological establishment.

(h) "Electrologist" means any person, who, for compensation, engages in the occupation of removing superfluous hair from the upper part of the body of any person by the use of the electric needle only.

(i) A person who engages only in the occupation of manicuring, shall be known as a "manicurist", and may obtain a license for that separate branch of cosmetology only.

HISTORY: Am. 1937, p. 632, Act 323, Eff. Oct. 29;—Am. 1947, p. 45, Act 38, Eff. Oct. 11;—CL 1948, 338.752;—Am. 1964, p. 228, Act 173, Eff. Aug. 28;—Am. 1968, p. 326, Act 226, Eff. Nov. 15.

338.753 Inapplicability of act.

Sec. 3. The preceding sections shall not be construed to include the following classes of persons:

1. Licensed physicians, surgeons, osteopaths, nurses, dentists, pediatricists, optometrists and chiropractors when exclusively engaged in the practice of their respective professions.

2. Nothing in this act shall be construed to prohibit barbers from cutting hair, singeing hair, trimming the beard, dyeing the hair or beard, shampooing the head, massaging the face and neck, or similar work upon the hair, beard, head and face of any person with the hands, or with any mechanical or electrical apparatus or appliances, or by any means cleansing, massaging, stimulating, manipulating, exercising, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or similar work upon the scalp, face and neck of any person.

HISTORY: CL 1948, 338.753.

338.754 Exemption from act.

Sec. 4. Exemptions:

1. All persons who, on the taking effect of this act, are in the actual practice of cosmetology or any of its branches in the state of Michigan, as defined herein, shall be entitled to a license under this chapter, without examination: Provided, That they shall furnish satisfactory proof of having been engaged in the active practice of all or a part of the branches of cosmetology immediately prior to the passage of this act; and that application shall be made in writing on suitable blanks furnished by the board, accompanied by a certificate of a licensed practitioner of medicine or osteopathy that the applicant is in good health and free from any communicable disease.

2. All persons who at the taking effect of this act are engaged in learning any or all branches of cosmetology in a school of cosmetology or a cosmetological establishment, licensed under the requirements of the state of Michigan, shall be accredited with the hours so spent, provided that applications are made in writing upon suitable blanks furnished by the board and accompanied by a certificate from a licensed practitioner of medicine or osteopathy, and the required license fee, and is filed with the board within 90 days after the taking effect of this act.

HISTORY: CL 1948, 338.754.

338.755 State board of cosmetology; eligibility, term, vacancies, oath.

Sec. 5. Creating a board:

1. A state board of cosmetology is hereby created to carry out the purposes and enforce the provisions of this act. Said board is to consist of 3 members, who shall be appointed by the governor within 30 days after the passage of this act. Members of this board shall be persons who are at least 25 years of age, who shall have been citizens of the United States and residents of the state of Michigan at least 5 years immediately prior to their appointment and are not ineligible as in this section provided.

2. No person shall be eligible for appointment as 1 of the members of said board, who has not been actively engaged in the actual practice of cosmetology in the state of Michigan at least 5 years immediately prior to their appointment or who is connected, directly or indirectly with any school of cosmetology, nor shall any 2 members be graduates of the same school.

3. The terms of office of the first board appointed shall be as follows: One of the members shall serve for 1 year, 1 for 2 years, and 1 for 3 years; upon the expiration of such terms, respectively, the succeeding members shall be appointed for a term of 3 years. In case of vacancy occurring in the board, the governor shall fill same by appointing a member to serve for the remainder of the term only. Before entering upon

the discharge of their duties each member shall make, and file with the state of Michigan the constitutional oath of office.

HISTORY: CL 1948, 338.755.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.756 Cosmetology board; president; administrative secretary, duties.

Sec. 6. The members of the board shall, annually, elect from among their members, a president. An administrative secretary shall be in charge of the office, shall enforce the provisions of this act, record board meetings, put into practice the board's rulings and supervise all administrative acts of the board.

HISTORY: Am. 1937, p. 633, Act 323, Eff. Oct. 29;—CL 1948, 338.756;—Am. 1968, p. 326, Act 226, Eff. Nov. 15.

338.757 Cosmetology board; compensation, expenses.

Sec. 7. The members of the board shall receive \$25.00 per diem for every day actually engaged in board meetings, together with their necessary expenses and mileage subject to rules and regulations as set up by the department of administration. All such compensation, necessary expense and mileage shall be paid out of funds appropriated by the legislature. In no event shall the compensation and necessary expenses exceed the fees received under this act.

HISTORY: Am. 1937, p. 634, Act 323, Eff. Oct. 29;—CL 1948, 338.757;—Am. 1952, p. 62, Act 57, Imd. Eff. Apr. 3;—Am. 1963, p. 107, Act 97, Imd. Eff. May 8;—Am. 1968, p. 326, Act 226, Eff. Nov. 15.

338.758 Cosmetology board; meetings.

Sec. 8. The board shall meet on the second Tuesday in January and July of each year, and at such other times and places as the board may designate but not to exceed the number of days provided for by the legislature.

HISTORY: Am. 1937, p. 634, Act 323, Eff. Oct. 29;—Am. 1947, p. 279, Act 199, Imd. Eff. Jun. 12;—CL 1948, 338.758;—Am. 1968, p. 327, Act 226, Eff. Nov. 15.

338.759 Cosmetology board; office; records, files as evidence; seal.

Sec. 9. An office shall be established where all records and files shall be kept; all such records and files shall be prima facie evidence of matters therein contained, shall constitute public records, and shall at all reasonable times be open for public inspection. The board shall also adopt a seal.

HISTORY: CL 1948, 338.759;—Am. 1968, p. 327, Act 226, Eff. Nov. 15.

338.760 Cosmetology board; regulatory powers, inspections.

Sec. 10. The board shall adopt reasonable rules and regulations and curriculum for the carrying out of the provisions and intents and purposes of this act; for conducting examinations of applicants for registrations; to approve certificates of registration and licenses to such applicants as may be entitled thereto; to register, regulate and govern cosmetological establishments and schools of cosmetology. Each cosmetological establishment should be inspected at least once annually and each school of cosmetology shall be inspected at least twice annually.

HISTORY: Am. 1937, p. 634, Act 323, Eff. Oct. 29;—CL 1948, 338.760;—Am. 1968, p. 327, Act 226, Eff. Nov. 15.

338.761 Cosmetology board; registration records, contents.

Sec. 11. The board shall keep a record of registration, containing the names and known places of business, and the date and number of certificates of registration, of every registered cosmetologist, electrologist, instructor or manicurist, together with the names and addresses of all cosmetological establishments, and schools of cosmetology registered under this act, which record shall also contain a specification of such facts as applicants for registration may claim, in their applications, to justify their registration. The board shall also keep a record of its proceedings, and it shall do all other things necessary to the carrying out of this act.

HISTORY: Am. 1937, p. 634, Act 323, Eff. Oct. 29;—CL 1948, 338.761.

338.762 Cosmetology board; sanitary rules, inspections.

Sec. 12. The board shall with the approval of the state board of health adopt or prescribe such sanitary rules as it may deem necessary, with particular reference to the precautions necessary to be employed to prevent the spreading of infectious or contagious diseases, and shall arrange such inspections as it may deem necessary for the proper carrying out of these regulations in order to properly safeguard the public health.

HISTORY: CL 1948, 338.762.

338.763 Cosmetology board; annual report, contents.

Sec. 13. The board shall annually make a written report to the director of the department of licensing and regulation concerning the condition, in the state, of cosmetology and the branches thereof. This report shall also contain a reference to the proceedings held by or before the board in carrying out the provisions of this act for the year last past.

HISTORY: CL 1948, 338.763;—Am. 1968, p. 327, Act 226, Eff. Nov. 15.

338.764 Cosmetological establishments and schools; operation, rules and regulations.

Sec. 14. (1) Cosmetological establishments may be operated as follows: Any person, firm, copartnership or corporation desiring to operate a cosmetological establishment shall make application to the board for a certificate of registration and license, the application to be accompanied by a certificate of health from a licensed physician and the required fee of \$10.00, and the cosmetological establishment shall be under the daily attendance and supervision of a licensed cosmetologist who is not less than 18 years of age and has had not less than 1 year's practical experience in all branches as outlined in subsection (b) of section 2, part b, of this act. A cosmetological establishment shall, at no time, have more than 2 apprentices, and said apprentices before being qualified to take an examination for a license must have served as an apprentice for a period of 2 years and have had a practical course of instruction equal to the requirements for an examination for a certificate of registration as a cosmetologist, as set forth in section 20 hereof.

Any person, firm, copartnership or corporation desiring to conduct a school of cosmetology, shall make application to the board for a certificate of registration and license, the application to be accompanied by the required registration fee of \$100.00 for residents of this state and \$300.00 for nonresidents. The school shall be in charge of and under the supervision and daily attendance of a licensed instructor who has had at least 3 years' practical experience in the practice of all the branches of cosmetology as set forth in subsection (b) of section 2 in an established place of business, who shall be a graduate of a school of cosmetology with not less than 1,500 credit hours of cosmetology and 300 hours of instructor training, who shall have had an education of not less than twelfth grade, or equivalent, and who shall pass a special examination prescribed by the board, and shall fulfill the following requirements:

(a) It shall maintain a school term of not less than 1,500 hours, extending over a period of 10 consecutive months, and shall maintain a course of practical training and technical instruction, as outlined in the board's approved curriculum, equal to the requirements for examination for a certificate of registration as a cosmetologist as set forth in section 20.

(b) It shall possess financial resources, efficient apparatus and equipment prescribed by the board sufficient for the ready and full teaching of all the subjects in the curriculum approved by the board.

(c) It shall maintain registered instructors, qualified under this section, 1 for every 20 enrolled students, competent to impart instruction in all subjects of its curriculum.

The board shall license as a registered instructor any person who meets the qualifications of an instructor except the requirement for 3 years of practical experience set forth in this section. Such instructor shall not be in charge of or supervise the school.

(d) It shall keep a daily record of the attendance of each student, copy of which shall be sent to the secretary of the board monthly, establish grades, and hold examinations before issuing diplomas.

(e) A school shall be operated for teaching purposes only.

(f) School hours shall be not more than 7 hours per day and not more than 40 hours per week.

(2) Each school shall furnish a bond of \$5,000.00 in favor of the people of the state, for the use and benefit of students and conditioned upon the faithful performance and satisfaction of the contractual rights of students.

(3) It shall be the duty of schools at the time of the enrollment of any student, to furnish such student a financial contract showing the total cost and all charges involved in the complete course of study. All advertising matter put out by schools, when mentioning the cost of tuition or related subjects, shall furnish the same financial statement as hereinabove described.

(4) Every cosmetological establishment exacting a fee for the teaching of any branch of cosmetology, shall be classed as a school of cosmetology within the meaning of this section and shall be required to comply with all of its provisions.

HISTORY: Am. 1937, p. 634, Act 323, Eff. Oct. 29;—Am. 1945, p. 524, Act 303, Imd. Eff. May 25;—CL 1948, 338.764;—Am. 1968, p. 327, Act 226, Eff. Nov. 15.

338.765 Cosmetological establishments and schools; residency prohibited.

Sec. 15. No owner, or person in charge of a cosmetological establishment or school of cosmetology, shall permit any person to sleep in, or use for residential purposes, any room used, wholly or in part for a school of cosmetology or a cosmetological establishment. Violations of the provisions of this section shall constitute a misdemeanor.

HISTORY: CL 1948, 338.765.

338.766 License to practice cosmetology; prerequisites.

Sec. 16. No person shall be issued a license to practice cosmetology or any part thereof, unless and until he shall:

(1) Present to the examiners the certificate of a licensed practitioner of medicine or osteopathy showing freedom from any infectious or contagious disease.

(2) Pass an examination prescribed by the board, which examinations shall include both practical demonstrations and written and oral tests and shall not be confined to any specific system or method.

(3) No person shall be eligible to take the examination prescribed by the board until the person presents a diploma, issued to the applicant by a school of cosmetology licensed by the board, showing that applicant has completed the course of study in the school prescribed by the board, or until an applicant furnishes proof of having completed the required time in a registered school of cosmetology as prescribed by the board.

HISTORY: CL 1948, 338.766;—Am. 1968, p. 328, Act 226, Eff. Nov. 15.

338.767 Cosmetologist; examination, fee, qualifications.

Sec. 17. The board shall admit to examination for a certificate of registration as a cosmetologist, at any meeting of the board duly held for the purpose of conducting examinations, any person who shall have made application to the board in the proper form and paid the required fee of \$15.00, and who shall be qualified as follows: (a) who is at least 17 years of age; (b) who is of good moral character and temperate habits; (c) who shall have had an education equivalent to the completion of the ninth grade of public school; (d) who has had training of at least 1,500 hours extending over

a period of at least 10 months, in a school of cosmetology approved by the board, or (e) who has served at least 2 years as an apprentice in a cosmetological establishment in which the occupations of cosmetology are practiced.

HISTORY: CL 1948, 338.767;—Am. 1955, p. 383, Act 217, Eff. Oct. 14;—Am. 1964, p. 229, Act 173, Eff. Aug. 28;—Am. 1968, p. 328, Act 226, Eff. Nov. 15.

338.768 Electrologist; examination, fee, qualification.

Sec. 18. The board shall admit to examination for a certificate of registration as an electrologist, all applicants who have made application to the board, in proper form, and paid the fee of \$15.00, who are not less than 18 years of age, and are of good moral character and temperate habits, and who shall have had a minimum training of 300 hours under the immediate supervision of an approved electrologist in an approved school in which such practice is taught or shall have studied under a licensed electrologist who has had at least 3 years' practical experience for a period of 12 months, and shall present a diploma of such study.

HISTORY: CL 1948, 338.768;—Am. 1968, p. 329, Act 226, Eff. Nov. 15.

338.769 Manicurist; examination; fee, qualifications.

Sec. 19. The board shall admit to examination for a certificate of registration, as a manicurist, all applicants who have made application to the board in proper form and paid the fee of \$15.00, and who are at least 17 years of age, of good moral character and temperate habits and shall have had training of 300 hours under the supervision of an approved manicurist, or an approved cosmetologist in an approved school of cosmetology, or shall have spent at least 6 months in an approved cosmetological establishment where such subjects are practiced.

HISTORY: CL 1948, 338.769;—Am. 1964, p. 230, Act 173, Eff. Aug. 28;—Am. 1968, p. 329, Act 226, Eff. Nov. 15.

338.770 Cosmetologist; application for examination; contents, fee.

Sec. 20. Every application for admission to examination, and every application for registration as a cosmetologist or any branch of cosmetology shall be in writing on blanks prepared and furnished by the board. Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination, or for registration, as provided herein and shall be verified by the oath of the applicant.

HISTORY: CL 1948, 338.770.

338.771 Cosmetologist; examination, contents, scope.

Sec. 21. All examinations of applicants shall include both practical demonstrations and written and oral tests (except where otherwise provided in this act); shall not be confined to any special system or method; shall be consistent in both practical and technical requirements, and of sufficient thoroughness to satisfy the board as to the applicant's skill in, and knowledge of, the practice of the occupation or occupations for which a certificate of registration is sought.

Examinations for certificate of registration as a cosmetologist shall include practical demonstrations in all subjects as outlined in section 2, part b, (except electrologist for which a special examination must be given); written and oral tests as to their knowledge and skill in the use of antiseptic preparations, sterilization of tools and appliances, hygiene, bacteriology, histology of hair, skin, nails, structure of head, face and neck, and common diseases of the skin, hair and nails and the skill and care required to avoid the spreading or aggravation thereof, use of mechanical apparatus and electricity as applicable to the practice of the occupation of cosmetologist and may include such other demonstrations and tests as the board, in its discretion, may require.

Examination for certificates of registration as a manicurist, shall include written and oral tests in all things pertaining to the nails, sterilization of tools, etc., as taught in a

regular cosmetologist course. The scope of examination in any other branch of cosmetology shall be such as the board, in its discretion, may require.

HISTORY: CL 1948, 338.771.

338.772 Certificate of registration; term, contents.

Sec. 22. Every applicant who shall pass a satisfactory examination, conducted by the board to determine his fitness in the practice of the occupations of a cosmetologist, electrologist, instructor or manicurist, shall receive a certificate of registration or license as a cosmetologist, electrologist, instructor or manicurist, which license shall entitle the holder thereof, without additional cost, to engage in the practice of cosmetology, electrology, instructing or manicuring, up to and including August 30, following the date of issue.

Every certificate of registration or license shall specify the occupation which the holder thereof may practice.

HISTORY: Am. 1937, p. 635, Act 323, Eff. Oct. 29;—CL 1948, 338.772;—Am. 1968, p. 329, Act 226, Eff. Nov. 15.

338.773 Certificate of registration; issuance, display.

Sec. 23. Upon recommendation of the board, the department of licensing and regulation shall issue to each licensee a certificate of registration or license in such form and size as the department shall prescribe. The certificate of registration or license shall have the seal of the department imprinted thereon and shall show the name and address of the licensee and such other information as the department shall prescribe. The certificate of registration or license shall be delivered or mailed to the licensee. The licensee shall display the certificate of registration or license conspicuously in his place of business at all times. The certificate of registration or license is prima facie evidence of the right of the licensee to a license as a registered cosmetologist, electrologist, instructor or manicurist.

HISTORY: CL 1948, 338.773;—Am. 1968, p. 329, Act 226, Eff. Nov. 15.

338.774 Reciprocity.

Sec. 24. Upon application to the board in due form, as provided in section 15 hereof, accompanied by the required fee, a person registered as a cosmetologist, or in any branch of cosmetology, under the laws of another state or territory of the United States, or District of Columbia, shall, without examination (unless the board in its discretion sees fit to require examination), be granted a certificate of registration and license to practice such occupation or occupations in which such person was previously registered, upon the following conditions: That the applicant be at least 17 years of age, of good moral character and temperate habits, and that the requirements for registration as a cosmetologist or any branch of cosmetology in the particular state, territory, or in the District of Columbia, were, at the date of such previous registration or licensing, substantially equal to the requirements therefor then in force in the state of Michigan.

HISTORY: CL 1948, 338.774;—Am. 1964, p. 230, Act 173, Eff. Aug. 28.

338.775 Examination fee; reciprocity fee.

Sec. 25. Each applicant for examination for determining his or her fitness to receive a certificate of registration as a cosmetologist, electrologist, instructor or manicurist, shall pay to the board a fee of \$15.00, and for each reexamination a fee of \$5.00 will be charged.

Each applicant who applies for a license under section 24, and each applicant for examination under the provisions of this act, whose qualifications to take such exami-

nation are based in whole or in part upon proof of outstate training or experience, shall pay a fee of \$35.00. This fee includes the license and \$25.00 for processing of outstate records and proof.

HISTORY: Am. 1937, p. 636, Act 323, Eff. Oct. 29;—Am. 1947, p. 279, Act 196, Imd. Eff. Jun. 12;—CL 1948, 338.775;—Am. 1968, p. 329, Act 226, Eff. Nov. 15.

338.776 License renewal; time, fee.

Sec. 26. Every licensed cosmetologist, electrologist, instructor or manicurist, who continues in actual practice, shall, annually September 1, have his or her license renewed by the board, upon the payment of the required renewal fee of \$10.00 for each license. Applications for renewal of licenses may be made to the board at any time during the month of August of each year.

Any license which shall not have been renewed on September 1 in each year shall expire on that date.

Any registered cosmetologist, electrologist, instructor or manicurist, whose license has expired may have it renewed, only upon payment of the renewal fee provided for in this section. Any registered cosmetologist, electrologist, instructor or manicurist, who has retired from practice for more than 1 year, may have his or her license restored, only upon payment of all lapsed renewal fees. However, no cosmetologist, electrologist, instructor or manicurist, who has retired from practice for more than 1 year, may have his or her license restored, without an examination, unless the board, in its discretion, sees fit to dispense with such examination.

HISTORY: Am. 1937, p. 636, Act 323, Eff. Oct. 29;—CL 1948, 338.776;—Am. 1968, p. 329, Act 226, Eff. Nov. 15.

338.777 Temporary certificate of registration; issuance, conditions.

Sec. 27. The board may provide a temporary certificate of registration, upon evidence that the applicant therefor has the necessary qualifications to engage in the practice of the occupation or occupations for which a temporary certificate is sought; such certificate shall remain in force until the next regular meeting of the board immediately thereafter, at which examination is held, and no longer. Two such temporary certificates may not be issued to the same person unless a satisfactory affidavit in writing be presented as to the applicant's inability to attend. Examination shall then be held for applicant at the next meeting at which applicants are examined and shall not be extended for any reason for a longer period. Upon each temporary certificate shall appear the date of expiration, and after the date the certificate shall be void.

HISTORY: CL 1948, 338.777;—Am. 1968, p. 330, Act 226, Eff. Nov. 15.

338.778 Use of X-ray or carbolic acid prohibited.

Sec. 28. Nothing in this act shall permit the use of any X-ray machine in the treating of the scalp or in the removal of superfluous hair or permit the local application of carbolic acid (phenol) in a solution or mixture of more than 10 per cent of corrosive sublimate (mercury) or its preparation or derivatives or compounds in a stronger solution, or preparation than 1 to 500. Violation of the provisions of this section shall constitute a misdemeanor, punishable as provided in section 32 thereof.

HISTORY: CL 1948, 338.778.

338.779 Enrollment of student or apprentice; health certificate, fee.

Sec. 29. Every school of cosmetology and every establishment of cosmetology shall, upon enrolling a student or apprentice as the case may be, fill out an application as provided by the board and obtain a certificate of health from the student or apprentice, certified by a licensed practitioner of medicine or osteopathy, which certificate, together with definite proof of at least a ninth grade education or equivalent, except this ninth grade education requirement shall not apply to a student enrolling in a program offered as a part of the regular curriculum of a public school and approved by the superintendent of public instruction, together with a registration fee of \$3.00 for

students and apprentices and the necessary blank as provided by the board, shall be mailed to the secretary of the board, who shall keep it on file until such time as the student or apprentice shall make application for examination to obtain a license as a cosmetologist or 1 of its branches.

HISTORY: Am. 1937, p. 636, Act 323, Eff. Oct. 29;—CL 1948, 338.779;—Am. 1968, p. 330, Act 226, Eff. Nov. 15.

338.780 Licenses; display requirements.

Sec. 30. All licenses or certificates of registration shall be displayed in a prominent place visible to the public in the main office of the cosmetological establishment or school of cosmetology, in which the holder of the license or certificate of registration is employed, or owns.

HISTORY: CL 1948, 338.780;—Am. 1968, p. 330, Act 226, Eff. Nov. 15.

338.781 Cosmetological establishment or school; license, renewal, time, fee.

Sec. 31. Every person, firm, copartnership or corporation conducting a cosmetological establishment or school of cosmetology and is licensed as such by the board of cosmetology as provided in this act, shall annually, on or before September 1 of each year, make application through the owner or person in charge, in writing, upon blanks prepared and furnished by the board, for a certificate of registration and license. Each application shall contain proof of the particular requisites for registration provided for in this act and shall be verified by the oath of the maker. Upon receipt by the board of the application accompanied by the required fee of \$100.00 for schools of cosmetology and \$10.00 for cosmetological establishments, the board shall issue to the person, firm, copartnership or corporation so applying, the required certificate of registration and license.

HISTORY: Am. 1937, p. 636, Act 323, Eff. Oct. 29;—CL 1948, 338.781;—Am. 1968, p. 330, Act 226, Eff. Nov. 15.

338.782 Cosmetological establishment or school; operation without license, penalty.

Sec. 32. Every person, firm, copartnership or corporation who shall conduct or operate a cosmetological establishment or school of cosmetology, and every person who shall engage in, or attempt to engage in, the practice of cosmetology, or any branch or branches thereof, without a license therefor, issued as herein provided, by the state board of cosmetology, shall be guilty of a misdemeanor punishable by a fine of not less than \$25.00 nor more than \$200.00, or by imprisonment, for a term of not less than 30 days nor more than 90 days, or both such fine and imprisonment. However, nothing in this act shall prohibit students of regularly licensed schools of cosmetology, or apprentices in approved cosmetological establishments, from engaging in work connected with their training with any branch or any combination of branches taught in the school or establishment in the school or establishment where the student or apprentice is registered with the state board of cosmetology as such student or apprentice.

HISTORY: Am. 1937, p. 637, Act 323, Eff. Oct. 29;—CL 1948, 338.782;—Am. 1968, p. 330, Act 226, Eff. Nov. 15.

338.783 Cosmetologist; change of business location, notice to cosmetology board secretary.

Sec. 33. Every registered cosmetologist, electrologist, instructor or manicurist, shall, within 5 days after changing his or her place of business, as designated on the books of the board, notify the secretary thereof of his or her new place of business, and upon receipt of said notification, the secretary shall make the necessary change in the register.

HISTORY: Am. 1937, p. 637, Act 323, Eff. Oct. 29;—CL 1948, 338.783.

338.784 Licenses; refusal, revocation, suspension, grounds, procedure.

Sec. 34. The board shall not issue, or having issued, shall not renew, or may revoke, or suspend, at any time any license as required by the provisions of this act, in any 1 of the following cases: (a) failure of a person, firm or corporation operating a cosmetological establishment or school of cosmetology to comply with the requirements of this act; (b) failure to comply with the sanitary rules, adopted by the board and approved by the state board of health, for the regulation of cosmetological establishments or schools of cosmetology; (c) obtaining practice in cosmetology, or any branch thereof, or money, or anything of value, by fraudulent misrepresentation; (d) gross malpractice; (e) continued practice by a person knowingly having an infectious or contagious disease; (f) habitual drunkenness, or habitual addiction to the use of morphine or any habit-forming drugs; (g) advertising by means of knowingly false or deceptive statements; (h) permitting a certificate of registration or license to be used where the holder thereof is not personally, actively and continuously engaged in business; (i) failure to display the license, as provided in section 30 of this act; (j) or for any other unfair or unjust practice, method or dealing which in the judgment of the board may justify such action: Provided, however, That the said board shall not refuse to issue or renew any license as required by the provisions of this act, or revoke or suspend any such license already issued, except upon 5 days' notice in writing to the interested parties, which notice shall contain a brief statement of the reasons for the contemplated action of the board and designate a proper time and place for the hearing of all interested parties before any final action is taken as hereinafter provided: Provided, however, That due notice within the provisions of this section shall be deemed to have been given when the board shall have placed in a United States post office a copy of the notice as hereinabove provided, addressed to the designated or last known residence of the person applying for such a license or to whom such license has already been issued: Provided further, That any person, firm, copartnership or corporation whose license to do business as herein provided is revoked or suspended, or who is refused a license or any renewal of a license already issued, or any such practitioner whose license is revoked or suspended or who is refused a license or a renewal of a license already issued may commence an action in a court of competent jurisdiction against the state board of cosmetology for the purpose of canceling or obtaining other relief from the act of the said board. All provisions of the code of civil procedure relating to pleadings, proofs, trials and appeals shall be applicable to such action.

HISTORY: CL 1948, 338.784;—Am. 1968, p. 331, Act 226, Eff. Nov. 15.

338.785 Cosmetology board; powers of members; written authority.

Sec. 35. Any investigation, inquiry, hearing or proceeding, which the board is empowered to hold or undertake, may be held or undertaken by or before 1 or more members of the board, and the finding or order of such member or members shall be deemed to be the finding or order of the board when approved or confirmed by it: Provided, however, That no such investigation, inquiry, hearing or proceeding, shall be held or undertaken by 1 member, only, of the board, or by members of the board less than the entire number thereof, without the previous authorization of the board, in writing, so to do.

HISTORY: CL 1948, 338.785.

338.786 Fees; disposition.

Sec. 36. All fees collected on behalf of the board of cosmetology and all receipts of every kind and nature shall be reported by the department of licensing and regulation at the beginning of each month for the month preceding and paid over to the treasurer of the state of Michigan and by him deposited in the general fund of the state.

HISTORY: CL 1948, 338.786;—Am. 1968, p. 331, Act 226, Eff. Nov. 15.

Sec. 37. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

338.801-338.813 Repealed. 1965, p. 541, Act 285, Imd. Eff. Jul. 22.

Sections provided for licensing and regulation of detective agencies.

Act 285, 1965, p. 535; Imd. Eff. Jul. 22.

AN ACT to license and regulate private detectives and investigators; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by private detectives and private investigators; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

338.821 Private detective license act; short title.

Sec. 1. This act shall be known and may be cited as the "private detective license act of 1965".

HISTORY: New 1965, p. 535, Act 285, Imd. Eff. Jul. 22.

CITED IN OTHER SECTIONS: Sections 338.821 to 338.850 are cited in § 338.1054.

338.822 Private detective license act; definitions.

Sec. 2. As used in this act:

(a) "Private detective" or "private investigator" means a person, other than an insurance adjuster who is on salary and employed by an insurance company, who, for any fee, reward or other consideration whatsoever, engages in business or accepts employment to furnish, subcontracts or agrees to make or makes any investigation for the purpose of obtaining information with reference to crimes or wrongs done or threatened against the United States or to any state or territory thereof; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person; the location, disposition or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents or damage or injury to persons or property; or securing evidence to be used before any court, board, officer or investigating committee.

(b) "Insurance adjuster" means a person other than a private detective or private investigator who, for any consideration whatsoever, engages in any of the activities enumerated in subdivision (a) in the course of adjusting or otherwise participating in the disposal of any claims under or in connection with a policy of insurance. An "insurance adjuster" is one who is employed on a salary basis by an insurance company; a person, firm, partnership, company or corporation who acts for insurance companies solely in the capacity of a claim adjuster, a person, firm, partnership, company or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including, but not limited to, surveillance activities.

(c) "Licensee" means a person licensed under the provisions of this act.

HISTORY: New 1965, p. 535, Act 285, Imd. Eff. Jul. 22;—Am. 1967, p. 228, Act 164, Eff. Nov. 2.

338.823 Private detectives and agencies; license requirements.

Sec. 3. No person, firm, partnership, company or corporation shall engage in the business of private detective or investigator for hire, fee or reward, nor advertise his business to be that of detective or of a detective agency, without first obtaining a license from the secretary of state. No person, firm, partnership, company or corporation shall engage in the business of furnishing or supplying, for hire and reward, infor-

mation as to the personal character of any person or firm, or as to the character or kind of business and occupation of any person, firm, partnership, company or corporation; nor shall he own, conduct or maintain a bureau or agency for the above mentioned purposes, except as to the financial rating of persons, firms, partnerships, companies or corporations, without having first obtained a license from the secretary of state.

HISTORY: New 1965, p. 535, Act 285, Imd. Eff. Jul. 22.

338.824 Exemptions from act.

Sec. 4. This act shall not apply to:

(a) A person employed exclusively and regularly by an employer in connection with the affairs of the employer only and there exists a bona fide employer-employee relationship, for which the employee is reimbursed on a salary basis.

(b) An officer or employee of the United States, or of this state or political subdivision thereof, while such officer or employee is engaged in the performance of his official duties.

(c) The business of obtaining and furnishing information as to the financial standing, rating and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds or commercial credit.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) An attorney at law in performing his duties as such attorney at law.

(f) A collection agency or finance company licensed to do business under the laws of this state or any employee thereof while acting within the scope of his employment when making an investigation incidental to the business of the agency, including an investigation of the location of the debtor or his assets and of property which the client has an interest in or a lien upon.

(g) An insurance adjuster who is employed on a salary basis by an insurance company; a person, firm, partnership, company or corporation who acts for an insurance company solely in the capacity of claim adjuster. A person, firm, partnership, company or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including, but not limited to, surveillance activities.

HISTORY: New 1965, p. 535, Act 285, Imd. Eff. Jul. 22.

338.825 License; issuance, duration.

Sec. 5. The secretary of state, upon proper application and upon being satisfied that the applicant is entitled to receive same, shall issue the applicant a license to conduct business as a private detective or private investigator for a period of 2 years from date of issuance. Upon the issuance of a license to conduct business as a private detective or private investigator, the applicant shall not be required to obtain any other license from any municipality or political subdivision of this state.

HISTORY: New 1965, p. 536, Act 285, Imd. Eff. Jul. 22.

338.826 License; qualifications.

Sec. 6. (1) The secretary of state shall issue a license to conduct business as a private detective or private investigator if he is satisfied that the applicant is a person, or if a firm, partnership, company or corporation, the sole or principal license holder is a person who meets all of the following qualifications:

(a) Is a citizen of the United States.

(b) Is at least 25 years of age.

- (c) Has at least a high school education, or equivalent.
- (d) Is a resident of this state.
- (e) Has not been convicted of a felony or high misdemeanor.
- (f) Has not been dishonorably discharged from any branch of the United States military service.
- (g) For a period of not less than 3 years:
 - Has been lawfully engaged in the private detective business on his own account; or
 - Has been lawfully engaged in the private detective business as an investigative employee of the holder of a certificate of authority to conduct a detective agency; or
 - Has been an investigator, detective, special agent or police officer of a city, county or state government or of the United States government; or
 - Is a graduate with a degree in the field of police administration from an accredited university or college.
- (h) Has posted with the secretary of state a bond provided for in this act.

(2) In the case of a person, firm, partnership, company or corporation now doing or seeking to do business in this state, the resident manager shall comply with all qualifications of this section.

HISTORY: New 1965, p. 536, Act 285, Imd. Eff. Jul. 22;—Am. 1967, p. 229, Act 164, Eff. Nov. 2.

338.827 Application for license; notarized statement as to qualifications, investigation of applicants, approval of prosecuting attorney or sheriff.

Sec. 7. The secretary of state shall prepare a standard uniform application, and shall require the person filing application to obtain notarized reference statements from at least 5 reputable citizens who swear that they know the applicant and his qualifications, and have so known the applicant for a period of at least 5 years, and that prior to the filing of the application they have read it and believe each of the statements therein to be true and that the applicant is honest, of good character and competent, and not related or connected to the person so certifying by blood or marriage. Upon receipt of the application, the secretary of state shall investigate as to the truth and veracity of the statements and the applicant's reputation for truth, honesty, integrity and ethical dealing. The application and investigation shall not be complete until the applicant has received the approval of the prosecuting attorney and the sheriff of the county within which the principal office of the applicant is to be located. If the office is to be located in a city or village, the approval of the chief of police may be obtained instead of the sheriff.

HISTORY: New 1965, p. 537, Act 285, Imd. Eff. Jul. 22.

338.828 Application for license by corporation; contents, copy of incorporation certificate.

Sec. 8. If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, and the name of the city, town or village, stating the street and number, and such other description as will indicate the location of the bureau, agency, subagency, office or branch office for which the license is desired, the amount of the corporation's outstanding paid up capital and stock, and whether paid in cash or property, and if in property, the nature of the same, and shall be accompanied by a duly certified copy of a certificate of incorporation.

HISTORY: New 1965, p. 537, Act 285, Imd. Eff. Jul. 22.

338.829 License; conditions of issuance, fee, duration, revocation, bonds, branch office.

Sec. 9. (1) The secretary of state, when satisfied of the good character, competency and integrity of the applicant, or if the applicant is a firm, partnership or corporation, of the individual members or officers thereof, shall issue to the applicant a certificate of license upon the applicant's paying to the secretary of state for each certificate of license a fee of \$100.00 if a person, or \$200.00 if a firm, partnership or corporation, and upon the applicant's executing, delivering and filing in the office of the secretary of state a bond in the sum of \$5,000.00 if a person, or \$10,000.00 if a firm, partnership or corporation, conditioned for the faithful and honest conduct of such business by such applicant, which bond shall be approved by the secretary of state. The license shall be valid for 2 years, but shall be revocable at all times by the secretary of state for cause shown. The bonds shall be taken in the name of the people of the state, and any person injured by the wilful, malicious and wrongful act of the principal may bring an action on the bond in his own name to recover damages suffered by reason of such wilful, malicious and wrongful act. The license certificate shall be in a form to be prescribed by the secretary of state and shall specify the full name of the applicant, the location of the principal office or place of business and the location of the bureau, agency, subagency, office or branch office for which the license is issued, the date of which it will expire and the name of the person filing the statement required by this act upon which the license is issued.

(2) If a licensee desires to open a branch office or subagency, he may receive a certificate of license for that branch or subagency upon payment to the secretary of state of an additional fee of \$25.00 for each additional license. The additional license shall be posted in a conspicuous place in the branch office or subagency and shall expire concurrent with the date of the initial license.

(3) If the license is revoked or terminated for any cause, no refund shall be made of the license fees or any part thereof.

HISTORY: New 1965, p. 537, Act 285, Imd. Eff. Jul. 22.

338.830 License; revocation, grounds; notice, surrender.

Sec. 10. (1) The secretary of state may revoke any license issued under this act if he determines, upon good cause shown, that the licensee or his manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners or its manager, has:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provision of this act.

(c) Been convicted of a felony or high misdemeanor or any crime involving moral turpitude including, but not limited to, the following reasons: Dishonesty or fraud, unauthorized divulging or selling of information or evidence, impersonation of a law enforcement officer or employee of the United States or any state or political subdivision thereof, or illegally using, carrying or possessing a dangerous weapon.

(2) Upon notification from the secretary of state of the revocation of the license, the licensee, within 24 hours, shall surrender to the secretary of state the certificate of license and his identification card. Failure to comply with the directions of the secretary of state shall be a misdemeanor.

HISTORY: New 1965, p. 538, Act 285, Imd. Eff. Jul. 22.

338.831 License fee; refund, conditions.

Sec. 11. A license fee shall not be refunded unless a showing is made of ineligibility to receive the license by failure to meet the requirements of this act, or by a showing of mistake, inadvertence, or error in the collection of the fee.

HISTORY: New 1965, p. 538, Act 285, Imd. Eff. Jul. 22.

338.832 Certificate of license; posting.

Sec. 12. Upon receipt of a certificate of license from the secretary of state, the licensee shall post it in a conspicuous place in his office.

HISTORY: New 1965, p. 538, Act 285, Imd. Eff. Jul. 22.

338.833 Reporting name or location change in agency; new certificate.

Sec. 13. Any change in the name or location of the agency or of a branch office or subagency shall be reported to the secretary of state at least 30 days prior to the change becoming effective, upon receipt of which the secretary of state shall prepare and forward a certificate showing the change, and the licensee shall return his old certificate within 3 business days after the change.

HISTORY: New 1965, p. 538, Act 285, Imd. Eff. Jul. 22.

338.834 Identification card; issuance, form and contents, custody, duplicates.

Sec. 14. (1) Upon issuing a certificate of license, the secretary of state shall also issue to the principal license holder, or if the agency is a partnership, to each partner, or if the license holder is a corporation, to each resident officer or manager thereof, an identification card.

(2) The identification card shall be in such form and contain such information as may be prescribed by the secretary of state and shall be recallable by the secretary of state for the same reasons as the certificate of license.

(3) Only 1 identification card shall be issued for each person entitled to receive it, and the licensee shall be responsible for the maintenance, custody and control of the identification card, and shall neither let, loan, sell, nor otherwise permit unauthorized persons or employees to use it. Nothing in this section shall be construed to prevent each agency from issuing its own identification cards, if they are approved as to form and content by the secretary of state, to their respective employees. The individual card shall not bear the seal of the state nor the designation of private detective or private investigator, but the employee shall be designated as investigator or operator.

(4) Upon proper application and for sufficient reasons shown, the secretary of state may issue duplicates of the original certificate of license or identification card.

HISTORY: New 1965, p. 538, Act 285, Imd. Eff. Jul. 22.

338.835 Nonassignability of license.

Sec. 15. A license issued under the provisions of this act is not assignable, and is personal to such licensee.

HISTORY: New 1965, p. 539, Act 285, Imd. Eff. Jul. 22.

338.836 Use of unauthorized badge, shield, identification card or certificate of license; penalties.

Sec. 16. No person shall manufacture a badge or shield which purports to indicate that the holder is a licensed private detective, nor shall any person print identification cards or certificates of license to do business as a private detective without first having obtained the express authorization of the secretary of state. No person shall display for sale any badge, shield, identification card or certificate of license, by which the purchaser might mislead the public into thinking that the holder is a licensed detective. No person, company, individual or business shall distribute a badge, shield, identification card or certificate of license in this state except the secretary of state. No person

shall knowingly buy or receive from any source any form of spurious identification as a private detective. Any violation of this section is a misdemeanor, and any unauthorized badge, shield, identification card or certificate of license shall be confiscated by any law enforcement officer of the state. Each day the violation continues shall constitute a separate offense.

HISTORY: New 1965, p. 539, Act 285, Imd. Eff. Jul. 22.

338.837 Licensees; employment of assistants; records; false statements, penalty.

Sec. 17. (1) A licensee may employ as many persons as he deems necessary to assist him in his work of detective and in the conduct of his business, and at all times during the employment shall be accountable for the good conduct in the business of each person so employed.

(2) A licensee shall keep adequate and complete records of all persons employed by him, which records shall be made available to the secretary of state upon request and to police authorities if the police authorities offer legitimate proof for the request in connection with a specific need.

(3) If a licensee falsely states or represents that a person is or has been in his employ, the false statement or representation shall be sufficient cause for the revocation of the license. Any person falsely stating or representing that he is or has been a detective or employed by a detective agency, is guilty of a misdemeanor.

HISTORY: New 1965, p. 539, Act 285, Imd. Eff. Jul. 22;—Am. 1967, p. 229, Act 164, Eff. Nov. 2.

338.838 Hiring of ex-convict prohibited; fingerprints, refusal to surrender license or identification card.

Sec. 18. (1) No licensee shall knowingly employ any person who has been convicted of a felony or high misdemeanor or any crime involving moral turpitude. The licensee shall cause fingerprints to be taken and processed by the local law enforcement agency of all prospective employees to assist him in his work as a private detective.

(2) Any employee or operator who, upon demand, fails to surrender to the licensee his identification card and any other property issued to him for use in connection with his employer's business, is guilty of a misdemeanor.

HISTORY: New 1965, p. 539, Act 285, Imd. Eff. Jul. 22.

338.839 Carrying deadly weapon; license required.

Sec. 19. Any person licensed as a private detective, or in the employ of a private detective agency, is not authorized to carry a deadly weapon unless he is so licensed in accordance with the present laws of this state.

HISTORY: New 1965, p. 539, Act 285, Imd. Eff. Jul. 22.

338.840 Divulging of information, wilful sale of or furnishing false information; penalty; privileged communications.

Sec. 20. (1) Any person who is or has been an employee of a licensee shall not divulge to anyone other than his employer or former employer, or as the employer shall direct, except as he may be required by law, any information acquired by him during his employment in respect to any of the work to which he shall have been assigned by the employer. Any employee violating the provisions of this section and any employee who wilfully makes a false report to his employer in respect to any work is guilty of a misdemeanor.

(2) Any principal, manager or employee of a licensee who wilfully furnishes false information to clients, or who wilfully sells, divulges or otherwise discloses to other than clients, except as he may be required by law, any information acquired by him or them during employment by the client is guilty of a misdemeanor, and shall be subjected to immediate suspension of license by the secretary of state and revocation of license

upon satisfactory proof of the offense to the secretary of state. Any communications, oral or written, furnished by a professional man or client to a licensee, or any information secured in connection with an assignment for a client, shall be deemed privileged with the same authority and dignity as are other privileged communications recognized by the courts of this state.

HISTORY: New 1965, p. 539, Act 285, Imd. Eff. Jul. 22.

338.841 Violation of act; report of conviction by prosecuting attorney.

Sec. 21. The prosecuting attorney of the county in which any conviction for a violation of any provision of this act shall, within 10 days thereafter, make and file with the secretary of state a report showing the date of such conviction, the name of the person convicted and the nature of the charge.

HISTORY: New 1965, p. 540, Act 285, Imd. Eff. Jul. 22.

338.842 Advertising; contents; discontinuance on notice of illegal advertising.

Sec. 22. Every advertisement by a licensee soliciting or advertising for business shall contain his name and address as they appear in the records of the secretary of state.

Any licensee shall, on notice from the secretary of state, discontinue any advertising or the use of any advertisement, seal or card, which in the opinion of the secretary of state may tend to mislead the public. Failure to comply with any such order of the secretary of state shall be cause for revocation of the license of such licensee.

No person, unless he is licensed under this act, shall advertise his business to be that of a private detective irrespective of the name or title actually used.

HISTORY: New 1965, p. 540, Act 285, Imd. Eff. Jul. 22.

338.843 Trade names; approval of secretary of state.

Sec. 23. No licensee shall use any designation or trade name which has not been first approved by the secretary of state, nor shall any licensee use any designation or trade name which implies any association with any municipal, county or state government or the federal government, or any agency thereof.

HISTORY: New 1965, p. 540, Act 285, Imd. Eff. Jul. 22.

338.844 Record of business transaction and reports; retention.

Sec. 24. Each person, partnership, firm or corporation licensed and operating under the provisions of this act shall be required to make a complete written record of the business transactions and reports made in connection with the operation of the agency. When any detective or detective agency receives a verbal report from one of his or its agents, a summary shall be made of such verbal report and this summary, together with written reports, shall be kept on file in the office of the detective or agency for at least 2 years, excepting if file is returned to the client or agent.

HISTORY: New 1965, p. 540, Act 285, Imd. Eff. Jul. 22.

338.845 Investigation of applicants; complaints, subpoenas, fees, failure to obey, penalty.

Sec. 25. For the purpose of investigating the character, competency and integrity of the applicants, or for the purpose of investigating complaints made against the licensee, the secretary of state may issue subpoenas and compel the attendance of witnesses. All subpoenas shall be issued under the hand of the secretary of state, and upon service thereof the witness shall be tendered the fees to which he would be entitled to receive were he subpoenaed in a court of law. If a person duly subpoenaed fails to obey the subpoena, or without cause refuses to be examined or to answer any legal or pertinent questions as to the character, qualifications or alleged misdeeds of the applicant or licensee, the witness is guilty of a misdemeanor. The testimony of such wit-

nesses shall be under oath, which the secretary of state may administer. Wilful false swearing in any such proceeding shall be deemed perjury.

HISTORY: New 1965, p. 540, Act 285, Imd. Eff. Jul. 22.

338.846 License; renewal, fee, bond, approval.

Sec. 26. A license granted under the provisions of this act may be renewed by the secretary of state upon application therefor by the licensee, and the payment of a renewal fee of \$50.00 if a person, or of \$200.00 if a firm, partnership, company or corporation, and filing of a renewal surety bond in the amount equivalent to that specified in section 9 of this act.

A renewal license shall be dated as of the expiration date of the previously existing license. For the renewal of a license, the licensee shall submit an application in such form as prescribed by the secretary of state, and a license shall be issued forthwith, except that the secretary of state may defer the renewal if there are uninvestigated complaints then outstanding against the licensee or if there is a criminal complaint then pending against the licensee. The renewal application shall be approved by the sheriff or chief of police and the prosecuting attorney, as required for an initial license.

HISTORY: New 1965, p. 541, Act 285, Imd. Eff. Jul. 22.

338.847 Death of licensee; continuation of business, notice to secretary of state; sale of business.

Sec. 27. Upon the death of an individual of whose qualifications a license under this act has been obtained, the business with which the decedent was connected may be carried on for a period of 90 days by the following: (a) In the case of an individual licensee, the surviving spouse, or if there be none, the executor or administrator of the estate of the decedent; (b) in the case of a partner, the surviving partners; (c) in case of an officer of a firm, company, association, organization or corporation, the officers thereof. Within 10 days following the death of a licensee, the secretary of state shall be notified in writing. Such notification shall state the name of the person legally authorized to carry on the business of the deceased.

Upon the authorization of the secretary of state, the business may be carried on for a further period of time when necessary to complete any investigation or assist in any litigation pending at the death of the decedent.

Nothing in this section authorizes the solicitation or acceptance of any business after the death of the decedent except as otherwise provided by this act.

Nothing in this section shall be construed to restrict the sale of a private detective business, if the vendee qualifies for a license under the provisions of this act.

HISTORY: New 1965, p. 541, Act 285, Imd. Eff. Jul. 22.

338.848 Employment of agents; rules and regulations.

Sec. 28. The secretary of state may employ such agents as are necessary to carry out the provisions of this act and to enforce compliance therewith. The secretary of state and each agent employed by him, in respect to violations of any of the provisions of this act, has all the powers of a peace officer. All rules and regulations of the secretary of state shall be made in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 541, Act 285, Imd. Eff. Jul. 22.

338.849 Application of act as to license applications and renewals.

Sec. 29. The requirements of this act as to license applications shall apply to all private detectives, except private detectives who already have been granted a license un-

der prior laws of this state. The requirements as to renewal of license certificates shall apply to all private detectives licensed under this act or any prior law of this state.

HISTORY: New 1965, p. 541, Act 285, Imd. Eff. Jul. 22.

338.850 Repeals.

Sec. 30. Act No. 383 of the Public Acts of 1927, as amended, being sections 338.801 to 338.813 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1965, p. 541, Act 285, Imd. Eff. Jul. 22.

338.851-338.860 Repealed. 1949, p. 373, Act 268, Eff. Sep. 23.

Sections constituted embalmers' and funeral directors' act.

Act 268, 1949, p. 364; Eff. Sep. 23.

AN ACT to revise and codify the laws relating to the profession of embalming and funeral directing; to create a state board of examiners in mortuary science; to define the powers and duties thereof; to provide for the examination of applicants for embalmers', funeral directors' and mortuary science licenses; to provide for the registration of resident trainees and licensing of embalmers, funeral directors and practitioners in mortuary science to practice their profession in the state of Michigan; to regulate the practice of licensees and the sale of funeral services and funeral merchandise by licensees; to provide for licensing of establishments; to provide regulations for revoking such licenses and resident trainees' certificates; to prohibit participation by licensees in any group plan for giving reduced rates in the purchase of a funeral or funeral merchandise; to prohibit solicitation of funerals by all persons; to prohibit purchase of a vault from a particular person as a condition of burial in a cemetery; to prohibit any owner or operator of a cemetery from owning or operating a funeral establishment and from allowing a funeral establishment to be owned or conducted on cemetery premises; to prescribe civil remedies and criminal penalties against all persons for the violation of the provisions of this act; and to repeal Act No. 229 of the Public Acts of 1939, as amended, and other acts and parts of acts inconsistent with the provisions of this act. Am. 1954, p. 431, Act 183, Eff. Aug. 13.

The People of the State of Michigan enact:

338.861 State board of examiners in mortuary science; creation; members, appointment, terms, removal, vacancies.

Sec. 1. There is hereby created a state board of examiners in mortuary science, consisting of 5 members who shall be citizens of the United States, licensed in mortuary science with a minimum of 7 consecutive years' experience in this state, immediately preceding their appointment. Members of said board shall be appointed by the governor with the advice and consent of the senate for a 5 year term and removed by him for incompetence or improper conduct: Provided, That the governor may appoint to membership on said board duly qualified persons selected from a list of 5 names, which shall be proposed annually by the Michigan funeral directors and embalmers association, or its successor organization: Provided further, That at least 1 member of the board shall be from the upper peninsula. No member shall be reappointed to the said board until 3 years after the expiration of his term. Vacancies occurring on the board may be filled by appointment of the governor in the same manner as original appointments from the remaining names on the last list submitted by the Michigan funeral directors and embalmers association for the unexpired term: Provided, however, That the present members of the board of embalmers and funeral directors, appointed under the provisions of Act No. 229 of the Public Acts of 1939, as amended, shall serve

until their terms expire and shall, after July 1, 1949, constitute the board of examiners in mortuary science.

HISTORY: New 1949, p. 364, Act 268, Eff. Sep. 23.

CITED IN OTHER SECTIONS: Sections 338.861 to 338.875 are cited in §§ 16.427 and 328.268.

338.862 Board of examiners; oath of office, chairman, regulatory powers.

Sec. 2. The members of said board, before entering upon their duties, shall take and subscribe to the oath of office provided for other state officers, which shall be administered by properly qualified authority. Said board is authorized to select from its own membership a chairman; also to adopt and promulgate such rules and regulations for the transaction of its business and the betterment and promotion of the standards of service and practice to be followed in the profession of mortuary science in the state of Michigan, as it may deem expedient and consistent with the laws of the state. Rules and regulations issued by the board shall be subject to provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.72 to 24.82, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1949, p. 365, Act 268, Eff. Sep. 23.

338.863 Board of examiners; chairman, supervision; record, contents; list furnished to licensees; notice of examination; fees; assistance; compensation.

Sec. 3. The chairman of the board shall preside at all meetings of the board unless otherwise ordered and he shall exercise and perform all duties and functions incidental to the office of chairman of the board.

The board shall have complete supervision and be responsible for the direction of its office, and shall have complete supervision over field inspections and enforcement of the provisions of this act. The board shall keep a record in which shall be registered the name and business address of every person or establishment to whom licenses have been granted in accordance with this act, or Act No. 229 of the Public Acts of 1939, as amended, the number and date of such license, and the date of each renewal thereof. In the month of January of each and every year the board shall supply each licensee within this state, with a list of all licensees holding a license under this act, then in force, giving the names of such licensees, their business address and the number of their licenses. The board shall mail notices to all licensees in this state known to it, at least 15 days before any examination to be held, advising them of the time and place where such examination is to be conducted. It shall be the duty of the board to prepare and cause to be printed, all blanks required by this act. All notices required to be mailed by any provision of this act shall be directed to the last known post office address of the party to whom the notice is sent.

All fees received under the provisions of the law shall be paid into the state treasury and credited to the general fund.

The said board may engage the services of such assistants and employees as may be necessary to carry out the provisions of this act and who shall investigate irregularities in the profession and report same to the board for action. The compensation of all such assistants and the number thereof shall be within the appropriation made therefor by the legislature. All salaries and expenses authorized by this act shall be paid out of the state treasury in the same manner as the salaries and expenses of other state officers are paid.

HISTORY: New 1949, p. 365, Act 268, Eff. Sep. 23.

338.864 Board of examiners; meetings, setting of annual examination, compensation and expenses.

Sec. 4. Said board shall meet at least 4 times each year for the transaction of routine business under this act, and such other business as is necessary. All meetings of the

board shall be open to the public. Examinations shall be held at least once each year, at such times and places as the board may designate. The members of said board shall receive \$15.00 per diem for the time actually spent in the discharge of duties as defined in this act in addition to reimbursement for such necessary expenses as they may actually incur.

HISTORY: New 1949, p. 365, Act 268, Eff. Sep. 23.

338.865 Mortuary science; definitions.

Sec. 5. The term "embalmer", as herein used, is a person who disinfects or preserves a dead human body, entire or in part, by the use of chemical substances, fluids or gases in the body or by the introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities. The placing of any such chemical on or in a dead human body by any person who is not a licensed embalmer, or the holder of a license for the practice of mortuary science, shall be deemed a violation of this act: Provided, That this shall not apply to a registered resident trainee working under the supervision of a licensed embalmer, or the holder of a license for the practice of mortuary science. All persons who are engaged in the profession of embalming, or who profess to be engaged in such profession, or who hold themselves out to the public as embalmers, shall be licensed embalmers or the holder of a license for the practice of mortuary science. Any person who shall engage in or profess to engage in any of the duties of an embalmer without being the holder of a license as embalmer or for the practice of the profession of mortuary science, shall be guilty of a violation of this act.

The term "funeral director", as herein used, is a person engaged in or conducting, or holding himself out as being engaged in: (a) Supervising the burial and disposal of dead human bodies, or (b) Maintaining a funeral establishment for the preparation and disposition and care of dead human bodies, or (c) Who shall, in connection with his name or funeral establishment use the words "funeral director" or "undertaker" or "mortician", or any other title embodying the words "mortuary science", or otherwise implying that he is engaged as a funeral director, as herein defined. All persons engaged in the profession of funeral directing or who profess to be engaged in such profession shall be licensed as funeral directors or the holders of a license for the practice of mortuary science. Any person who engages in or professes to engage in the profession of funeral directing without being the holder of a license as funeral director or to practice the profession of mortuary science shall be guilty of a violation of this act.

The term "funeral merchandise", as herein used, is any material, commodity, merchandise, chemical or supply utilized in the embalming, preservation or preparation for burial of dead human bodies, including caskets, coffins, grave vaults or other such container for displaying, transporting or burying dead human bodies, but not including the items of apparel and jewelry placed on such dead human bodies.

Any individual whose name appears in connection with that of a funeral establishment shall be considered as actively engaged in the profession of funeral directing or the practice of mortuary science and must hold a funeral director's license or a license to practice mortuary science. If such funeral establishment is a corporation or partnership, then all active members of said corporation or partnership, together with those individuals whose names shall appear or be used in connection with the name of the corporation or partnership shall also be licensed funeral directors or be licensed to practice mortuary science: Provided, however, That nothing contained herein or elsewhere in this act shall be construed as preventing a funeral establishment from using or continuing to use any otherwise lawful corporate, partnership or firm name after the death or retirement of a member thereof so long as its active members and employees are properly licensed pursuant to the provisions of this act. Any person who

shall prepare for transportation or burial or otherwise dispose of any dead human body, or who shall carry on any of the duties of funeral directing as defined in this act, without being the holder of a funeral director's license or license to practice mortuary science granted by the said board, shall be guilty of a violation of this act.

The term "funeral establishment" as herein used shall be understood to mean a place of business used in the care and preparation for burial or transportation of dead human bodies, or any place where any person or persons shall hold forth that he, she or they, are engaged in the profession of undertaking, funeral directing, or the practice of mortuary science.

The term "holder of a license for the practice of mortuary science", as herein used, shall include any person now licensed under the provisions of Act No. 229 of the Public Acts of 1939, as amended, as an embalmer and funeral director, or any person who satisfactorily completes a course in mortuary science, as hereinafter prescribed, passes an examination therein, serves the required resident training and is issued a license for the practice of mortuary science. Any such person so licensed shall have authority to disinfect or preserve a dead human body, entirely or in part, by the use of chemical substances, fluids or gases in the body or by the introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities in preparation for burial or disposal. He may also direct the burial or disposal of dead human bodies and may maintain a funeral establishment for the preparation and disposition, or for the care of dead human bodies and may, in connection with his name or the name of his funeral establishment use the words "funeral director," "undertaker", "mortician", "mortuary science", or any word of similar meaning as may be approved by the board.

Any person who shall practice the profession of mortuary science, or who shall profess to practice such profession or hold himself out to the public as practicing such profession without being the holder of such license issued under this act shall be guilty of a violation of this act.

The term "resident trainee", as herein used, is a person who is engaged in learning the practice of embalming, funeral directing, or the profession of mortuary science, as the case may be, under the instruction and personal supervision of a duly licensed embalmer, funeral director, or the holder of a license for the practice of mortuary science in the state of Michigan under the provisions of this act and who is duly registered as such with the state board.

HISTORY: New 1949, p. 306, Act 208, Eff. Sep. 23;—Am. 1954, p. 432, Act 183, Eff. Aug. 13.

338.866 Board of examiners; determination of qualifications for license; applicants, examination.

Sec. 6. The board of examiners in mortuary science is hereby authorized and empowered to determine the qualifications necessary to enable any person or establishment to be licensed under this act. The said board shall examine all applicants for licenses and shall issue the proper licenses to all persons who successfully pass such examination and to all qualified establishments. The board may, in its discretion, give such examination in 2 parts, 1 part after the completion of the prescribed instruction, and 1 part after the service of resident training.

Embalmers; qualifications.

No person shall be issued a similar license as an embalmer under this act unless he has been found by the board upon examination to be 21 years of age, a resident of Michigan, a citizen of the United States, of good moral character, has served as a resident trainee for 1 year under the personal supervision and instruction of a licensed embalmer, or the holder of a similar license for the practice of mortuary science in this state and has satisfactorily completed 1 academic year or more instruction in a recog-

nized college or university and has satisfactorily completed 2 academic years of instruction and has graduated in a prescribed course in mortuary science approved by the board: Provided, That after July 1, 1949, no new license as an embalmer shall be issued under this act except to persons who registered with the board of examiners in mortuary science as resident trainees prior to said date and thereafter complete their course of instruction and resident training and meet all the other requirements of the embalmers' and funeral directors' act in effect at the time of their several registrations.

Same; subjects of examination.

Each applicant for an embalmers' license shall be examined orally and in writing in the following subjects: Anatomy, chemistry, sanitary science, vital statistics law, bacteriology and disinfection; the care, preservation, embalming, transportation and burial of dead human bodies and shall, at the request of the board demonstrate his proficiency as an embalmer by operation upon a cadaver.

Funeral directors; qualifications.

No person shall be issued a license as a funeral director under this act until he has been found by the board upon examination to be 21 years of age, a resident of Michigan, a citizen of the United States, of good moral character and has served as a resident trainee for 2 years under the personal supervision and instruction of a licensed funeral director, or the holder of a license for the practice of mortuary science in this state, has satisfactorily completed at least 1 academic year of instruction in a recognized college or university and has satisfactorily completed 9 months or more instruction in a prescribed course in funeral directing approved by the board. After July 1, 1949, no new licenses as a funeral director shall be issued except to a person who has registered with the board of examiners in mortuary science as the resident trainee for funeral director prior to said date, and has met all other requirements of the embalmers' and funeral directors' act in effect at the time of their several registrations.

Same; subjects of examination.

Each applicant for a funeral director's license shall be examined orally and in writing on the following subjects: Disinfection, sanitation, hygiene, professional law, vital statistics law, business ethics, mortuary science accounting and rules and laws governing preparation and transportation of dead human bodies for burial.

Practitioner of mortuary science; qualifications, examinations, waiver of resident training requirement.

No person shall be issued a license to practice the profession of mortuary science unless he shall be found by the board upon examination to be 21 years of age, a resident of Michigan, a citizen of the United States, of good moral character, and has served as a resident trainee for 1 year under the personal supervision and instruction of the holder of a license to practice the profession of mortuary science, has graduated from a 3 year course in mortuary science in schools, colleges or universities accredited by the board and has been examined orally and in writing upon such subjects as may be prescribed by rule by the board and has satisfactorily passed such examination. The board may waive the requirement of 1 year of resident training if the applicant has an additional year of instruction in a school, college or university duly accredited, beyond the 3 years herein prescribed, which the board finds to be a satisfactory substitute for the resident training.

Applications, fees.

Applications for examination for embalmer's, funeral director's and mortuary science licenses shall be upon blanks furnished by the board and shall be accompanied by a fee of \$10.00 as to embalmer's and funeral director's applications and a fee of \$22.00 for applications for mortuary science licenses, except that when separate exam-

inations are given after the serving of resident training and after completion of prescribed instruction, the fee shall be \$11.00 for each examination.

License to practice mortuary science or funeral directing; conduct of funerals.

The profession of mortuary science or funeral directing must be conducted or practiced at a fixed place or establishment and no person, partnership, corporation, association or other organization shall open or maintain a place or establishment at which to practice, or hold himself or itself out as practicing such profession unless a license has been granted by the board. Such license is not ambulatory and is issued for a specific location only. It shall be used only at the address specified in the application, unless the licensee is granted written approval for a change of location by the board. This shall not prevent a licensed funeral director or the holder of a license for the practice of mortuary science from conducting a funeral in another licensed establishment, nor shall it prevent such person from conducting a funeral at a church, home, public hall or lodge room, or elsewhere, providing such person maintains a fixed place or establishment of his own conforming to all requirements of section 9. The board shall issue a license for said establishment when the same meets the requirements hereinafter set forth in this act.

Inspection fees.

After July 1, 1949, no establishment or branch thereof for the preparation, disposition and care of dead human bodies shall be opened or maintained unless duly licensed by the board. No establishment or branch shall be moved without obtaining a new establishment license from the board. The board shall charge a fee of \$35.00 in addition to the license fee for the first inspection of any establishment made for the purpose of determining whether such establishment has fulfilled the requirements for licensure hereunder. All establishments and branches may be inspected by the board, or its representatives, at any time and shall meet and conform to the provisions of section 9 hereof and to such other lawful standards and requirements as may be determined by rule of the board in furtherance of the provisions of this act, and for failure to do so, the board may revoke such license in accordance with the procedure set forth in this act. Applications for such licenses shall be made upon blanks furnished by the board and shall be accompanied by a fee of \$12.50. A change in the ownership of the establishment shall automatically cancel said license. Any such change in ownership must be immediately reported to the board.

Reciprocity license, fee.

Any person holding a valid, unrevoked and unexpired license in another state or territory having substantially equal requirements to those existing in this state, provided such states or territories recognize licenses issued by the Michigan state board, may apply for a license to practice in this state by filing with the board a certified statement from the secretary of the examining board of the state or territory in which the applicant holds a license, showing the rating upon which said license was granted, together with his recommendation, and if, in the opinion of said board, such license is expedient and necessary, it may, upon receipt of a fee of \$100.00, grant such license.

Licenses; signatures, seal, term, notice of change.

The licenses shall be signed by the members of the board and the seal of the board affixed thereto. No license shall be issued or renewed for a period exceeding 1 year and all licenses and renewals thereof shall expire and terminate the thirty-first day of October following the date of their issue, unless sooner revoked and cancelled. The date of expiration may be changed by unanimous consent of the board and upon 90 days' notice of such change to all licensed embalmers, funeral directors, establishments and holders of licenses for the practice of mortuary science in this state.

Same; renewal, revival, fee.

Any person or establishment holding a license under this act may have the same renewed by making and filing with the board an application therefor within 30 days preceding the expiration of his license upon blanks provided by said board and upon payment of \$10.00 renewal fee for each embalmer's or funeral director's or mortuary science license and upon payment of \$12.50 renewal fee for each establishment license. Any person or establishment neglecting or failing to have his or its license renewed, as above, may have the same renewed by making application therefor during the 90 days following the expiration date and upon the payment of \$10.00 such revival and renewal fee in addition to the license fee.

HISTORY: New 1949, p. 367, Act 268, Eff. Sep. 23;—Am. 1951, p. 122, Act 94, Eff. Sep. 28;—Am. 1954, p. 433, Act 163, Eff. Aug. 13;—Am. 1956, p. 219, Act 113, Eff. Aug. 11;—Am. 1960, p. 49, Act 62, Eff. Aug. 17.

338.867 Registration in local municipalities; transportation permit.

Sec. 7. The owner of any funeral director's or mortuary science license or renewal provided for in this act shall cause a registration card to be filed in the office of the registrar of each city or village wherein he intends to practice funeral directing and no transportation permit shall be issued by the local registrar to any person who has not filed a registration card: Provided, That any local registrar is hereby authorized to grant a transportation permit to any funeral director coming from beyond the jurisdiction of said registrar, upon the exhibition of a copy of said license or renewal to said registrar. It shall be unlawful for any railway agent, or express agent, baggage master, conductor, or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to or from any point in this state or to a point outside of this state, unless said body be accompanied by a removal or shipping permit: Provided, That nothing in this act shall be so construed as to prevent the shipment of dead human bodies intended for use for anatomical purposes within this state when the same are so designated by the shipper.

HISTORY: New 1949, p. 369, Act 268, Eff. Sep. 23.

338.868 Resident trainee; application, contents, fee.

Sec. 8. The person desiring to become a resident trainee shall make application on a form provided for the purpose and must appear before a member of the board for approval of his application, subject to review by the entire board. The application shall state that the applicant is a citizen of the United States, of good moral character, and holds a high school diploma or its equivalent. Said application must be substantiated by the oath of the applicant and be accompanied by a fee of \$6.00. When the board is satisfied as to the qualifications of an applicant, it shall issue a certificate of resident training. After July 1, 1949, resident training shall be served only under the sponsorship and in the licensed establishment of the holder of a license for the practice of mortuary science. When a resident trainee enters the employ of a person so licensed under this act, he shall immediately notify the board the name and place of business of the person whose service he has entered. If at any time thereafter such resident trainee leaves the employ of such person whose service he has entered, it shall be the duty of the said person to give such resident trainee an affidavit showing the length of time he has served as a resident trainee with him, which affidavit shall be filed with the board and made a matter of record in that office and if such resident trainee shall thereafter enter the employ of another person so licensed under this act, he shall forthwith report such employment to the board. Resident training may be served after satisfactory completion of the school, college and professional instruction prescribed herein or by the board.

Certificate, renewal, fee.

A certificate of resident training issued as herein provided shall be signed by the resident trainee and shall be renewable annually upon the payment on the first day of January of each year of a renewal fee of \$6.00. The board shall mail during the month of December of each year to each resident trainee at his last known address, a notice that his renewal fee is due and that, if not paid by the first day of February, the penalty for the lapse in renewal will be \$5.00, in addition to said renewal fee.

Report.

All resident trainees registered as provided herein shall be required to report to said board semi-annually on January fifteenth and July fifteenth upon forms provided by the board, showing the work which they have completed during the 6 months preceding the first of the month in which such report is made. The data contained in said report shall be certified to as correct by the licensed person under whom he has served during such period.

Evidence of training, affidavits of preparation of dead bodies for burial.

Before such resident trainee shall be eligible to receive a license as an embalmer, as a funeral director, or to practice the profession of mortuary science, he shall present, in connection with the other evidence required by this act, affidavits from the several licensed embalmers, funeral directors or holders of licenses to practice mortuary science under whom he shall have trained, showing that he has embalmed for burial or shipment at least 25 dead human bodies, or that he has assisted a licensed funeral director or the holder of a license for the practice of mortuary science in supervising the preparation of 25 dead human bodies for burial or transportation during the period of his resident training. All resident trainees shall meet such other training or requirements as may be required by rules of the board.

Eligibility of applicant.

In all applications of resident trainees for licenses under this act, the eligibility of the applicant shall be determined by the board.

Suspension or revocation of certificate of resident training.

The board shall have power to suspend or revoke a certificate of resident training for violation of any provision of this act.

Reregistration as resident trainee.

The resident trainee who has allowed his certificate of resident training to lapse or has had his resident training suspended or revoked may, within 1 year after such suspension or revocation, make application for registration, but not more than 2 such registrations shall be allowed by the board. The board may at their discretion allow a resident trainee credit under a registration for time actually served or dead human bodies prepared under a previous registration.

Sponsorship of resident trainee.

Not more than 1 resident trainee shall be registered at any 1 time under any 1 licensed person. Each sponsor for a registered trainee must be actively connected with a funeral establishment, as defined in this act.

Applications for resident trainees for practice of mortuary science.

After July 1, 1949, no further applications for resident trainees as embalmers or funeral directors shall be received by the board and the board shall only receive applications for resident trainees for licenses for the practice of mortuary science.

HISTORY: New 1949, p. 369, Act 268, Eff. Sep. 23;—Am. 1956, p. 222, Act 113, Eff. Aug. 11.

338.869 Funeral establishments; licenses, display requirements, revocation; inspections; equipment, regulations.

Sec. 9. Any place where a licensee shall hold forth, by word or act, that he, she or they are engaged in the profession of funeral directing, or the practice of mortuary science, or which is used in the preparation, disposition, and care of dead human bodies by persons licensed hereunder shall be deemed a funeral establishment.

All funeral establishments must be operated by a person or persons holding a funeral director's or mortuary science license, and shall have conspicuously displayed at the entrance of such establishment the name of the person or persons licensed to conduct such establishment. The name or names of the person or persons owning the funeral establishment must be registered with the board. Failure to make full and complete disclosure of the owner or owners shall be grounds for the revocation of the establishment license. A person whose license has been revoked hereunder shall not operate either directly or indirectly or hold any interest in any funeral establishment. Nothing herein contained shall prohibit a person whose license has been revoked from leasing any property owned by him for use as a funeral establishment so long as such person does not participate in the control or profits of such funeral establishment otherwise than as a lessor of the premises for a fixed rental not dependent upon earnings. All branch establishments must be operated by a person holding a funeral director's license or a mortuary science license.

Every funeral establishment or branch operated by a funeral director, who is not a licensed embalmer, must have in its employ a licensed embalmer whose license shall be constantly and conspicuously displayed in that establishment or branch.

The said board shall have the power to inspect the premises in which funeral directing is conducted or where embalming is practiced or where an applicant proposes to practice.

A funeral establishment must contain a preparation room equipped with tile, cement or composition floor, necessary drainage and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition. The said board may adopt such rules, regulations and classifications as may be reasonable and proper to define what shall be deemed the proper drainage and ventilation and what instruments are necessary and suitable in a funeral establishment.

All branch establishments must comply with all the requirements, rules and regulations relating to funeral establishments.

HISTORY: New 1949, p. 370, Act 268, Eff. Sep. 23;—Am. 1954, p. 435, Act 183, Eff. Aug. 13.

338.870 Violations; hearing, notice, revocation or suspension of license, appeal, non-renewal of license, cooperative plan, scope, removal of dead body, permission, rights of next of kin, insurance.

Sec. 10. Whenever the board shall have reason to believe that any person or establishment to whom a license or resident training certificate has been issued to practice or operate under this act, as the case may be, has violated any of the provisions of this act, or any rule or regulation prescribed, or wherever written complaint, charging any licensee or resident trainee with the violation of any provision of this act, is filed with said board, it shall be the duty of the said board to conduct an investigation and if from such investigation it shall appear to the board that there is reasonable ground for belief that the accused may have been guilty of the violations charged, a time and place shall be set by the board for public hearing to determine whether or not the license or resident training certificate of the accused shall be revoked. Any member of said board shall have the right to administer oaths to witnesses.

No action to suspend, revoke or cancel any license or resident training certificate shall be taken by the board until the accused licensee or resident trainee or his counsel has been furnished with a statement of the charges against him, or it, and a notice of the time and place of hearing thereof, the furnishing of such notice and the charges to be given said accused at least 15 days prior to the date of hearing. Such hearing shall be open to the public. The accused may be present at such public hearing in person or by counsel or both to defend himself against the charges made against him. If upon such public hearing the board finds the charges are true, it may revoke or suspend the license or resident training certificate of the accused. A stenographic report of such proceeding to revoke or suspend a license or resident training certificate shall be made at the expense of the board, and a transcript thereof kept in its files.

Any person or establishment who has been refused a license or whose license or resident training certificate has been suspended, revoked or rescinded, may appeal from the decision of the said board by filing with the said board a written notice setting forth that he, or it, feels aggrieved by such decision and takes an appeal therefrom, to the circuit court of the county within which such person resides, or in which the establishment is located. Upon the filing of such notice the board shall forthwith transmit to the clerk of the circuit court of said county the records and findings of such proceedings. An appeal from the circuit court judgment or decree may be reviewed by the supreme court.

The board may also refuse to issue or may refuse to renew, or may suspend or may revoke any license or resident training certificate, or may place the holder thereof on a term of probation after proper public hearing upon finding the holder of such license or resident training certificate to be guilty of any of the following acts or omissions:

1. Conviction of a crime involving moral turpitude;
 2. Conviction of a felony;
 3. Unprofessional conduct which is hereby defined to include:
 - a. Misrepresentation or fraud in the conduct of the business or the profession of any licensee;
 - b. False or misleading advertising as a funeral director, advertising or using the name of an unlicensed person in connection with that of any funeral establishment;
 - c. Solicitation of dead human bodies by the licensee or resident trainee, his agents, assistants, representatives or employees, or any person acting on his behalf with his knowledge and consent, express or implied, whether such solicitation occurs after death or while death is impending; or the procuring or allowing directly or indirectly of any such person to call upon institutions or individuals by whose influence dead human bodies may be turned over to a licensee or funeral establishment: Provided, That this shall not be deemed to prohibit such advertising as shall be permitted under this act;
 - d. Procuring by the licensee of persons known as "cappers", or "steerers", or "solicitors", or other such persons to obtain funeral directing or embalming; or allowing or permitting such "cappers", "steerers", or "solicitors", or other such persons to obtain funeral directing or embalming for a licensee or funeral establishment;
 - e. Participating in any cooperative plan, group plan, project or program whereby any person, firm, corporation, group or voluntary or other association of persons offers to sell or sells, solicits or represents, advertises or publishes that members of, participants in or purchasers under such plan, project or program will be entitled to or shall receive reduced rates in the purchase of any funeral or any part thereof or funeral merchandise or related services;
- For the purpose of this subsection, participation by any person licensed hereunder shall include allowing or permitting, directly or indirectly, the use of the name of the

persons licensed under this act or the name of the funeral establishment, in connection with said plan, or otherwise being identified therewith as the person who, or establishment which, will or may conduct such funeral or supply funeral merchandise or related services under such a plan, project or program;

f. The direct or indirect payment or offer of payment of a commission by the licensee, his agents, representatives, assistants or employees for the purpose of securing business;

g. Gross immorality;

h. Aiding or abetting an unlicensed person to practice funeral directing or embalming;

i. Using profane, indecent or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;

j. Solicitation or acceptance by a licensee or resident trainee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;

k. Using any casket or part of a casket which has been previously used as a receptacle for, or in connection with, the burial or other disposition of a dead human body;

l. Violation of any of the provisions of this act, or any rule or rules of the board;

m. Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;

n. Fraud or misrepresentation in obtaining a license or resident training certificate;

o. Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof;

p. Failure to secure permit for removal or burial of dead human body prior to interment or disposal;

q. Obtaining possession or embalming a dead human body without first being expressly directed or duly authorized to do so by a relative of the deceased person or a person entitled to custody thereof;

r. Knowingly making any false statement on a certificate of death;

s. Being guilty of any dishonorable conduct which tends to reflect upon or discredit the profession of embalming or funeral directing.

No person licensed under this act shall remove or embalm a dead human body when he has information indicating crime or violence of any sort in connection with the cause of death, until permission of the coroner, or some other duly qualified person acting in the capacity of coroner, if there be no coroner, has first been obtained.

No public officer or employee, or the official of any public institution, convalescent home, private nursing home, maternity home, public or private hospital, or physician or surgeon, or any other person having a professional relationship with any decedent or coroner or other public official having temporary custody thereof, shall send or cause to be sent to any person or establishment licensed under this act the remains of any deceased person without having first made due inquiry as to the desires of the next of kin and of the persons who may be chargeable with the funeral expenses of such decedent. And if any such kin be found, his or her authority and directions shall govern the disposal of the remains of such decedent. Any person or establishment licensed under this act receiving such remains in violation of the requirements of this paragraph shall make no charge for any service in connection with such remains prior to delivery of same as stipulated by such kin: Provided, however, This section shall not prevent any person or establishment licensed under this act from charging and being reimbursed for services rendered in connection with the removal of the remains of any

deceased person in case of accidental or violent death, and rendering necessary professional services required until the next of kin or the person or persons who are chargeable with the funeral expenses have been notified.

Hereafter it shall be unlawful for any funeral establishment or any licensee hereunder to enter upon any agreement, directly or indirectly, whereby any embalming, funeral or mortuary services are to be rendered in consideration for such funeral establishment or licensee or any agent, assistant, or representative of such establishment or licensee, being designated as beneficiary in any insurance policy or certificate.

Nothing herein contained shall be construed to govern or limit the authority of any administrator or executor, trustee, or other person having a fiduciary relationship with the deceased.

HISTORY: New 1949, p. 371, Act 268, Eff. Sep. 23;—Am. 1954, p. 435, Act 183, Eff. Aug. 13.

338.871 Repeals.

Sec. 11. Act No. 229 of the Public Acts of 1939, as amended, being sections 338.851 to 338.860, inclusive, of the Compiled Laws of 1948, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

HISTORY: New 1949, p. 373, Act 268, Eff. Sep. 23.

338.872 Cooperative plans; soliciting prohibited; vault regulations.

Sec. 12. No person, firm, group, corporation or voluntary or other association shall offer to sell, sell, represent, advertise or publish that they are sponsoring, selling, promoting or endorsing any cooperative plan or group plan, project or program whereby members of or participants in or purchasers under such plan, project or program will be entitled to, or shall receive reduced rates in the purchase of any funeral or any part thereof or funeral merchandise or related services.

No person, firm or corporation shall act as a “capper”, “steerer”, or “solicitor”, or other such person, to obtain funeral directing or embalming for any person or firm licensed hereunder.

The purchase of a vault or like receptacle designed or intended to enclose or receive caskets, coffins and other such containers from a particular person, firm or corporation shall not be required as a condition to burial in any cemetery in this state and there shall be no discrimination by price, burial fee or otherwise by reason of a failure to purchase such vault or like receptacle from or under the direction of said cemetery or the owner thereof: Provided, That nothing herein contained shall be construed to limit the right of a cemetery to require the use of a vault in burials in said cemetery.

HISTORY: Add. 1954, p. 438, Act 183, Eff. Aug. 13.

338.873 Cemetery associations; operation of mortuary or funeral establishment prohibited.

Sec. 13. It shall be unlawful for any person, firm, association, municipal corporation, body politic or corporation which owns or conducts either directly or indirectly, any cemetery or burial ground in the state of Michigan to own, manage, supervise, operate or maintain, either directly or indirectly, a mortuary or funeral establishment, or to permit its officers, agents or employees to own or maintain any such funeral or undertaking establishment.

It shall be unlawful for any person, firm, association or municipal corporation, body politic or corporation which owns or conducts a cemetery in this state to allow a funeral establishment to be owned or conducted on property owned or leased by such cemetery and used for cemetery purposes or designated as a cemetery.

Nothing contained in this section shall prohibit the owner of a private burial ground used for the interment of his family or descendants, to own or maintain a mortuary or undertaking establishment under the provisions of this act.

HISTORY: Add. 1954, p. 438, Act 183, Eff. Aug. 13.

338.874 Violation of act; penalty.

Sec. 14. Any person, partnership, corporation, association, or his or its agents or representatives who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$200.00 or by imprisonment for not more than 1 year, or by both such fine and imprisonment in the discretion of the court. It is hereby made the duty of all prosecuting attorneys to see that the provisions of this act are enforced in their respective counties.

HISTORY: Add. 1954, p. 438, Act 183, Eff. Aug. 13.

338.875 Violation of act; injunction.

Sec. 15. Upon the violation of any provision of this act or upon the violation of any rule, regulation or order of the board, any judge of the circuit court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation from further violating any of the said provisions of this act or the said rules, regulations and orders. Such injunctive relief may be granted upon the application of the board, the attorney general, or the prosecuting attorney of the county where such violation occurs. No bond shall be required when such injunctive relief is sought.

HISTORY: Add. 1954, p. 438, Act 183, Eff. Aug. 13.

Act 217, 1956, p. 474; Eff. Aug. 11.

AN ACT to safeguard persons and property; to provide for licensing of electricians and electrical contractors and the inspection of electrical wiring; to create an electrical administrative board; to exempt certain townships unless the township elects to be covered by this act; and to prescribe penalties for violations of the provisions of this act. Am. 1960, p. 92, Act 94, Eff. Aug. 17.

The People of the State of Michigan enact:

338.881 Electrical administrative act; definitions.

Sec. 1. As used in this act:

(a) "Electrical wiring" means all wiring, generating equipment, fixtures, appliances and appurtenances in connection with the generation, distribution and utilization of electrical energy, within or on a building, residence, structure or properties, and including service entrance wiring as defined by the 1968 edition of the national electrical code.

(b) "Electrical contractor" means any person, firm or corporation engaged in the business of erecting, installing, altering, repairing, servicing or maintaining electrical wiring devices, appliances or equipment.

(c) "Master electrician" means a person having the necessary qualifications, training, experience and technical knowledge to supervise the installation of wiring and equipment in accordance with the standard rules and regulations governing such work. A master electrician desiring to enter into the contracting business as his own supervisor may obtain an electrical contractor's license by making application and paying the fee for an electrical contractor's license in lieu of the fee prescribed for the master electrician's license.

(d) "Electrical journeyman" means any person other than an "electrical contractor" who, as his principal occupation, is engaged in the practical installation or alteration of electric wiring. An "electrical contractor" or "master electrician" may also be an "electrical journeyman".

(e) "Municipality" means any city, village or township.

(f) "Minor repair work" means electrical wiring not in excess of a valuation of \$50.00.

HISTORY: New 1956, p. 474, Act 217, Eff. Aug. 11;—Am. 1957, p. 252, Act 205, Imd. Eff. Jun. 4;—Am. 1960, p. 92, Act 94, Eff. Aug. 17;—Am. 1963, p. 275, Act 187, Imd. Eff. May 15;—Am. 1966, p. 109, Act 87, Eff. Mar. 10, 1967;—Am. 1966, p. 253, Act 220, Eff. Mar. 10, 1967;—Am. 1969, p. 544, Act 294, Eff. Mar. 20, 1970.

CITED IN OTHER SECTIONS: Sections 338.881 to 338.892 are cited in § 338.1503a.

338.882 Electrical administrative board; creation, members, meetings, compensation, expenses, inspection.

Sec. 2. (1) There is created an electrical administrative board of the state, herein-after known as the "board".

(2) The board shall consist of the director of the state police, or his duly authorized representative, and 8 other members who are residents of this state, appointed by the governor with the advice and consent of the senate. Of the 8 members appointed by the governor, 1 shall be a representative of an insurance inspection bureau operating in this state, 1 shall be a representative of an electrical energy supply agency operating in this state, 1 shall be an electrical contractor operating in this state, 1 shall be a master electrician serving as a supervisor, 1 shall be an electrical journeyman, 1 shall be a chief electrical inspector of a municipality, 1 shall be a representative of distributors of electrical apparatus and supplies, and 1 shall be a representative of manufacturers primarily and actively engaged in producing material, fittings, devices, appliances, fixtures, apparatus and the like, used as a part of, or in connection with, an electrical installation. Of the 8 members first appointed, 3 shall be appointed for a term of 1 year, 2 for a term of 2 years, and 3 for a term of 3 years. Thereafter, each appointment shall be for a term of 3 years. The members of the board annually shall elect a chairman, and shall hold regular meetings 4 times a year. Special meetings may be called by the chairman or upon written request of 4 members.

The members of the board shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in the performance of their duty.

In political subdivisions where this act applies the board may inspect electrical wiring and its installation, and shall fix the fees therefor at rates not higher than the average rates for similar inspections charged by the 3 highest populated cities in the state of Michigan. The board shall appoint electrical inspectors from the state civil service commission's eligible register.

HISTORY: New 1956, p. 475, Act 217, Eff. Aug. 11;—Am. 1957, p. 252, Act 205, Imd. Eff. Jun. 4;—Am. 1960, p. 92, Act 94, Eff. Aug. 17;—Am. 1966, p. 253, Act 220, Eff. Mar. 10, 1967.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.883 Licenses and certificates; administrative board, regulatory powers; fees.

Sec. 3. The board shall grant annual licenses and certificates to qualified applicants, and to make all orders, rules and regulations necessary to the enforcement and carrying out of the provisions of this act and shall enforce and carry out the provisions of this act, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

Before a license is granted to any applicant and before any expiring license is renewed, the applicant shall pay a fee annually as is herein specified for the class of license to be granted or renewed, not to exceed the following:

Class 1—Electrical contractor's license	\$50.00
Class 2—Master electrician's license	15.00
Class 3—Journeyman's license	5.00

An electrical contractor shall qualify for a master electrician's license or have not less than 1 master electrician in his employ who shall be actively in charge of all installations.

HISTORY: New 1956, p. 475, Act 217, Eff. Aug. 11;—Am. 1960, p. 92, Act 94, Eff. Aug. 17;—Am. 1966, p. 254, Act 220, Eff. Mar. 10, 1967.

338.884 New construction; minimum standards for wiring.

Sec. 4. New construction and installation of electrical wiring in connection with all buildings and structures or properties located in any city, village or township within the state not excluded by this act shall be in conformity with not less than the minimum standards prescribed by the 1968 edition of the national electrical code for safety to life and property.

All installations of electrical equipment shall be reasonably safe to persons and property and in conformity with the applicable statutes of the state and all applicable ordinances, orders, rules and regulations of any political subdivision of the state which are not in conflict with this act.

Conformity of installations of electrical equipment with applicable regulations set forth in the national electrical code, national electrical safety code or the electrical provisions of other safety codes which have been approved by the American standards association, shall be prima facie evidence that such installations are reasonably safe to persons and property.

The board may authorize installations of special wiring methods in territory in which it provides inspection service, or in other territory upon the request of a legally authorized inspection department in such territory.

HISTORY: New 1956, p. 475, Act 217, Eff. Aug. 11;—Am. 1957, p. 253, Act 205, Imd. Eff. Jun. 4;—Am. 1960, p. 93, Act 94, Eff. Aug. 17;—Am. 1963, p. 275, Act 187, Imd. Eff. May 15;—Am. 1966, p. 109, Act 87, Eff. Mar. 10, 1967;—Am. 1968, p. 254, Act 220, Eff. Mar. 10, 1967;—Am. 1969, p. 545, Act 294, Eff. Mar. 20, 1970.

338.885 Electrical wiring installation; licensed installers, permits.

Sec. 5. Except as permitted in section 7, it shall be unlawful for any person, firm or corporation to install any electric wiring, devices, appliances or appurtenances for the generation, distribution and utilization of electrical energy, within or on any building, structures or properties, without being duly licensed. In a municipality where inspection service is provided a permit shall be obtained from the board or municipality having jurisdiction.

HISTORY: New 1956, p. 476, Act 217, Eff. Aug. 11;—Am. 1957, p. 253, Act 205, Imd. Eff. Jun. 4;—Am. 1960, p. 93, Act 94, Eff. Aug. 17;—Am. 1966, p. 255, Act 220, Eff. Mar. 10, 1967.

338.886 Application of act; local regulation, registration, reciprocity.

Sec. 6. The provisions of this act, except for this section, shall not apply within the jurisdiction of any city, village or township which has adopted or hereafter adopts an ordinance providing standards for electrical wiring and its installation not less than those prescribed by the 1968 national electrical code and provides inspection service. Nothing contained herein shall be construed as limiting the power of a municipality to enact such ordinance or to provide for the licensing of persons, firms or corporations as contractors who have a place of business located in the municipality, or to provide for the licensing of journeymen electricians who reside in the municipality except that no such ordinance shall require the procurement of a license or permit thereunder to execute the classes of work specified in subsections (c), (d), (e) and (f) of section 7. All licenses issued by the board under this act and licenses issued by any municipality having standards for licensing not less than those established by the board shall be recognized by all municipalities. Any municipality providing for electrical inspection by

local ordinance may require all electrical contractors and electricians doing work in the municipality to register in accordance with the provisions of its local ordinance. Such registration requirements shall be reciprocal between the municipalities and between municipalities and the board as to registration requirements and fees, except that licensed journeyman electricians shall not be required to register to work in municipalities under the jurisdiction of the board. All licenses issued under this act shall be officially recognized by any municipality.

HISTORY: New 1956, p. 476, Act 217, Eff. Aug. 11;—Am. 1957, p. 253, Act 205, Imd. Eff. Jun. 4;—Am. 1960, p. 93, Act 94, Eff. Aug. 17;—Am. 1963, p. 276, Act 187, Imd. Eff. May 15;—Am. 1966, p. 110, Act 87, Eff. Mar. 10, 1967;—Am. 1966, p. 255, Act 220, Eff. Mar. 10, 1967;—Am. 1969, p. 545, Act 294, Eff. Mar. 20, 1970.

338.886a Municipal regulatory powers; standards, inspections, reimbursement by state, exceptions.

Sec. 6a. A municipality providing standards for electric wiring and making provisions for inspection and licensing in accordance with this act may require by ordinance that all electrical contractors, master electricians and journeymen coming within its licensing jurisdiction shall apply to and be licensed by the board in accordance with the rules and regulations of the board. A municipality, providing its own inspection service not less than the standards of the board, and requiring licensing by the board, shall be reimbursed by the state for 1/2 of all fees collected on licenses issued for the municipality, except journeyman's licenses, on vouchers certified by the municipal inspection agency and approved by the board.

HISTORY: Add. 1966, p. 255, Act 220, Eff. Mar. 10, 1967.

338.887 Electrical contractors license requirements; exceptions.

Sec. 7. No person, firm or corporation shall engage in the business of electrical contracting unless such person, firm or corporation shall have received from the board or from the appropriate municipality an electrical contractor's license. Nor shall any person, other than an electrical journeyman, except a person duly licensed and employed by and working under the direction of a holder of an electrical contractor's license, in any manner undertake to execute any electrical wiring; except, no license shall be required by the board for the home owner to perform the work indicated in subsection (g) nor shall a license or permit be required to execute the work covered by subsections (a), (b), (c), (d), (e), (f) and (h), to execute the following classes of work:

(a) Minor repair work, as defined in section 1.

(b) The installation, alteration, repairing, rebuilding or remodeling of elevators, dumbwaiters, escalators or man lifts where being done under a permit issued by an elevator inspection agency of the state of Michigan or political subdivision thereof.

(c) The installation, alteration or repair of electrical equipment and its associated wiring, installed on the premises of consumers or subscribers by or for electrical energy supply or communication agencies for use by such agencies in the generation, transmission, distribution or metering of electrical energy, or for the operation of signals or transmission of intelligence.

(d) The installation, alteration or repair of electric wiring for the generation and primary distribution of electric current, or the secondary distribution system up to and including the meters, where such work is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized service.

(e) Any work involved in the manufacture of electric equipment, and the testing and repairing of such manufactured equipment.

(f) The installation, alteration or repair of equipment and its associated wiring for the generation or distribution of electric energy for the operation of signals or transmission of intelligence where such work is in connection with a communication system owned or operated by a telephone or telegraph company, in rendering its duly authorized service as a telephone or telegraph company.

(g) Any installation, alteration or repair of electrical equipment in a single family home and accompanying outbuildings owned and occupied or to be occupied by the person performing the installation, alteration or repair of electrical equipment.

(h) Any work involved in the use, maintenance, operation, dismantling or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and which has the necessary permanent wiring, floor and wall receptacle outlets designed for the proper and safe use of such theatrical equipment, but not including any permanent wiring.

HISTORY: New 1956, p. 476, Act 217, Eff. Aug. 11;—Am. 1960, p. 94, Act 94, Eff. Aug. 17;—Am. 1966, p. 255, Act 220, Eff. Mar. 10, 1967.

338.888 Municipalities not covered by act.

Sec. 8. This act shall not apply to municipalities making provision for inspection and licensing in accordance with the provisions of section 6 if the local requirements are not less than those prescribed by this act, or to private dwellings and their curtilage and farm buildings in cities, villages or townships of less than 5,000 population unless the governing body of such municipality by a majority vote shall elect to be covered by its provisions, or to installations in mines, ships, railway cars, automotive equipment or the installations or equipment employed by a railway, electric or communication utility, in the exercise of its function as a utility.

HISTORY: New 1956, p. 477, Act 217, Eff. Aug. 11;—Am. 1957, p. 254, Act 205, Imd. Eff. Jun. 4;—Am. 1960, p. 94, Act 94, Eff. Aug. 17;—Am. 1966, p. 256, Act 220, Eff. Mar. 10, 1967.

338.888a Licenses; residents of municipalities under 5,000, issuance without examination.

Sec. 8a. An applicant for a state license, who is a resident in any city, village or township of less than 5,000 population on the effective date of this 1966 amendatory act, who has been regularly engaged in electrical work or contracting and who meets the minimum license requirements as to experience, may qualify for a license without examination. The applicant shall submit his completed application for review on or before December 31, 1967 to qualify without examination.

HISTORY: Add. 1966, p. 256, Act 220, Eff. Mar. 10, 1967;—Am. 1967, p. 12, Act 4, Imd. Eff. Mar. 16.

338.888b Licenses; suspension or revocation, grounds, hearing, appeals.

Sec. 8b. (1) A license granted by the board may be suspended or revoked by a 2/3 majority vote of all board members if after an official hearing it has been established to the satisfaction of the board that the licensee has performed any unsafe electrical work or wiring not in compliance with this act, or that the licensee has submitted false information to the board.

(2) The board, after hearing and with the concurrence of 2/3 of its members, may recommend to a municipal licensing authority that it revoke or suspend the license issued by it to any person who has performed any unsafe electrical work or wiring not in compliance with this act, in an area under the jurisdiction of the board. The board may not recognize the license of such person after it has recommended suspension or revocation.

(3) Such license suspension or revocation may be appealed to a circuit court as provided for in Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1966, p. 256, Act 220, Eff. Mar. 10, 1967.

338.889 License fees; disposition.

Sec. 9. All fees and moneys received by the board for the licensing of electrical contractors and electrical journeymen, and any other income which shall be received under provisions of this act, except as provided in sections 5, 6 and 6a, shall be paid into the general fund.

HISTORY: New 1956, p. 477, Act 217, Eff. Aug. 11;—Am. 1966, p. 257, Act 220, Eff. Mar. 10, 1967.

338.890 Violation of act; penalty.

Sec. 10. Any person, firm or corporation who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$10.00 nor more than \$100.00. If the person, firm or corporation is the holder of a license of any class provided for in this act, the conviction shall have the effect of suspending the license until such time as such conviction is reversed or such license shall have been reinstated by the board. Each violation shall be considered as a separate misdemeanor.

HISTORY: New 1956, p. 477, Act 217, Eff. Aug. 11.

338.891 Construction of act as to liability for defective installation or appliances.

Sec. 11. This act shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for damages to persons or property caused by any defect therein, nor shall the state of Michigan be held as assuming any such liability by reason of the inspection or the examination authorized herein, or the certificate of approval, or the license and certificate thereof issued as herein provided.

HISTORY: New 1956, p. 477, Act 217, Eff. Aug. 11.

338.892 Electrical administrative act; short title.

Sec. 12. This act shall be known and may be cited as the "electrical administrative act".

HISTORY: Add. 1960, p. 95, Act 94, Eff. Aug. 17.

Act 266, 1929, p. 639; Eff. Aug. 28.

AN ACT to protect the health, and promote the safety and welfare of the people, by regulating the installation, alteration, maintenance, improvement and inspection of plumbing; to define plumbing and the classification of plumbers; to provide for the issuing of licenses and permits pertaining thereto and the disposition of moneys derived therefrom; to create a plumbing board, and to prescribe its powers and duties; to authorize cities, villages and townships to adopt and enforce certain standards; to establish remedies and fix penalties for violation of the provisions of this act. Am. 1933, p. 448, Act 260, Eff. Oct. 17;—Am. 1949, p. 125, Act 121, Eff. Sep. 23.

The People of the State of Michigan enact:

338.901 Plumbing; definition.

Sec. 1. In this act, plumbing means and includes:

(a) All piping, fixtures, appliances and appurtenances in connection with the drainage, ventilation of the same or water supply systems within a building, residence or structure and to a point from 3 to 5 feet outside of the same;

(b) The construction and connection of any drain or waste pipe carrying domestic sewage from a point within 3 to 5 feet outside of the foundation walls of any building, residence or structure with the sewer service lateral at the curb or other disposal terminal, and the alteration of any such system, drain or waste pipe, except minor repairs

to faucets, valves, pipes, appliances and removing of stoppages; and the connection of domestic hot water storage tanks, water softeners, refrigerators, water heaters and similar domestic appliances with the water supply or drainage system;

(c) When so provided by local ordinance the water service piping from a building, residence or structure to the mains in the street, alley or other terminal;

(d) The water piping and plumbing appliances, including the water pressure system other than municipal systems, within the building, residence or structure;

(e) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement, and to prevent with a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals, or retard the discharge from plumbing fixtures or permit sewer air to escape into the building, residence or structure.

HISTORY: CL 1929, 6688;—Am. 1933, p. 448, Act 280, Eff. Oct. 17;—CL 1948, 338.901.

CITED IN OTHER SECTIONS: Sections 338.901 to 338.917 are cited in § 325.224.

338.901a Definitions.

Sec. 1a. As used in this act:

(a) "Multiple dwelling" means an apartment house, rooming house, boarding or lodging house, hotel or mixed occupancy building.

(b) "Apartment house" means a building containing more than 2 dwelling units, and includes apartments, tenement houses, flats, apartment hotels, bachelor apartments, and other dwellings similarly occupied whether specifically enumerated herein or not.

(c) "Rooming house" means a building containing 1 dwelling unit in which more than 3 rooming units are leased, rented or provided for more than 4 occupants not related to the family unit.

(d) "Boarding or lodging house" means a building other than a single or 2 family dwelling, apartment house, rooming house or hotel which contains more than 1 rooming unit, and includes tourist homes, motels, club houses, fraternity and sorority houses, dormitories, residence halls, convents, homes for the aged, nursing homes, hospitals, sanitariums and other dwellings similarly occupied whether specifically enumerated herein or not.

(e) "Hotel" means a building in which dwelling or rooming units are provided for more than 50 individuals, and in which a public dining room for the accommodation of at least 50 guests, and a general kitchen are provided.

(f) "Mixed occupancy building" means a building which is used partly as a dwelling and partly for another use.

HISTORY: Add. 1961, p. 122, Act 109, Eff. Sep. 8.

338.902 Plumbing; sanitary construction, plumbing board, powers, minimum standards, notice, hearing.

Sec. 2. (a) The construction, installation and maintenance of plumbing in connection with multiple dwelling wherever located and with all buildings, residences and structures located in any city or village of 5,000 or more and having a system of water works or sewerage, and in those cities and villages having a population of 10,000 or over, the territory immediately adjacent and contiguous to the boundaries of such cities or villages and extending a radial distance of 1 mile beyond such boundaries in all directions, and in the case of cities having a population of 100,000 or over, the territory immediately adjacent and contiguous to the boundaries of such cities and extending for a radial distance of 2 miles in all directions, including buildings owned by the state or any political subdivision thereof, shall be in accordance with the provisions of this act.

(b) The plumbing board shall have general supervision of all such plumbing and shall, after notice and public hearing, prescribe and publish minimum standards there-

for which shall be uniform. Notice of such public hearing shall be given and publication of such standards shall be made in such manner as may be prescribed by the plumbing board. Such standards shall be submitted to cities and villages having inspection service prior to such public hearings. No standards shall be published until the same shall have been submitted to and approved by the advisory council of health.

HISTORY: CL 1929, 6689;—Am. 1933, p. 448, Act 260, Eff. Oct. 17;—CL 1948, 338.902;—Am. 1961, p. 123, Act 109, Eff. Sep. 8.

338.903 Plumbing; inspectors, qualifications.

Sec. 3. The plumbing board shall employ plumbing inspectors and other assistants and assign their duties to carry out the provisions of the act. The plumbing inspectors or engineers, in order to qualify for such employment, shall have had at least 10 years experience as practical plumbers, or a plumbing engineer shall be a graduate of some recognized school authorized to give such degree and have had 2 years further practical experience.

HISTORY: CL 1929, 6689;—Am. 1933, p. 449, Act 260, Eff. Oct. 17;—CL 1948, 338.903.

338.904 Local rules; enforcement, registration, fee, supervision.

Sec. 4. The legislative body of all cities and villages, having a population of 10,000 or over, according to the last federal census, shall, and any city or village having a population of more than 5,000 and less than 10,000, by such census, and having a system of water works or sewerage may, by charter, ordinance and/or action of its local board of health prescribe reasonable rules and regulations to safeguard the public health, provided they are not less than the minimum standards prescribed by the plumbing board, for the materials, construction, alteration and inspection of pipes, tanks and fixtures by which supply or waste water or sewage is used or carried, and provided that they shall not be placed in any building, residence or structure except in accordance with plans approved as provided in said charter or ordinance, and that no plumbing shall be done, except repairing leaks, without a permit upon prescribed conditions. Such city or village upon adopting such rules and regulations shall provide for the enforcement of the same and plumbing inspectors actually engaged in enforcement of such rules and regulations shall be licensed the same as other master or journeyman plumbers. In the case of cities or villages having a population of 10,000 or over, according to the last federal census, the enforcement of such rules and regulations shall also apply to all that territory immediately adjacent and contiguous to the boundaries of such cities or villages and extending for a radial distance of 1 mile beyond such boundaries in all directions and in the case of cities having a population of 100,000 or over the enforcement of the rules and regulations shall extend for a radial distance of 2 miles in all directions. After January 1, 1934, no city or village shall require the licensing of plumbers or prohibit plumbers licensed under this act from engaging in or working at the business of plumbing, but after January 1, 1934, all cities and villages over 5,000 having a system of water works or sewerage shall require all plumbers licensed under this act, residing in or doing work in said cities or villages to register with such officials as the local rules and regulations shall require. The registration of all plumbers licensed under this act shall be made on or before the first day of April each year and shall be made only upon presentation of the state plumbing license for the current year. For the service of such registration a fee of not to exceed 1 dollar may be charged for master plumbers and not to exceed 50 cents for journeymen plumbers. In no case, however, shall any other than the registration fee be required except as herein provided. Registration shall be granted immediately upon presentation of state license and payment of registration fee.

Such local authority as may be designated by any such charter or ordinance for the issuance of such plumbing permits and approval of such plans, shall report to the

plumbing board any persistent or wilful violation of the same and any incompetence of a licensed plumber.

Where a system of waterworks or sewerage has been or shall be established in any city or village over 5,000 which has not provided for a board or office to supervise plumbing, drainage and sewerage, the plumbing board shall take immediate and entire control of plumbing, drainage and sewerage intended to be connected with public sewers or waterworks, and exercise all the power conferred by this act until the authorities therein shall have provided for such supervision.

The provisions of this act shall apply to cities and villages under 5,000 population having a system of water works or sewerage, when this act shall be adopted by a resolution of the legislative body of any such city or village, by a majority vote of the members elect.

HISTORY: CL 1929, 6691;—Am. 1933, p. 449, Act 260, Eff. Oct. 17;—CL 1948, 338.904.

LOCAL CODE: See Compilers' § 338.954.

338.905 Master or journeyman plumber; license required; plumbing board, rules and regulations, examination, licensing; appeal.

Sec. 5. No person shall engage in or work at the business of a master plumber or journeyman plumber in any city or village over 5,000 having a system of waterworks or sewerage or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, or in any building owned by a political subdivision of the state situated in such city or village or in any building owned by the state or by any county wherever situated, unless licensed so to do by the plumbing board. In such city or village or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, or in any such building, no person, firm or corporation shall install plumbing unless at all times a licensed master plumber is in charge, who shall be responsible for proper installation. The plumbing board shall prescribe reasonable rules and regulations as to the qualifications, examination and licensing of applicants, and for the registration of plumbers' apprentices. Any person heretofore not required to be licensed and who on March 1, 1929, was engaged in or worked at the business of master plumber or journeyman plumber and who is required to be licensed under this act, shall, upon furnishing the commissioner with satisfactory evidence of having been so engaged on said date, and of having the necessary qualifications, shall be granted a master plumber's or journeyman plumber's license without examination, provided he makes application therefor prior to January 1, 1930, and pays the prescribed examination fee: Provided further, That any applicant for a master plumber's license or a journeyman plumber's license may appeal de novo from the decision of the plumbing board to the circuit court in chancery of the county in which he lives.

HISTORY: CL 1929, 6692;—Am. 1933, p. 450, Act 260, Eff. Oct. 17;—CL 1948, 338.905.

LOCAL CODE: See also Compilers' § 338.954.

338.906 Classes of plumbers; definitions.

Sec. 6. A master plumber is any person skilled in the planning, superintending and the practical installation of plumbing, and who is familiar with the laws, rules and regulations governing the same. A journeyman plumber is any person other than a master plumber, who, as his principal occupation, is engaged in the practical installation of plumbing. A master plumber may also work as a journeyman. A plumber's apprentice

is any person other than a journeyman or a master plumber, who as his principal occupation is engaged in learning and assisting in the installation of plumbing and drainage.

HISTORY: CL 1929, 6693;—Am. 1933, p. 450, Act 280, Eff. Oct. 17;—CL 1948, 338.906.

338.907 Plumbing board; membership, terms, expenses, compensation, secretary, records.

Sec. 7. The governor, with the advice and consent of the senate, shall appoint 3 United States citizens, residents of the state, of whom 2 shall be licensed master plumbers and 1 shall be a licensed journeyman plumber, each having at least 10 years' experience, who with the state commissioner of health or his representative and a member or employee of the division of engineering of the state department of health, selected by the commissioner of health, shall constitute the plumbing board. The members of the board, appointed by the governor, shall hold office for 1, 2 and 3 years respectively from July 1, 1933, or until their successors shall have qualified, and thereafter, upon the expiration of the term of office of each person so appointed, the governor shall, on or before the first day of July in each year, appoint a successor to hold office for a term of 3 years. The members of the plumbing board shall be entitled to their actual and necessary expenses incurred in performing the duties of their office and shall be compensated in the amount of \$20.00 for each meeting attended: Provided, That no more than \$600.00 per year shall be paid to each member as compensation for attendance at meetings. The board shall elect annually from its membership a secretary who may be additionally compensated for such services in an amount not to exceed \$600.00 per year. It shall be his duty to keep a detailed and accurate record of all the acts and proceedings of the board and to perform such other duties as may be assigned to him by the board.

HISTORY: CL 1929, 6694;—Am. 1933, p. 451, Act 280, Eff. Oct. 17;—CL 1948, 338.907;—Am. 1949, p. 125, Act 121, Eff. Sep. 23;—Am. 1954, p. 68, Act 56, Eff. Aug. 13.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.908 Plumber's license; examinations, fees, term, interstate reciprocity, change of address, notice.

Sec. 8. Application for a plumber's license shall be made to the plumbing board, with the fee herein prescribed. The applicant shall be licensed only after passing a satisfactory examination. An examination for applicants for licenses as master plumbers or journeyman plumbers shall be conducted by the plumbing board and shall consist of oral, written, and practical tests. The master plumber's examination shall cover the science and practice of plumbing, knowledge of the state plumbing code, laws, rules and regulations, interpretation of charts and blue prints, and plans of plumbing installations. The journeyman plumber's examination shall cover the theory and practice of plumbing, and knowledge of the state plumbing code, rules and regulations. The character, experience and fitness of the applicant shall also be taken into consideration. The application fee for the examination for a master plumber's license shall be \$35.00 and for a journeyman plumber's license, \$10.00. Upon passing the examination, a license shall be issued, good until the following December 31, without further charge. After January 1, 1962, each master plumber shall renew his license only upon payment of a fee of \$25.00, and each journeyman plumber shall renew his license only upon payment of a fee of \$10.00. Licenses shall expire December 31 of each year and may be renewed upon application made during the following January or February. After March 1 of each year, all licenses not renewed shall be considered void and may be reinstated only upon application for reinstatement and the payment of the application fee of \$35.00 for master plumbers and \$15.00 for journeyman plumbers.

The plumbing board may license without examination, upon the payment of the required fee, applicants licensed under the laws of other states having requirements for

licensing plumbers and regulating plumbing which the plumbing board determines are equivalent to the requirements of this state. Every holder of any license granted under this act shall promptly notify the plumbing board of any change in his business or residence address.

HISTORY: CL 1929, 6695;—Am. 1933, p. 451, Act 260, Eff. Oct. 17;—CL 1948, 338.906;—Am. 1949, p. 126, Act 121, Eff. Sep. 23;—Am. 1952, p. 110, Act 90, Eff. Sep. 18;—Am. 1961, p. 123, Act 109, Eff. Sep. 8.

338.909 Temporary permits.

Sec. 9. The plumbing board may issue temporary revocable permits pending examination and may make rules governing the issuing of such permits, and to assist in this work, may appoint agents, without compensation, and may authorize 1 of its members or plumbing inspectors to hold a special permit examination, the results to be reported in writing.

HISTORY: CL 1929, 6696;—Am. 1933, p. 452, Act 260, Eff. Oct. 17;—CL 1948, 338.909.

338.910 Business sign of master plumber; display, unlawful use.

Sec. 10. Every holder of a master plumber's license, engaged in the business of serving the public in any city, village, township or county having a system of waterworks or sewerage, or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, required to be licensed by this act and having complied with the rules and regulations, pertaining to the registration of plumbers of the said city or village, shall display in a conspicuous place at the entrance of his place of business a sign bearing his name and the words, "Licensed Master Plumber", in letters not less than 3 inches high. No person other than a licensed master plumber shall use or display the title, "Master Plumber", or append his name to such title, or any other title or words which represents or may tend to represent him as a licensed master plumber.

HISTORY: CL 1929, 6697;—Am. 1933, p. 452, Act 260, Eff. Oct. 17;—CL 1948, 338.910.

338.911 Plumbing board; investigations; revocation of license, complaint, hearing, appeal, relicensing.

Sec. 11. The plumbing board may, on its own motion or shall upon complaint in writing, make investigations and/or conduct hearings in reference to any of the matters regulated by this act, and may revoke any license issued under the provisions of this act, if the plumbing board finds after a hearing that the holder of any such license has obtained the same through error or fraud, is incompetent, has wilfully violated a second time any of its rules or regulations, or has violated any provision of this act, or any of the laws, ordinances, rules or regulations pertaining to plumbing and sanitation enacted by the state or any city or village thereof. A copy of the complaint, together with notice of the time and place of hearing, shall be served upon the party complained against, by personal service or by registered mail sent to his last known business or residence address. The person so served shall file answer thereto with the plumbing board within 10 days after service, and shall also serve a copy of such answer upon the complainant, if any. No order revoking a license shall be made until after a public hearing or hearings held before the plumbing board or before any duly authorized employee whose report the plumbing board shall have adopted. Such hearing or hearings shall be held in the county wherein the person complained of has his place of business or residence. In the event that said plumber is a non-resident, such hearing shall be held in the county where the defendant is employed or was last employed. The testimony presented and proceedings had at any such hearing shall be taken stenographically and preserved as a record of the plumbing board. No license

shall be issued to any person whose license shall have been previously revoked, until the expiration of 1 year from the date such revocation becomes effective: Provided, however, That the defendant may appeal de novo from the decision of the plumbing board to the circuit court in chancery in the county in which said defendant lives or is employed.

HISTORY: CL 1929, 6696;—Am. 1933, p. 452, Act 280, Eff. Oct. 17;—CL 1948, 338.911.

338.912 Violation of act; penalty.

Sec. 12. Any person who shall work as a master or journeyman plumber for compensation or other valuable consideration, in any city or village over 5,000 having a system of water works or sewerage, or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, without a permit or license, or any plumber who shall do any act prohibited by this act, or fail to obey a lawful order, rule or regulation of the plumbing board, shall be guilty of a misdemeanor and may be fined not less than 10 dollars nor more than 50 dollars, or imprisoned in the county jail for not more than 30 days, or both fine and imprisonment in the discretion of the court. Each day of violation shall be a separate offense. Any person applying for a license or permit who shall wilfully make any false statement to the plumbing board or its duly authorized representative shall be guilty of a misdemeanor and subject to the above penalty. Any master plumber who shall employ an apprentice on plumbing representing him to be a journeyman, shall be deemed guilty of a misdemeanor and subject to the above penalty.

HISTORY: CL 1929, 6696;—Am. 1933, p. 452, Act 280, Eff. Oct. 17;—CL 1948, 338.912.

338.913 Fees; disposition; salaries and expenses, payment.

Sec. 13. All fees and moneys received by the plumbing board from the licensing of plumbers, and any other income which may be received under the provisions of this act, shall be paid into the general fund. All salaries and other moneys expended under the provisions of this act shall be paid through the state treasurer on properly drawn vouchers from a fund appropriated by the legislature for the purpose of this act, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided.

HISTORY: CL 1929, 6700;—Am. 1933, p. 453, Act 280, Eff. Oct. 17;—CL 1948, 338.913.

Sec. 14. (This was a severing clause section.)

HISTORY: CL 1929, 6701;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

338.915 Licenses; date required.

Sec. 15. No license shall be required under this act until January first, 1930.

HISTORY: CL 1929, 6702;—CL 1948, 338.915.

338.916 Saving clause.

Sec. 16. Nothing herein contained shall be construed as repealing Act No. 222 of the Public Acts of 1901, as amended, or Act No. 167 of the Public Acts of 1917, as amended, except as the same may be in conflict herewith.

HISTORY: CL 1929, 6703;—CL 1948, 338.916.

NOTE: Act 222 of 1901, above referred to, is Compilers' §§ 338.951 to 338.965. Act 167 of 1917, is Compilers' § 125.401 et seq.

338.917 Construction of act.

Sec. 17. Nothing contained in this act shall be construed as applying to maintenance or repairing of plumbing, plumbing fixtures, steam or water lines in any factory, workshop, manufacturing or mercantile establishment.

HISTORY: CL 1929, 6704;—CL 1948, 338.917.

Act 222, 1901, p. 344; Eff. Sep. 5.

AN ACT relating to plumbing and drainage, and providing for the inspection thereof and for the examination, regulation, licensing and registration of plumbers and for the punishment of offenders against this act.

The People of the State of Michigan enact:

338.951 City board of examiners of plumbers; membership, appointment, qualifications, term, vacancies.

Sec. 1. Within 30 days after this act shall take effect, it shall be the duty of the local board of health, and if there be no local board of health then it shall be the duty of the mayor of each of the cities of this state to appoint a board for the examination of plumbers, to examine, license and register plumbers and formulate rules and regulations therefor subject to the approval of such boards of health. Such board shall consist of 5 persons, of whom 1 shall be an employing or master plumber of not less than 10 years' experience in the business of plumbing, and 1 shall be a journeyman plumber of like experience, and the other members of such board shall be the officers in charge of the plumbing and drainage department of the board of health of such city, and the chief engineer having charge of sewers in such city, but in the event of there being no such officers in such city, then any other 2 officers having charge or supervision of the plumbing, drainage or sewerage, whom the mayor shall designate and appoint, or 2 members of the board of health of such city having like duties or acting in like capacities. The term of office of the master and journeyman plumbers first appointed under the provisions of this act shall be as follows, to wit: One shall be appointed and hold office from the time of such appointment until the first day of January, 1902, and until his successor shall be appointed. One shall be appointed and hold office from the time of such appointment until the first day of January, 1903, and until his successor shall be appointed, their term of office to expire respectively on the first day of January, 1902, the first day of January, 1903, and the board of health, and if there be no such board of health it shall be the duty of the mayor in making the first appointments under this act, for each 1 so appointed to specify the duration of the term of office to which he makes said appointments, and annually thereafter, within 10 days prior to the time of the expiration of the term of office of any such member of the board, his successor shall be appointed by the board of health, and if there be no such board of health it shall be the duty of the mayor to appoint for the term of 2 years, or until a successor shall be appointed, and the board of health, and if there be no such board, the mayor shall have power to fill any vacancy caused in such board of examiners by the death, removal, inability to act, resignation or removal from the city of any member thereof, and such appointment shall be for the unexpired term. Such officer in charge of the plumbing and drainage department, and such chief engineer in charge of sewers, or the officers holding equivalent positions or acting in like capacities, designated or appointed by the board of health, and if there be no such board of health, by the mayor as herein provided, when they shall cease to hold the offices by reason or on account of which they were so designated or appointed, their successors shall act on the examining board in their stead.

HISTORY: CL 1915, 6857;—CL 1929, 6705;—CL 1948, 338.951.

REPEAL: Sec. 16 of Act 266 of 1929, being Compilers' § 338.916, specifically excepted this act from repeal "except as the same may be in conflict herewith."

338.952 City plumbers' board; compensation.

Sec. 2. The master or journeyman plumbers serving as members of such board shall severally be paid at the rate the prevailing wage for journeyman plumbers for each day's services when actually engaged in the performance of their duties pertaining to

the office; but such compensation shall not exceed the sum of 15 dollars per month in cities of 25,000 inhabitants or less, nor the sum of 30 dollars per month in cities having a population of over 25,000 and less than 300,000, nor a sum of 60 dollars per month in cities having a population of over 300,000.

HISTORY: CL 1915, 6858;—Am. 1929, p. 523, Act 202, Imd. Eff. May 20;—CL 1929, 6706;—CL 1948, 338.952.

338.953 City plumbers' board; citizenship and residency requirements.

Sec. 3. All the members of such board shall be citizens and actual residents of the cities in which they are appointed.

HISTORY: CL 1915, 6859;—CL 1929, 6707;—CL 1948, 338.953.

338.954 City plumbers' board; meetings, powers; issuance of license, examinations, fees; plumbing code.

Sec. 4. The several boards of examiners who shall be appointed under this act shall have power and it shall be their duty to meet at stated intervals in their respective cities not less than 4 times each year; they shall also meet whenever the board of health of such city and if there be no such board of health, then when the mayor thereof, shall in writing request them to do so; to have jurisdiction over and to examine all persons desiring to engage in the trade, business or calling of plumbing, either as journeymen or employing or master plumbers in the city in which such board shall be appointed, with the power of examining all persons applying for a license as such journeyman or employing or master plumbers, or as inspectors of plumbing, to determine their fitness and qualifications for conducting the trade, calling or business of journeymen or of master plumbers, or to act as inspector of plumbing, and to issue licenses to all such persons who shall have submitted to and passed a satisfactory examination before such board, and shall be by it determined to be qualified for engaging in, carrying on or conducting the trade, calling or business of journeyman or employing or master plumber, or competent to act as inspectors of plumbing; to formulate, with the approval of the local board of health of the city in which it shall act, a code of rules regulating all plumbing and drainage work connected therewith in such city, including the proper materials, and workmanship, and from time to time to add to, amend or alter the same; to charge and collect from each person applying for examination the sum of 2 dollars for each regular examination made by said board, and all money so collected shall be paid over by the board monthly to the treasurer of such city in which said board shall be appointed.

HISTORY: CL 1915, 6860;—CL 1929, 6708;—CL 1948, 338.954.

PLUMBING CODE: In municipality, see Compilers' § 338.904.

338.955 Examination; requirements, exceptions.

Sec. 5. Any person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in any of the cities of this state as journeyman, employing or master plumber, shall be required to submit to an examination before such board of examiners as to his experience and qualifications in such trade, business or calling: Provided, That every person now engaged in the trade, business or calling of journeyman, master or employing plumber in any city of this state and who has been engaged for a period of 2 years or more, upon satisfactory proof made before, or filed with such examining board of the truth thereof, together with a statement verified by his oath showing his name, place of business, postoffice address and length of time he actually served as a plumber, and upon the payment to said board of the sum of 2 dollars, shall be entitled to receive from said board a license without further or other examination; all sums so collected shall be paid over to the treasurer, as in case of fees received for examination: Provided further however, That any person coming into this state and desiring to engage in any city of this state in the trade, calling or business of plumbing, either as journeyman plumber, or employing plumber, or any person in this state desir-

ing to engage in such trade, calling or business, if at a time when said board is not in session, upon satisfactory proofs made by him either by examination or otherwise to any 2 members of said board of his fitness and qualifications to engage in such trade, business or calling, shall be entitled to receive from said 2 members a temporary license, which shall entitle him to engage in and carry on such trade, calling or business until the next regular meeting of such board, when he shall be required to submit to the regular examination of such board; and after a period of 60 days from the time this act shall take effect it shall not be lawful in any city in this state for any person to conduct such trade, business or calling, unless he shall have first obtained a license from such board, or from 2 members thereof, as provided in the proviso last above set forth, of the city in which he conducts, or proposes to conduct, engage in or carry on such business, trade or calling.

HISTORY: CL 1915, 6961;—CL 1929, 6709;—CL 1948, 338.955.

338.956 Licensees; registration with local boards of health.

Sec. 6. Within 90 days after this act shall take effect every journeyman, employing or master plumber carrying on his trade, business or calling in any of the cities of this state, shall register his name and postoffice address at the office of the board of health of the city in which he shall carry on or conduct such trade, business or calling, under such rules and regulations as the respective boards of health of each of the cities of this state shall respectively prescribe, and thereupon he shall be entitled to receive a certificate of such registration: Provided however, That such journeyman, employing or master plumber shall at the time of applying for registration, hold a license from an examining board. And after a period of 90 days from the time this act shall take effect it shall not be lawful for any person to engage in, or carry on the trade, business or calling of journeyman, employing or master plumber in any of the cities of this state unless his name and postoffice address shall have been registered, as above provided.

HISTORY: CL 1915, 6962;—CL 1929, 6710;—CL 1948, 338.956.

338.957 Plumbing inspectors; appointment, term, qualifications, compensation.

Sec. 7. Within 30 days after the organization of such examining board in any of the cities of this state, the local board of health, shall detail, designate and appoint for the purposes of this act and the enforcement of the provisions thereof and the work of inspecting the plumbing and drainage of buildings in said city, an inspector, or inspectors, of plumbing and drainage work connected therewith subject, however, to the provisions or limitations of existing laws regulating the appointment of inspectors by such commissioner or commissioners, or board or department of health of such city. The terms of inspector or inspectors shall be subject to termination by the commissioner or commissioners, board or department of health of such city at any time. But all inspectors of plumbing so detailed, designated and appointed, and all inspectors shall not be engaged directly or indirectly in the business of plumbing during the period of their appointment, and they shall be citizens and actual residents of the city of which they are appointed. They shall be entitled to receive such compensation as shall be fixed by the board, commission or department making such appointment.

HISTORY: CL 1915, 6963;—CL 1929, 6711;—CL 1948, 338.957.

338.958 Plumbing inspectors; duties, reports.

Sec. 8. The duties of the inspector or inspectors of plumbing appointed under the provision for this act, shall be to inspect the construction and alteration of all plumbing and drainage work connected therewith performed in such city, and to report in writing the results of such inspection to the said commissioner of health, or the board of health, or the health department of their respective cities; they shall also report in like manner any person engaged in or carrying on the business, trade or calling of jour-

neyman or master or employing plumber, without having the certificates hereinbefore provided.

HISTORY: CL 1915, 6864;—CL 1929, 6712;—CL 1948, 338.958.

338.959 Certificates of registration; expiration, renewal.

Sec. 9. All certificates of registration issued under the provisions of this act and all licenses authorizing connections with street sewers or water mains shall expire on the thirty-first day of December of the year in which they shall be issued, and may be renewed within 30 days preceding such expiration, such renewals to be for 1 year from the first day of January in each year: Provided, That a certificate of registration issued to a person under the provisions of the last proviso of section 5 of this act shall expire at the time of the next regular meeting of the board of examiners of such city, and shall not be renewed unless the person requesting such renewal shall then hold a license issued by the board of examiners.

HISTORY: CL 1915, 6865;—CL 1929, 6713;—CL 1948, 338.959.

338.960 Violation of plumbing regulations; procedure.

Sec. 10. Whenever any inspector or other person reports a violation of any of the said rules and regulations for plumbing and drainage work connected therewith or a deviation from any officially approved plans or specifications for plumbing and drainage work connected therewith filed with any board or department, the local board of health shall first serve a notice of violation thereof upon the plumber doing the work. Such notice may be served personally or by mail, and if by mail it may be addressed to such plumber at the address registered by him with such local health board; but the failure of such plumber to register will relieve any board of health from the requirements of giving notice of violation. Unless the violation is corrected within 3 days after the date of serving or mailing such notice, exclusive of the day of mailing or serving, the board of health may proceed according to law.

HISTORY: CL 1915, 6866;—CL 1929, 6714;—CL 1948, 338.960.

338.961 Regulation of plumbing and drainage work by local boards; construction of section.

Sec. 11. From and after 90 days after this act shall take effect the plumbing and drainage work connected therewith of all buildings, both public and private, of each of the cities of this state, shall be executed in accordance with the rules and regulations formulated by the local board of examiners and approved by the board of health, for plumbing and drainage work connected therewith, and all repairs and alterations in the plumbing and drainage work connected therewith of all building [buildings] heretofore constructed, shall also be executed in accordance with such rules and regulations, where the board of health shall have control, but this section shall not be construed to repeal any existing provision of law requiring plans for the plumbing and drainage work as aforesaid of new buildings to be filed with any local board of health, and to be previously approved in writing by said board of health, and to be executed in accordance therewith, except that in any case of any conflict between such plans and the rules and regulations of the board of examiners and board of health, the latter shall govern.

HISTORY: CL 1915, 6867;—CL 1929, 6715;—CL 1948, 338.961.

338.962 Boards of examiners; quarters, clerks, records, expenses, permits and fees by local legislative bodies.

Sec. 12. Each of such boards of examiners shall have power to procure suitable quarters for the transaction of business, to provide the necessary furniture, books and stationery, and to employ a clerk whose duty it shall be to keep a detailed and accurate record of all acts and proceedings of such board except as herein otherwise provided. The board of estimates and the common council of every city in this state shall

annually insert in their tax levy a sufficient sum to meet the expenditures incurred under the provisions of this act; and all expenses incurred by the several boards of examiners in the execution and performance of the duties imposed by this act, including the per diem of the board of examiners and compensation of the inspector or inspectors of plumbing and drainage as fixed by the board, commissioner or department making their appointments shall be a charge on the respective cities and shall be audited, levied, collected and paid in the same manner as other city charges are audited, levied, collected and paid: Provided, That the legislative body of any city may by ordinance provide for plumbing permits and the charging of fees therefor and may provide the manner of fixing such fees: Provided, however, That all fees so collected under this act shall be specifically appropriated toward the costs and expenses of plumbing inspection in accordance with the provisions of this act.

HISTORY: CL 1915, 6868;—Am. 1929, p. 523, Act 202, Imd. Eff. May 20;—CL 1929, 6716;—CL 1948, 338.962.

338.963 Violation of act; penalty.

Sec. 13. Any person violating any of the provisions of this act, or any of the rules and regulations of the board of examiners as approved by the board of health of any city in this state regulating the plumbing and drainage work connected therewith of such city, shall upon conviction thereof be deemed guilty of a misdemeanor and be punished by a fine of not exceeding \$100 and the cost of prosecution, or by imprisonment in the county jail for a period not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 6869;—CL 1929, 6717;—CL 1948, 338.963.

338.964 Permit to make sewer or water main connections; issuance.

Sec. 14. After the passage of this act the commissioner or the board of public works of any city, or the officer or officers acting in a like capacity in any of the cities of this state, and having charge of the sewers and water mains, shall not issue a license to any one to connect with the sewers or with the water mains of such cities, unless such person has obtained and shall produce a certificate of registration, which is then in force, from the board of health of such city.

HISTORY: CL 1915, 6870;—CL 1929, 6718;—CL 1948, 338.964.

338.965 Inapplicability of act to certain cities.

Sec. 15. This act shall not apply to cities containing less than 15,000 inhabitants.

HISTORY: CL 1915, 6871;—CL 1929, 6719;—CL 1948, 338.965.

Sec. 16. (This was a repeal section.)

HISTORY: CL 1915, 6872;—CL 1929, 6720;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

338.971-338.991 Repealed. 1965, p. 780, Act 383, Eff. Apr. 1, 1966;—1966, p. 26, Act 12, Eff. Sep. 1.

Sections licensed and regulated residential building contractors and residential maintenance and alteration contractors in certain counties.

Act 257, 1959, p. 394; Eff. Mar. 19, 1960.

AN ACT to provide for the certification of psychologists; to define the powers and duties of the superintendent of public instruction; and to provide penalties for violations of this act.

The People of the State of Michigan enact:

338.1001 Psychologist registration act; definitions.

Sec. 1. As used in this act:

(a) "Psychology" means an academic discipline pertaining to the scientific study of the traits, feelings, actions, attitudes, emotions and behavior patterns of vertebrates.

(b) "Psychologist" means a person who applies the academic knowledge of psychological studies to the problems of animal and human behavior in the various applied areas of specialization in the fields of industrial, experimental, clinical, personnel, educational, criminal, social, comparative, personality and human behavior psychology. The treatment of mentally, emotionally or psychosomatically ill persons by means of psychotherapy or by any other means whatsoever is not included in the practice of psychology as defined under this act.

HISTORY: New 1959, p. 394, Act 257, Eff. Mar. 19, 1960.

CITED IN OTHER SECTIONS: Sections 338.1001 to 338.1019 are cited in §§ 16.429 and 500.3475.

338.1002 Superintendent of public instruction; certification and examination of applicants, rules, violations, grants.

Sec. 2. The superintendent of public instruction shall:

(1) Certify applicants at the 3 levels of psychological competence as specified by this act.

(2) Evaluate applicants for certification at the 3 levels of competence as specified by this act. All examinations of applicants provided for in this act shall be conducted by committees designated by the superintendent.

(3) Make such rules and regulations, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as may be necessary to carry out the purposes and enforce the provisions of this act.

(4) Investigate alleged violations of the provisions of this act and conduct hearings in respect thereto when in his discretion it appears to be necessary.

(5) Accept grants from individuals, foundations, institutions and others to be used to carry out the purposes of this act.

HISTORY: New 1959, p. 395, Act 257, Eff. Mar. 19, 1960;—Am. 1965, p. 269, Act 168, Imd. Eff. Jul. 15.

338.1003 Applicants for certification; qualifications.

Sec. 3. Every applicant for certification under this act shall:

(1) Be of good moral character and reputation.

(2) Be a citizen of the United States or have declared his intention of becoming one.

(3) Be at least 21 years of age.

(4) Meet the minimal educational and experience requirements stated in sections 4, 5 or 6.

HISTORY: New 1959, p. 395, Act 257, Eff. Mar. 19, 1960.

338.1004 Applicants for certification; consulting psychologists, additional requirements.

Sec. 4. Except as provided in this act, every applicant for certification as a consulting psychologist shall meet the following requirements, in addition to those specified in section 3.

(1) Be duly graduated with a doctoral degree in psychology, or its equivalent, from a reputable institution generally so recognized at the time of granting of such degree.

(2) Have completed at least 5 years of professional experience, including 1 year of supervised experience, acceptable to the superintendent, with at least 4 years of such experience acquired subsequent to the granting of the doctoral degree or its equivalent.

(3) Have passed an examination in his specialty and in such other fields of psychology as are deemed necessary by the superintendent to assure his professional competence.

(4) Have not failed such an examination within the 6 months next preceding the date of the examination.

(5) Have paid a certificate fee and, where an examination is required, an examination fee. The examination fee and the certificate fee shall be \$25.00 and \$15.00, respectively.

HISTORY: New 1959, p. 395, Act 257, Eff. Mar. 19, 1960;—Am. 1961, p. 169, Act 132, Eff. Sep. 8.

338.1005 Applicants for certification; psychologists, additional requirements.

Sec. 5. Except as provided in this act, every applicant for certification as a psychologist shall meet the following requirements in addition to those specified in section 3:

(1) Be duly graduated with a doctoral degree in psychology or its equivalent from a reputable institution generally so recognized at the time of granting such degree.

(2) Have completed at least 1 year of supervised professional experience acceptable to the superintendent following the granting of the doctoral degree or such predoctoral experience as may be acceptable to the superintendent.

(3) Within the discretion of the superintendent, have passed an examination to assure his professional competence.

(4) Have not failed such an examination within the 6 months next preceding the date of the examination.

(5) Have paid a certificate fee and, where an examination is required, an examination fee. The examination fee and the certificate fee shall be \$20.00 and \$15.00, respectively.

HISTORY: New 1959, p. 395, Act 257, Eff. Mar. 19, 1960;—Am. 1961, p. 169, Act 132, Eff. Sep. 8.

338.1006 Applicants for certification; psychological examiner or technician, additional requirements.

Sec. 6. Except as provided in this act, every applicant for certification as a psychological examiner or technician shall meet the following requirements in addition to those specified in section 3:

(1) Be duly graduated with a master's degree in psychology or its equivalent from a reputable institution generally so recognized at the time of granting such degree.

(2) Have completed at least 1 year of supervised professional experience acceptable to the superintendent either before or after the granting of the master's degree.

(3) Within the discretion of the superintendent, have passed an examination to assure his professional competence.

(4) Have not failed such an examination within the 6 months next preceding the date of the examination.

(5) Have paid a certificate fee and, where an examination is required, an examination fee. The examination fee and the certificate fee shall be \$15.00 and \$10.00, respectively.

HISTORY: New 1959, p. 396, Act 257, Eff. Mar. 19, 1960.

338.1007 Supervised professional experience requirement; advance approval.

Sec. 7. Any person desiring to fulfill the supervised professional experience requirement for certification under the provisions of this act may apply to the superintendent for advance approval of the situation in which he intends to gain his supervised professional experience. Prior to approval the superintendent may require an examination to establish the educational qualifications of the applicant. Experience gained in an approved situation shall be credited toward the supervised professional experience requirements of this act. The superintendent may revoke his approval at any time, but experience gained by an applicant up to the time that notice of the superintendent's

revocation of approval shall have been mailed to him by registered or certified mail at his last known address, shall be credited toward the supervised professional experience requirement.

HISTORY: New 1959, p. 396, Act 257, Eff. Mar. 19, 1960.

338.1008 Certificates; with or without examination, related disciplines.

Sec. 8. (1) For a period of 2 years after the effective date of this act, the superintendent may certify, with or without examination as consulting psychologists, psychologists and psychological examiners or technicians, any person:

- (a) Who meets the requirements of subdivisions (1), (2) and (3) of section 3.
- (b) Who by the quality and duration of his experience is judged by the superintendent to have qualifications equivalent to those offered by the educational requirements of the provisions of this act governing certification at the various levels.
- (c) Who has been engaged in full-time psychological work at the appropriate level for at least 5 years within the 10-year period next preceding the effective date of this act.

(d) Who pays the certificate fees required under sections 3, 4 or 6 of this act.

(e) Any applicant denied certification under this section shall upon written request be afforded a hearing as provided for under section 10 of this act.

(2) When an applicant for certification under this act is a person whose academic preparation and field of practice represents a joint contribution of psychology and some other academic discipline, the designated academic degree in an allied field shall be accepted as fulfilling the educational requirement of certification, if the applicant's graduate training includes a substantial amount of psychology. The examination for applicants in such categories shall be prepared and evaluated by a committee which shall include at least 1 qualified representative of the related discipline, who shall be designated by the superintendent.

HISTORY: New 1959, p. 396, Act 257, Eff. Mar. 19, 1960;—Am. 1961, p. 169, Act 132, Eff. Sep. 8.

338.1008a Certificates; reciprocity agreements.

Sec. 8a. The superintendent may certify, with or without examination, at any of the 3 levels of competence specified in this act any person who is duly licensed or certified by a board of another state under similar conditions if such state grants reciprocal certification or licensing to psychologists certified in this state, or who has been granted a diploma by the American board of examiners in professional psychology, incorporated, if the person:

- (a) Meets the requirements of subdivisions (1), (2) and (3) of section 3.
- (b) Produces evidence satisfactory to the superintendent that he has such experience, education and ability as would qualify him for certification at the level for which certification is sought.
- (c) Pays the certificate fees required under sections 4, 5 or 6 of this act.

HISTORY: Add. 1961, p. 169, Act 132, Eff. Sep. 8.

338.1009 Certificates; annual renewal fee, nonpayment, reinstatement.

Sec. 9. (1) All persons certified under the provisions of this act shall pay to the superintendent, on or before December 31 of the year in which they are certified and on or before December 31 of each year thereafter, an annual certification renewal fee of \$25.00 for certified consulting psychologists and \$15.00 for certified psychologists and certified psychological examiners or technicians. Upon receipt of the fee, the superintendent shall issue an annual fee certificate.

All fees and other moneys received by the superintendent of public instruction under this act shall be promptly forwarded to the state treasurer and credited to the gen-

eral fund and shall be deposited by him in the state treasury to be disbursed in such manner and for such purposes as are provided by law.

(2) Any psychologist certified under this act who fails to pay the annual fee within 30 days of the due date shall be sent a written notice by certified mail to his business address last recorded with the superintendent. If the fee is not paid within 30 days after the notice, the psychologist shall be suspended automatically from certification. He shall not be suspended if he is on active duty as a member of the armed services.

(3) A psychologist suspended for nonpayment of the annual fee may be reinstated without examination if:

(a) He pays the fee for the current period and a penalty fee equal in amount to the annual fee.

(b) The time elapsing between suspension and the application for renewal does not exceed 2 years.

(c) He has not violated any of the provisions of this act.

(4) If a psychologist does not apply for reinstatement within 2 years after he has been suspended, his certification shall be automatically revoked.

HISTORY: New 1959, p. 397, Act 257, Eff. Mar. 19, 1960.

338.1010 Certificates; grounds for revocation or suspension.

Sec. 10. The superintendent may withhold, revoke or suspend any certificate issued under the provisions of this act, after giving reasonable notice and opportunity to be heard, to any person who:

(1) Becomes unfit or incompetent to practice psychology by reason of:

(a) Acts of gross immorality;

(b) Habitual intoxication;

(c) Habitual use of narcotics or habit-forming drugs;

(d) Mental illness; or

(e) Negligent or wrongful actions in the performance of his duties.

(2) Is convicted of a felony or any other crime involving moral turpitude in the courts of this or any other state of the United States.

(3) Commits fraud or deception in obtaining a certificate under the provisions of this act.

(4) Uses a certificate under a false or assumed name, or impersonates another psychologist of a like or different name, certified under the provisions of this act.

(5) Violates any of the provisions of this act.

(6) Is guilty of dishonorable or unprofessional conduct.

HISTORY: New 1959, p. 397, Act 257, Eff. Mar. 19, 1960.

338.1011 Titles of certified persons.

Sec. 11. No person may use the titles, "certified consulting psychologist", "certified psychologist", "certified psychological examiner" or "certified psychological technician" unless he has a certificate specifying him to be such under the provisions of this act. Certified psychological examiners or technicians may use the title "certified psychological assistant" in any case where they are permitted to use their certification titles under the provisions of this act.

HISTORY: New 1959, p. 398, Act 257, Eff. Mar. 19, 1960.

338.1012 Advertising; representations.

Sec. 12. No person, other than an active certified consulting psychologist, may advertise or represent himself to the public in any way which will lead the public to believe that he is a psychologist or that he is rendering or offering to render psychologi-

cal services. A person is so advertising or representing himself within the meaning of this section if:

(a) He uses or allows to be used in describing himself or his services in any kind of advertising or representation such terms as, by way of illustration but not of limitation, psychologist and psychological, psychoconsultant and psychoconsultation, psychotechnician and psychotechnical, psychometrician and psychometric, psychophysicist and psychophysical; and

(b) In connection with such advertising or representation, he renders or offers to render services for or in expectation of a fee or anything of value.

HISTORY: New 1959, p. 398, Act 257, Eff. Mar. 19, 1960.

338.1013 Corporations; rendition of psychological services to public.

Sec. 13. No corporation or other legal entity other than a recognized hospital, school, college or university, or a subdivision of the federal, state or local government, or a charitable, voluntary or nonprofit organization serving benevolent and charitable purposes, may advertise or represent itself to the public in any way which will lead the public to believe that it is rendering or offering to render psychological services to the public unless such services are performed by or under the immediate supervision of a certified consulting psychologist. A corporation or other legal entity is so advertising or representing itself within the meaning of this section if:

(a) It uses or allows to be used in describing itself or its services in any kind of advertising or representation such terms as, by way of illustration but not of limitation, psychological, psychoconsultation, psychotechnical, psychometric or psychophysical; and

(b) In connection with such advertising or representation, it renders or offers to render services for or in expectation of a fee or anything of value.

HISTORY: New 1959, p. 398, Act 257, Eff. Mar. 19, 1960.

338.1014 Certificated titles; uses permitted by uncertified persons.

Sec. 14. (1) Any person may use the terms specified in section 12 in connection with any publication or address before public or private groups, if the publication or address is not used as a means to procure clients or patients for the purpose of rendering services to them on an individual basis.

(2) A person who is an employee of another person, corporation or other legal entity, may use such terms within the scope of his employment in respect to services rendered to his employer or to fellow employees so long as the employment does not involve relationships with or services rendered to persons who are not employees or potential employees of the employer.

(3) An employee of a recognized hospital, school, college or university or of any government, federal, state or local, or of any charitable, voluntary or nonprofit organization serving benevolent and charitable purposes, who has an employment title which would come within the prohibition of this act, may use his employment title in conjunction with services performed within the scope of his employment even though such employee is not certified under this act.

(4) A psychologist who is not a resident of the state, but who is duly licensed or certified by a board of another state which grants reciprocal certification or licensing under similar conditions to psychologists certified in this state, may offer professional services in this state for not more than 30 days in any calendar year without violating the provisions of this act. However, such persons shall be responsible for reporting to the superintendent the nature and extent of their practice if it exceeds 5 days within any calendar year.

(5) Any active certified psychological examiner or technician or certified psychologist may use his certification title only in conjunction with services rendered under the immediate supervision of an active certified consulting psychologist.

(6) Active certified psychologists and certified psychological examiners or technicians may use their certification titles only:

(a) In conjunction with services rendered in obtaining the supervised professional experience required for certification at the next higher level of competence under the provisions of this act, if they are registered under the provisions of section 7 of this act; and

(b) In the situations described in subsections (1), (2), (3) and (4) of this section.

HISTORY: New 1959, p. 398, Act 257, Eff. Mar. 19, 1960;—Am. 1965, p. 269, Act 168, Imd. Eff. Jul. 15.

338.1014a Social psychologist; persons permitted to use name, exceptions.

Sec. 14a. (a) This act is not to be construed as restricting the use of the term “social psychologist” by a person (1) who has been duly graduated with a doctoral degree in sociology or social psychology from an institution whose graduate credits in sociology or social psychology are acceptable by a state university in this state, and (2) who has passed a comprehensive examination in the field of social psychology as a part of the requirements for the doctoral degree or has had equivalent specialized training in social psychology, and (3) who has notified the department of licensing and regulation of his intention to use the term “social psychologist” and filed with it a statement of the facts demonstrating his compliance with prerequisites (1) and (2) of this subsection, and (4) who is a citizen of the United States or has declared his intention of becoming one, and (5) is at least 21 years of age.

(b) This exception is not available to a person who has been found by a court of this or any state of the United States (1) to have committed acts of gross immorality, (2) to be habitually intoxicated, (3) to be a habitual user of narcotics or other habit forming drugs, (4) to be insane, (5) to have been convicted of a felony or other crime involving moral turpitude, or (6) to have engaged in dishonorable and unprofessional conduct. An action to determine whether any person asserting the exception of this section has violated any provision of this act may be brought by the prosecuting attorney of any county in this state.

(c) The department of licensing and regulation, after reviewing the statements submitted to it, shall notify a person claiming an exception under this section whether or not, in its opinion, such person fulfills the requirements for the exception.

HISTORY: Add. 1966, p. 100, Act 76, Imd. Eff. Jun. 10.

338.1015 Psychological tools; tests, instruments or techniques, general use.

Sec. 15. Nothing in this act shall be construed as restricting the right of any person, corporation or other legal entity to use tools, tests, instruments or techniques usually denominated “psychological” so long as such person, corporation or other legal entity does not advertise or represent himself or itself to the public in a manner prohibited by this act.

HISTORY: New 1959, p. 399, Act 257, Eff. Mar. 19, 1960.

338.1016 Violation of act; penalty.

Sec. 16. Any person violating this act is guilty of a misdemeanor.

HISTORY: New 1959, p. 399, Act 257, Eff. Mar. 19, 1960.

338.1017 Practice of medicine.

Sec. 17. (a) Nothing in this act shall restrict the rights of persons licensed to practice medicine as defined under the laws of this state.

(b) No person certified under this act shall engage in the practice of medicine, including psychiatry as defined under the laws of this state.

HISTORY: New 1959, p. 399, Act 257, Eff. Mar. 19, 1960;—Am. 1965, p. 270, Act 168, Imd. Eff. Jul. 15.

338.1018 Confidential communication; waiver of privilege.

Sec. 18. No psychologist certified under the provisions of this act shall be compelled to disclose any information which he acquires from persons consulting him in his professional capacity and which information was necessary to enable him to render services in his professional capacity to such persons. Any information may be disclosed with the consent of the person so confiding if the person is 21 years of age or over or if the person is a minor, with the consent of his parent or guardian. After the decease of the person in a contest upon the question of admitting the will of such person to probate, any or all of the heirs at law of such person, whether proponents or contestants of his will, and the personal representative of such deceased person, may waive the privilege hereinbefore created.

HISTORY: New 1959, p. 399, Act 257, Eff. Mar. 19, 1960.

338.1019 Psychologist registration act; short title.

Sec. 19. This act shall be known and may be cited as the "psychologist registration act".

HISTORY: New 1959, p. 399, Act 257, Eff. Mar. 19, 1960.

Act 292, 1966, p. 483; Imd. Eff. Jul. 14.

AN ACT to provide for the certification of marriage counselors; to define marriage counseling; to provide for a board for marriage counselors; to prescribe the duties of the board; and to provide penalties for violations of this act.

The People of the State of Michigan enact:

338.1031 Marriage counseling certification act; short title.

Sec. 1. This act shall be known and may be cited as the "marriage counseling certification act".

HISTORY: New 1966, p. 483, Act 292, Imd. Eff. Jul. 14.

338.1032 Marriage counseling certification act; definitions.

Sec. 2. As used in this act:

(a) "Marriage counseling" means the providing of guidance, testing, discussions, therapy, instruction or the giving of advice, the principal purpose of which is to avoid, eliminate, relieve, manage or resolve marital conflict or discord or to create, improve or restore marital harmony or to prepare couples for marriage.

(b) "Advertise" means, but is not limited to, the issuing or causing to be distributed of any card, sign or device to any person, or the causing, permitting or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or on radio or television, or by advertising by any other means.

(c) "Board" means the board of marriage counselors created by this act.

HISTORY: New 1966, p. 483, Act 292, Imd. Eff. Jul. 14.

338.1033 Certification required.

Sec. 3. After January 1, 1967, no person shall engage in counseling on marriage and family problems or advertise the performance of that service without having a certification as provided in this act.

HISTORY: New 1966, p. 483, Act 292, Imd. Eff. Jul. 14.

338.1034 Titles; use without certification prohibited, exceptions.

Sec. 4. Except as otherwise specifically provided in this act, only persons certified under this act shall advertise the following titles: Marriage counselor, advisor or consultant; a family counselor, advisor or consultant; a family guidance counselor, advisor

or consultant; a marriage guidance counselor, advisor or consultant; a family relations counselor; a marriage relations counselor, advisor or consultant; or any other name, style or description denoting that the person so advertising engages in marriage counseling. Except as otherwise specifically provided in this act, only a person certified under this act shall advertise himself, hold himself out or describe himself as offering marriage or family counseling services or advice; marriage or family guidance service or advice; marriage or family relations services or advice; marriage or family problems service or advice; marriage or family relations advice or assistance; services in the alleviation of any marital or family problem; or services of like import or effect.

HISTORY: New 1966, p. 483, Act 292, Imd. Eff. Jul. 14.

338.1035 Persons exempt from act.

Sec. 5. This act shall not apply to any certified consulting psychologist or any attorney or physician admitted or licensed to practice in this state, if he does not advertise or hold himself out as marriage counselor and does not collect a fee for marriage counseling. It shall not apply to any psychologist or social worker in the course of employment with a governmental agency or any reputable social service agency regularly providing such services as an agency. Nor shall it apply to any duly ordained clergyman if the advice or counsel is incidental to his duties as a clergyman, and if he does not advertise as a marriage counselor or any of the titles listed in section 4. Nor shall it apply to apprentices meeting the academic requirements of this act in training for marriage counseling and who provide such services as part of their training.

HISTORY: New 1966, p. 484, Act 292, Imd. Eff. Jul. 14.

338.1036 Applicants for certification; qualifications, proof required.

Sec. 6. Any person wishing to apply for certification as a marriage counselor shall meet the following qualifications and submit proof satisfactory to the board that:

- (a) He is of good moral character.
- (b) He is a resident of the state.

(c) He meets the following educational qualifications: A doctorate in psychology, sociology, psychiatry, marriage or pastoral counseling, or another equivalent doctorate together with 5 years' professional experience including 1 year specialization in marriage counseling under the direct supervision of a certified marriage counselor; or a masters degree in social work or marriage or pastoral counseling from an institution approved by the board together with 5 years' professional experience.

HISTORY: New 1966, p. 484, Act 292, Imd. Eff. Jul. 14.

338.1037 Board for marriage counselors; members; appointment, qualifications, vacancies, meetings.

Sec. 7. The board for marriage counselors is created within the department of licensing and regulation to consist of 7 members, 4 of whom shall be in the field of marriage counseling and eligible for certification under the provisions of this act, and 1 from each of the professions of divinity, law and medicine, to be appointed by the governor with the advice and consent of the senate to serve for a term of 2 years. The members of the board shall be residents of the state, professionally qualified with at least 7 years' experience in their profession. Of the members first appointed 4 shall be appointed for a term of 2 years and 3 for 1 year. Vacancies shall be filled for the unexpired portion of the term in the same manner as the original appointment. The board shall meet at least once each year.

HISTORY: New 1966, p. 484, Act 292, Imd. Eff. Jul. 14;—Am. 1967, p. 88, Act 69, Imd. Eff. Jun. 21.

338.1038 Marriage counselors' board; regulatory powers.

Sec. 8. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of this act in accordance with Act No. 88 of the Public Acts of

1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1906, p. 484, Act 292, Imd. Eff. Jul. 14.

338.1039 Marriage counselors' board; certificate issuance, revocation or suspension, election of officers, term, expense.

Sec. 9. The board shall issue certifications to qualified marriage counselors, issue annual fee certifications, and revoke or suspend certifications as provided in section 11. The board shall elect such officers from its members as it deems advisable. Officers shall hold office at the pleasure of the board. Board members shall receive their necessary traveling expenses while on the business of the board.

HISTORY: New 1906, p. 484, Act 292, Imd. Eff. Jul. 14.

338.1040 Certification within one year of effective date of act.

Sec. 10. The board may certify any person who applies for certification within 1 year of the effective date of this act if it determines that the applicant meets standards of qualification substantially equivalent to those in section 6.

HISTORY: New 1906, p. 484, Act 292, Imd. Eff. Jul. 14.

338.1041 Certificates; revocation or suspension, causes.

Sec. 11. The board may revoke or suspend the certification of any marriage counselor for any of the following causes:

(a) Conviction of a felony or misdemeanor involving moral turpitude, the record of such conviction being conclusive evidence thereof.

(b) Violations of any provision of this act.

(c) Obtaining a certification by fraud or deceit.

(d) Habitual use of drugs or intoxicants to the extent of rendering him unfit to practice marriage counseling.

(e) Malpractice or misconduct in the performance of marriage counseling.

(f) Obtaining any fee by fraud or misrepresentation.

(g) Violation of the rules and regulations established pursuant to section 8.

HISTORY: New 1906, p. 485, Act 292, Imd. Eff. Jul. 14.

338.1042 Certificates; original and renewal fees.

Sec. 12. A fee of \$25.00 shall be paid for original certification. Certification shall be renewed annually upon the payment of a renewal fee of \$25.00 on or before January 31 of each year.

HISTORY: New 1906, p. 485, Act 292, Imd. Eff. Jul. 14.

338.1043 Privileged communications; court referral, report.

Sec. 13. Any communication between the marriage counselor and the person or persons counseled is confidential. Its secrecy shall always be preserved. This privilege is not subject to waiver, except where the counselor is a party defendant to a civil, criminal or disciplinary action arising from such counseling in which case the waiver is limited to that action. Notwithstanding any other law to the contrary, if cases are counseled upon court referral, the marriage counselor may submit to the appropriate court a written evaluation of the prospects or prognosis of a particular marriage without divulging facts or revealing confidential disclosures. Attorneys representing spouses who are the subject of such an evaluation shall have the right to receive a copy of the report.

HISTORY: New 1906, p. 485, Act 292, Imd. Eff. Jul. 14.

338.1044 Violation of act; injunction.

Sec. 14. In addition to other proceedings provided in this act, whenever any person has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of this act, the circuit court of the county where the acts or practices have taken place, or are about to take place, may issue an injunction or other appropriate order restraining such conduct on application of the attorney general or the county prosecuting attorney, upon complaint of the board.

HISTORY: New 1966, p. 485, Act 292, Imd. Eff. Jul. 14.

338.1045 Violation of act; misdemeanor.

Sec. 15. Any person who engages in marriage counseling and advertises as such in violation of any provision of this act is guilty of a misdemeanor.

HISTORY: New 1966, p. 485, Act 292, Imd. Eff. Jul. 14.

Act 330, 1968, p. 598; Imd. Eff. Jul. 12.

AN ACT to license and regulate private security guards, private police, special police, security technicians, watchmen, patrol service and private security guard agencies; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by such individuals engaged in private security activity; to establish minimum qualifications for individuals as well as private agencies engaged in private security work; and to prescribe the powers and duties of the department of state police.

The People of the State of Michigan enact:

338.1051 Private security guard act of 1968; short title.

Sec. 1. This act shall be known and may be cited as the "private security guard act of 1968".

HISTORY: New 1968, p. 598, Act 330, Imd. Eff. Jul. 12.

338.1052 Private security guard act; definitions.

Sec. 2. As used in this act:

(a) "Private police, special police, watchmen, patrol service agencies, private security guards and private security guard agencies" means, separately or collectively, as an individual or an employer of employees in the business of furnishing, for hire, fee or reward, private police, special police, watchmen, patrol service, private security guards or other persons hired to prevent the theft or the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, notes, choses in action or other valuable documents, papers and articles of value.

(b) "Private police or special police or security guards or watchmen" employed by investment, financial concerns, or other business firms, not including banks or savings and loan associations, whose duties require their employees as designated above, to proceed from 1 point to another, including convoy activity for protection of choses in action or other designated reasons, and in so doing travel on public property, shall be included under this act.

(c) All businesses furnishing alarm systems for protection of persons and property whose employees and security technicians travel on public property and thoroughfares in the pursuit of their duties for such business firms shall be included under this act. This shall not include a communications common carrier in providing communications channels under tariffs for the transmission of signals in connection with an alarm system nor a company who merely installs an alarm system and does not answer emergency alarms.

(d) The term "business of private police, special police, watchmen, patrol service, private security guards, security technicians and private security guard agencies" shall mean and include any person, firm, company, partnership or corporation engaged in the furnishing of such service or performed by persons as defined in subdivisions (a), (b) and (c) of this section with or without the assistance of any employee or employees.

(e) "Licensee" means and includes any person, firm, company, partnership or corporation licensed under the provisions of this act.

(f) "Department" means the department of state police.

(g) Railroad policemen appointed and commissioned under the provisions of Act No. 114 of the Public Acts of 1941, being sections 470.51 to 470.61 of the Compiled Laws of 1948, are exempt from the provisions of this act.

HISTORY: New 1968, p. 598, Act 330, Imd. Eff. Jul. 12;—Am. 1969, p. 336, Act 168, Imd. Eff. Aug. 5.

338.1053 License required.

Sec. 3. No person, firm, company, partnership or corporation shall engage in the business of private security guard, private police, special police, patrol service or any agency furnishing such services, notwithstanding the name or title used in describing such agency or notwithstanding the fact that other functions and services may also be performed for fee, hire or reward, nor advertise his business to be that of private security guard agency or any agency without having first obtained from the department a license so to do, as hereinafter provided, for each bureau, agency, subagency, office and branch office to be owned, conducted, managed or maintained by such person, firm, company, partnership or corporation for the conduct of such business.

HISTORY: New 1968, p. 599, Act 330, Imd. Eff. Jul. 12.

338.1054 Separate licenses for different services; private detectives.

Sec. 4. The department shall have the power to issue separate licenses to private police, special police, patrol services and to private security guard agencies. Nothing in this section shall prevent a private detective or private investigator licensed under the laws of this state from performing the services of private security guard or agency as defined under this act and the license fee shall include both services; however, a private security guard or agency may not perform the services of a private detective or private investigator as defined in Act No. 285 of the Public Acts of 1965, being section [sic] 338.821 to 338.850 of the Compiled Laws of 1948, without obtaining a detective license so to do.

HISTORY: New 1968, p. 599, Act 330, Imd. Eff. Jul. 12.

338.1055 License; issuance, term, local licenses.

Sec. 5. The department, upon proper application and upon being satisfied that the applicant is entitled to receive same, shall issue the applicant a license to conduct business as a private security guard or agency for a period of 2 years from date of issuance. Upon the issuance of a license to conduct business as a private security guard or agency, the applicant shall not be required to obtain any other license from any municipality or political subdivision of this state.

HISTORY: New 1968, p. 599, Act 330, Imd. Eff. Jul. 12.

338.1056 License; qualifications.

Sec. 6. (1) The department shall issue a license to conduct business as a private security guard or agency, if it is satisfied that the applicant is a person, or if a firm, partnership, company or corporation, the sole or principal license holder is a person who meets all of the following qualifications:

- (a) Is a citizen of the United States.
- (b) Is at least 25 years of age.

- (c) Has a high school education or equivalent.
- (d) Is currently, and has been for at least 1 year, a resident of this state.
- (e) Has not been under any sentence for the commission of a felony within 5 years prior to his application, including parole, probation or actual incarceration.
- (f) Has not been dishonorably discharged from any branch of the United States military service.
- (g) Has been lawfully engaged:
- (i) In the private security guard or agency business on his own account for a period of not less than 3 years; or
- (ii) In the private security guard or agency business for a period of not less than 3 years as an employee of the holder of a certificate of authority to conduct a private security guard or agency business, and has had experience reasonably equivalent to at least 4 years of full-time guard work in a supervisory capacity with rank above that of patrolman; or
- (iii) In law enforcement employment on a full-time basis for at least 4 years for a city, county or state government, or for the United States government; or
- (iv) In the private security guard or agency business as an employee or on his own account, or as a security administrator in private business for at least 2 years on a full-time basis, and is a graduate or its equivalent in the field of police administration or industrial security from an accredited college or university.
- (h) Has posted with the department a bond provided for in this act.
- (j) Has not been adjudged insane unless restored to sanity by court order.

(2) In the case of a person, firm, partnership, company or corporation now doing or seeking to do business in this state, the resident manager shall comply with all qualifications of this section.

HISTORY: New 1968, p. 800, Act 330, Imd. Eff. Jul. 12;—Am. 1969, p. 336, Act 168, Imd. Eff. Aug. 5.

338.1057 License; application, references, investigation, approval of local officials.

Sec. 7. The department shall prepare a uniform application, and shall require the person filing application to list as references at least 5 reputable citizens who are residents of this state and have known the applicant for a period of at least 5 years, and that the applicant is honest, of good character and competent, and who are not related or connected to the applicant by blood or marriage. Upon receipt of the application, the department shall investigate as to the applicant's reputation for truth, honesty, integrity and ethical dealing. The application and investigation shall not be complete until the applicant has received the approval of the prosecuting attorney and the sheriff of the county within which the principal office of the applicant is to be located. If the office is to be located in a city or village, the approval of the chief of police may be obtained instead of the sheriff. Branch offices and branch managers shall be similarly approved.

HISTORY: New 1968, p. 800, Act 330, Imd. Eff. Jul. 12.

338.1058 License; corporate applicant regulations; photographs required of individuals.

Sec. 8. If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, and the name of the city, as well as indicate the location of the bureau, agency, subagency, office or branch office for which the license is desired, the amount of the corporation's outstanding paid-up capital and stock, and whether paid in cash

or property, and if in property, the nature of the same, and shall be accompanied by a duly certified copy of a certificate of incorporation.

Each person or individual signing an application shall, together with such application, submit to the department his photograph, taken within 6 months prior thereto in duplicate, in passport size.

HISTORY: New 1988, p. 800, Act 330, Imd. Eff. Jul. 12.

338.1059 License; issuance; fees, bond, insurance, branch offices, refunds.

Sec. 9. (1) The department, when satisfied of the good character, competence and integrity of the applicant, or if the applicant is a firm, partnership or corporation, of the individual members or officers thereof, shall issue to the applicant a certificate of license upon the applicant's paying to the department for each certificate of license of \$100.00 if a person, or \$200.00 if a firm, partnership or corporation, and upon the applicant's executing, delivering and filing in the office of the department a bond in the sum of \$5,000.00 if a person, or \$10,000.00 if a firm, partnership or corporation, conditioned for the faithful and honest conduct of such business by such applicant, which bond shall be approved by the state. In lieu of such bond, applicants may furnish a policy of insurance issued by an insurer authorized to do business in this state, naming the licensee and the state as co-insureds in the amount of \$20,000.00 property damages, \$100,000.00 for injury to or death of 1 person, and \$200,000.00 for injuries to or deaths of more than 1 person arising out of the operation of such private security guard or agency. The license shall be valid for 2 years, but shall be revocable at all times by the department for cause shown. The bonds shall be taken in the name of the people of the state, and any person injured by the wilful, malicious and wrongful act of the principal or any of his agents or employees may bring an action on the bond or insurance policy in his own name to recover damages suffered by reason of such wilful, malicious and wrongful act. The license certificate shall be in a form to be prescribed by the department and shall specify the full name of the applicant, the location of the principal office or place of business and the location of the bureau, agency, subagency, office or branch office for which the license is issued, the date on which it will expire and the name of the person filing the statement required by this act upon which the license is issued.

(2) If a licensee desires to open a branch office or subagency, he may receive a certificate of license for that branch or subagency, following approval as required in section 7, and upon payment to the department of an additional fee of \$25.00 for each additional license. The additional license shall be posted in a conspicuous place in the branch office or subagency and shall expire concurrent with the date of the initial license.

(3) If the license is revoked or terminated for any cause, no refund shall be made of the license fees or any part thereof.

HISTORY: New 1988, p. 601, Act 330, Imd. Eff. Jul. 12.

338.1060 License; revocation, grounds; surrender; noncompliance, misdemeanor.

Sec. 10. (1) The department may revoke any license issued under this act if it determines, upon good cause shown, that the licensee or his manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners or its manager, has:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provision of this act.

(c) Been while licensed or employed by a licensee convicted of, or has knowingly continued the employment of any individual convicted of, a felony, high misde-

meanor, or any crime or crimes involving moral turpitude, dishonesty or fraud, unauthorized divulging or selling of information or evidence, impersonation of a law enforcement officer or employee of the United States or any state or political subdivision thereof, illegally using, carrying or possessing a dangerous weapon, habitual drunkenness, using, selling or possessing narcotics, or illegally using an excessive and unnecessary degree of force.

(2) Upon notification from the department of the revocation of the license, the licensee, within 48 hours, shall surrender to the department the certificate of license and his identification card. Failure to comply with the directions of the department shall be a misdemeanor.

HISTORY: New 1968, p. 601, Act 330, Imd. Eff. Jul. 12.

338.1061 License; fee, refund condition.

Sec. 11. A license fee shall not be refunded unless a showing is made of ineligibility to receive the license by failure to meet the requirements of this act, or by a showing of mistake, inadvertence or error in the collection of the fee.

HISTORY: New 1968, p. 602, Act 330, Imd. Eff. Jul. 12.

338.1062 Posting certificate of license.

Sec. 12. Upon receipt of a certificate of license from the department the licensee shall post it in a conspicuous place in his office.

HISTORY: New 1968, p. 602, Act 330, Imd. Eff. Jul. 12.

338.1063 Change in name or location; report.

Sec. 13. Any change in the name or location of the agency or of a branch office or subagency shall be reported to the department at least 10 days prior to the change becoming effective, upon receipt of which the department shall prepare and forward a certificate showing the change, and the licensee shall return his old certificate within 3 business days after the change.

HISTORY: New 1968, p. 602, Act 330, Imd. Eff. Jul. 12.

338.1064 Identification card; issuance, form and contents; custody, duplicates.

Sec. 14. (1) Upon issuing a certificate of license, the department shall also issue to the principal license holder, or if the agency is a partnership, to each partner, or if the license holder is a corporation, to each resident officer or manager thereof, an identification card.

(2) The identification card shall be in such form and contain such information as may be prescribed by the department and shall be recallable by the department for the same reasons as the certificate of license.

(3) Only 1 identification card shall be issued for each person entitled to receive it, and the licensee shall be responsible for the maintenance, custody and control of the identification card, and shall neither let, loan, sell nor otherwise permit unauthorized persons or employees to use it. Nothing in this section shall be construed to prevent each agency from issuing its own identification cards, if they are approved as to form and content by the department, to their respective employees. The individual card shall not bear the seal of the state, but the employee shall be designated as either private police, security guard, watchman or patrolman, security technician or whichever is applicable.

(4) Upon proper application and for sufficient reasons shown, the department may issue duplicates of the original certificate of license or identification card.

HISTORY: New 1968, p. 602, Act 330, Imd. Eff. Jul. 12.

338.1065 Nonassignability of license.

Sec. 15. A license issued under the provisions of this act is not assignable, and is personal to such licensee.

HISTORY: New 1968, p. 602, Act 330, Imd. Eff. Jul. 12.

338.1066 Use of unauthorized badges, shields, cards or certificates; penalty.

Sec. 16. No person shall manufacture a badge or shield which purports to indicate that the holder is a licensed private security guard or agency or any of those persons as listed in section 2 of this act. No person shall display for sale any badge, shield, identification card or certificate of license, by which the purchaser might mislead the public into thinking that the holder is a licensed private security guard or agency. No person, company, individual or business shall distribute an identification card or certificate of license in this state except the department. No person shall knowingly buy or receive from any source any form of spurious identification as a private security guard or agency. Any violation of this section is a misdemeanor, and any unauthorized identification card or certificate of license shall be confiscated by any law enforcement officer of the state. Each day the violation continues shall constitute a separate offense.

HISTORY: New 1968, p. 602, Act 330, Imd. Eff. Jul. 12.

338.1067 Licensee; employment of assistants; qualifications, records; false statements, misdemeanor.

Sec. 17. (1) A licensee may employ as many persons as he deems necessary to assist him in his work of private security guard or agency and in the conduct of his business, and at all times during the employment may be accountable for the good conduct in the business of each person so employed.

(2) All employees shall meet the qualifications outlined in subsections (a), (e), (f) and (j) of section 6 of this act, be at least 21 years of age or 18 years of age with special permission of the department, and have had at least an eighth grade education or its equivalent.

(3) A licensee shall keep adequate and complete personnel information on all persons employed by him.

(4) If a licensee falsely states or represents that a person is or has been in his employ, the false statement or representation shall be sufficient cause for the revocation of the license. Any person falsely stating or representing that he is or has been a licensed private security guard or agency or employed by a holder of a license is guilty of a misdemeanor.

HISTORY: New 1968, p. 602, Act 330, Imd. Eff. Jul. 12;—Am. 1969, p. 337, Act 168, Imd. Eff. Aug. 5.

338.1068 Unqualified employees; fingerprints, fee, refusal to surrender identification.

Sec. 18. (1) No licensee shall knowingly employ any person who fails to meet the requirements of section 17 of this act. The licensee shall cause fingerprints to be taken and processed by the local law enforcement agency of all prospective employees, which fingerprints shall be submitted to the department of state police for processing and approval. A charge not to exceed \$1.00 per person may be required by the local law enforcement agency for the fingerprint process. Individuals may be employed on a temporary basis following the submission of fingerprints to the department of state police and pending a denial of approval. If an approval is once denied, that individual may not again be employed by the submitting agency except upon receipt of an approved fingerprint clearance.

(2) Any employee who, upon demand, fails to surrender to the licensee his identi-

cation card and any other property issued to him for use in connection with his employer's business is guilty of a misdemeanor.

HISTORY: New 1968, p. 603, Act 330, Imd. Eff. Jul. 12.

338.1069 Uniform and insignia; approval, deadly weapons.

Sec. 19. (1) The particular type of uniform and insignia for employees of a licensee or in the case of an individual, must be approved by the department and shall be such that they will not deceive or confuse the public or be identical with that of any law enforcement officer of the federal government, state or any political subdivision thereof in the community of the license holder. Shoulder identification patches shall be worn on all uniform jackets, coats and shirts and shall include name of the licensee or agency. Shoulder identification patches or emblems shall not be less than 2 inches by 3 inches in size.

(2) A badge or shield shall not be worn or carried by any private policeman, special policeman, watchman, or employee or licensee of any patrol service agency or private security guard agency, unless approved by the director of the department of state police.

(3) Any person licensed as a private security guard or agency is not authorized to carry a deadly weapon unless he is licensed to do so in accordance with the laws of this state.

(4) Nothing in this act will prevent a licensee from authorizing his employee to carry a night stick constructed solely of wood.

HISTORY: New 1968, p. 603, Act 330, Imd. Eff. Jul. 12.

338.1070 Confidentiality of information; false reports, penalty.

Sec. 20. (1) Any person who is or has been an employee of a licensee shall not divulge to anyone other than his employer or former employer, or as the employer shall direct, except as he may be required by law, any information acquired by him during his employment in respect to any of the work to which he shall have been assigned by the employer. Any employee violating the provisions of this section and any employee who wilfully makes a false report to his employer in respect to any work is guilty of a misdemeanor.

(2) Any manager, executive or employee of a licensee who wilfully sells, divulges or otherwise discloses information to other than clients, except as he may be required by law, any information acquired by him or them during employment by the client is guilty of a misdemeanor, and shall be subjected to immediate suspension of license by the department and revocation of license upon satisfactory proof of the offense to the department.

HISTORY: New 1968, p. 603, Act 330, Imd. Eff. Jul. 12.

338.1071 Violations of act; report of convictions.

Sec. 21. The prosecuting attorney of the county in which any conviction for a violation of any provision of this act shall, within 10 days thereafter, make and file with the department a report showing the date of such conviction, the name of the person convicted and the nature of the charge.

HISTORY: New 1968, p. 604, Act 330, Imd. Eff. Jul. 12.

338.1072 Advertising regulations.

Sec. 22. Every advertisement by a licensee soliciting or advertising for business shall contain his business name and address as they appear in the records of the department.

Any licensee shall, on notice from the department, discontinue any advertising or the use of any advertisement, seal or card, which in the opinion of the department

may tend to mislead the public. Failure to comply with any such order of the department shall be cause for revocation of the license of such licensee.

Any person who is not licensed under this act, who advertises his business to be that of a private security guard or agency, irrespective of the name or title actually used, is guilty of a misdemeanor.

HISTORY: New 1968, p. 604, Act 330, Imd. Eff. Jul. 12.

338.1073 Trade names; approval.

Sec. 23. No licensee shall use any designation or trade name which has not been first approved by the department, nor shall any licensee use any designation or trade name which implies any association with any municipal, county or state government or the federal government, or agency thereof.

HISTORY: New 1968, p. 604, Act 330, Imd. Eff. Jul. 12.

338.1074 Compliance with labor laws.

Sec. 24. Each person, partnership, firm or corporation licensed and operating under the provisions of this act where there is an employer-employee relationship is required to comply with the state and federal laws applicable and shall be required to make written records and reports in accordance with same.

HISTORY: New 1968, p. 604, Act 330, Imd. Eff. Jul. 12.

338.1075 License; renewal, fee, bond, term, approval.

Sec. 25. A license granted under the provisions of this act may be renewed by the department upon application therefor by the licensee, and the payment of a renewal fee of \$50.00 if a person, or of \$100.00 if a partnership or corporation, and filing of a renewal surety bond in the amount equivalent to that specified in section 9 of this act.

A renewal license shall be dated as of the expiration date of the previously existing license. For the renewal of a license, the licensee shall submit an application in such form as prescribed by the department, and a license shall be issued forthwith, except that the department may defer the renewal of license if there are uninvestigated complaints then outstanding against the licensee or if there is a criminal complaint then pending against the licensee. The renewal application shall be approved by the sheriff or chief of police and the prosecuting attorney, as required for an initial license.

HISTORY: New 1968, p. 604, Act 330, Imd. Eff. Jul. 12.

338.1076 Deceased licensee; continuation of business, notice, sale.

Sec. 26. Upon the death of an individual of whose qualifications a license under this act has been obtained, the business with which the decedent was connected may be carried on for a period of 90 days by the following: (a) In the case of an individual licensee, the surviving spouse, or if there be none, the executor or administrator of the estate of the decedent; (b) In the case of a partner, the surviving partners; (c) In case of an officer of a firm, company, association, organization or corporation, the officers thereof. Within 10 days following the death of a licensee, the department shall be notified in writing. Such notification shall state the name of the person legally authorized to carry on the business of the deceased.

Upon the authorization of the department, the business may be carried on for a further period of time when necessary to complete any business commitments pending at the death of the decedent.

Nothing in this section shall be construed to restrict the sale of a private security guard agency, if the vendee qualifies for a license under the provisions of this act.

HISTORY: New 1968, p. 604, Act 330, Imd. Eff. Jul. 12.

338.1077 Departmental agents; employment, powers, rules and regulations.

Sec. 27. The department may employ such agents as are necessary to carry out the provisions of this act and to enforce compliance therewith. The department and each agent employed by him, in respect to violations of any of the provisions of this act, has all the powers of a peace officer. All rules and regulations of the department shall be made in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 605, Act 330, Imd. Eff. Jul. 12.

338.1078 Existing agencies; licensing.

Sec. 28. (1) Any private security guard or agency or others as herein defined conducting such business prior to enactment of this act and qualified under section 6 except subdivisions (c) and (g) of subsection (1), shall receive a license from the department automatically upon his filing with the department the application provided for in section 3 and in compliance with section 4, and the payment of the fees and procuring of approved bond as provided for in section 9 within not more than 60 days following effective date of this act.

(2) The requirements as to renewal of license certificates shall apply to all private security guard agencies and others as defined in section 2 of this act.

HISTORY: New 1968, p. 605, Act 330, Imd. Eff. Jul. 12;—Am. 1969, p. 337, Act 168, Imd. Eff. Aug. 5.

338.1079 Applicability of act as to private security police; use of pistols, restriction.

Sec. 29. This act shall not require licensing of any private security police employed for the purpose of guarding the property and employees of their employer and generally maintaining plant security for their employer, provided however, that any person, firm or corporation maintaining a private security police organization may voluntarily apply for licensing under this act. When a private security police employer described and defined in this section provides the employee with a pistol for the purpose of protecting the property of the employer, such pistol shall be considered the property of the employer and the employer shall retain custody thereof, except during the actual working hours of the employee. All such private security people shall be subject to the provisions of section 19, subsection (1) of this act.

HISTORY: New 1968, p. 605, Act 330, Imd. Eff. Jul. 12;—Am. 1969, p. 337, Act 168, Imd. Eff. Aug. 5.

338.1080 Plant security guards; arrest powers, limitations.

Sec. 30. Any private security police officer, as defined in section 29, who is properly licensed under this act shall have the authority to arrest a person without a warrant as set forth for public peace officers in section 15 of chapter 4 of Act No. 175 of the Public Acts of 1927, being section 764.15 of the Compiled Laws of 1948 when such security police officer is on his employer's premises. Such authority shall be limited to his hours of employment as a private police officer and shall not extend beyond the boundaries of the property of his employer, and while such officer is in the full uniform of his employer.

HISTORY: Add. 1969, p. 338, Act 168, Imd. Eff. Aug. 5.

338.1081 Plant security guards; licensing, training.

Sec. 31. Anyone requesting licensing under this act as provided under section 29, or employee of said applicant, shall comply with training requirements as prescribed by the department.

HISTORY: Add. 1969, p. 338, Act 168, Imd. Eff. Aug. 5.

Act 151, 1962, p. 141; Eff. Mar. 28, 1963.

AN ACT to regulate the practice of pharmacy in this state; to create the state board of pharmacy and to prescribe its powers and duties; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

338.1101 Pharmacy act; definitions.

Sec. 1. As used in this act:

- (a) "Board" means the state board of pharmacy.
- (b) "Preceptor" means a registered pharmacist who has been actively engaged in full-time pharmacy practice for at least 2 years and is certified by the board for directing and supervising the internship training of an intern in an approved pharmacy.
- (c) "Device" means instruments, apparatus and contrivances, including their components, parts and accessories, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals or to affect the structure or any function of the body of man or other animals.
- (d) "Drugs" mean:
 - (1) Articles recognized or for which the standards or specifications are prescribed in the official compendium.
 - (2) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.
 - (3) Articles, other than food, intended to affect the structure or any function of the body of man or other animals.
 - (4) Articles intended for use as a component of any article specified in subdivisions (1), (2) or (3); but does not include devices or their components, parts or accessories.
- (e) "Poisonous drug" means any drug in bulk form which is likely to be destructive to adult human life in quantities of 5 grains or less. When, however, the drug is in dosage form, either alone or in combination with other ingredients, the drug or preparation shall not be considered a poisonous drug unless the drug or preparation is likely to be destructive to adult human life in quantities 3 times the recommended 24-hour dose but the drug or preparation must be sold or dispensed by or under the direct supervision of a registered pharmacist.
- (f) "Deleterious drug" means any drug other than a proprietary medicine likely to be destructive to adult human life in quantities of 60 grains or less.
- (g) "Habit forming drug" means any drug which contains any quantity of narcotic or hypnotic substance, including but not limited to alfaeucaine, barbituric-acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any other drug or derivative which has been by the board after investigation found to be, and by regulations under this act, designated as, habit forming.
- (h) "Federal act" means the federal, food, drug and cosmetic act. 52 Stat. 1040 et seq. (1938), 21 U.S.C. 301 et seq. and all amendments thereto.
- (i) "Immediate container" does not include package liners.
- (j) "Label" means a display of written, printed or graphic matter upon the immediate container of any drug or device. Any requirement made by or under authority of this act, that any word, statement or other information appear on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container or wrapper of the retail package of the drug or de-

vice, as displayed for sale, or is easily legible through any outside container or wrapper.

(k) "Labeling" means all labels and other written, printed or graphic matter upon any drug or device or any of its containers or wrappers, or accompanying the drug or device.

(l) "New drug" means:

(1) Any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or

(2) Any drug the composition of which is such that such drug, as a result of investigation to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigation, been used to a material extent or for a material time under such conditions.

(m) "Official compendium" means the United States pharmacopoeia, homeopathic pharmacopoeia of the United States, national formulary, or any supplements thereof existing at the effective date of this act.

(n) "Pharmacy" means any building or portion thereof required to be licensed under the terms of this act wherein the possessing, displaying, compounding, dispensing or retailing of drugs is conducted.

(o) "Physician" means any practitioner licensed to prescribe by the law of this state.

(p) "Dentist" means a person authorized by law to practice dentistry in this state.

(q) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

(r) "Prescription" means an order for drugs or devices written and signed or transmitted by word of mouth, telephone, telegraph or other means of communication by a physician, dentist or veterinarian, to be filled, compounded or dispensed, but if the order is transmitted in other than written form, it shall be recorded in writing and immediately dated by the pharmacist, and such record shall constitute the original prescription.

(s) "President" means the president of the state board of pharmacy.

(t) "Secretary" means the secretary and director of the state board of pharmacy.

(u) "Substitute" means to dispense without prescriber's authorization a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed.

(v) "Manufacturer and wholesaler" means those persons having a factory, laboratory, warehouse or other facility in the state of Michigan.

(w) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(x) "Practice of pharmacy" or "practice of the profession of pharmacy" means the offering or performing of those acts, service operations or transactions incidental to or forming a part of the conduct, operation, management or control of a pharmacy; the interpretation of the prescription order; the compounding, dispensing or selling of drugs and devices, whether dispensed on prescription or sold or given directly to the ultimate consumer; and the proper and safe storage and distribution of drugs and devices, the maintenance of proper records therefor and the responsibility for advising as required as to the contents, therapeutic values, hazards and uses of such articles. Nothing contained in this section shall be construed to require that a registered pharmacist personally perform clerical, housekeeping, maintenance, or similar functions for which the education, experience, training and specialized knowledge of a registered pharmacist are not reasonably required, except that rules and regulations may

require that such functions be performed only under the effective supervision of a registered pharmacist who shall be responsible for the adequacy and accuracy of the performance of such functions.

(y) "Dispense" means the issuing of 1 or more doses of drugs in a suitable container, appropriately labeled, for subsequent administration to or use by a patient.

(z) "Pharmacist intern" or "intern" means a person who has satisfactorily completed 2 academic years of study in an accredited college or university and has been registered by the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor certified in this state.

(aa) "Internship" means an educational program of professional and practical experience beginning after an intern has satisfactorily completed 2 academic years of study in an accredited college or university, and comprising 1 year under the supervision of a preceptor in a pharmacy approved by the board for such purposes, with at least 6 months thereof required subsequent to graduation from an accredited school or college or pharmacy.

HISTORY: New 1962, p. 141, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 22, Act 15, Eff. Oct. 1.

338.1102 State board of pharmacy; members, terms, eligibility.

Sec. 2. (1) The board shall consist of 5 members appointed by the governor with the advice and consent of the senate, not more than 3 of whom shall be members of the same political party, 1 of whom shall be a resident of the Upper Peninsula. The members of the board shall serve for a term of 5 years and until their successors are appointed. The terms of office shall be so arranged that the term of 1 member shall expire on December 31 of each year. No person shall serve for more than 2 terms, except that the 2-term limitation shall not apply to present members of the board in respect to terms for which they were appointed prior to the effective date of this act. The members of the existing state board of pharmacy heretofore appointed, shall continue in office for the duration of their present terms, and act as the state board of pharmacy in compliance with the provisions of this act. The members hereafter appointed shall be registered pharmacists, licensed in this state at least 10 years, actively engaged in the practice of pharmacy, and a graduate of a college of pharmacy recognized at the time of graduation.

Vacancy.

(2) A vacancy on the board caused other than by expiration of term may be filled by the governor with the advice and consent of the senate.

Removal from office.

(3) Any member may be removed from office by the governor upon proof of malfeasance or misfeasance of office, or the failure or inability to act in accordance with the provisions of this act.

Expenses, compensation.

(4) Each member, except the secretary, shall receive all reasonable and necessary traveling expenses incurred in executing the duties of his office, and for each day actually engaged in the duties of his office a per diem of not less than \$25.00, but for not more than 30 days in any one fiscal year.

Oath.

(5) Appointees to the board, within 30 days after their appointment, shall take an oath in accordance with the laws of this state.

HISTORY: New 1962, p. 143, Act 151, Eff. Mar. 28, 1963.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.1103 Pharmacy board; organization officers.

Sec. 3. (1) The board shall organize by electing a president and a vice-president annually from its members. If the office of president or vice-president is vacated, then

the board, including the newly appointed member, shall elect another to act, for the unexpired period only, as the president or vice-president.

Meetings; examination of applicants for registration; quorum.

(2) The board shall hold meetings for the examination of applicants for registration and for the transaction of such other business as may legally come before it at least 3 times a year. The president shall preside at all meetings, and in his absence or inability to preside, the vice-president shall so act. Three members shall constitute a quorum for the transaction of any and all business.

Administration of oaths.

(3) Any member of the board and the secretary may administer oaths in connection with the duties of the board.

HISTORY: New 1962, p. 143, Act 151, Eff. Mar. 28, 1963.

338.1104 Pharmacy board; executive secretary.

Sec. 4. (1) The board shall elect annually a secretary who shall not be a member of the board, and who is a registered pharmacist in good standing. He shall be the executive secretary of the board and devote full time to the activities of the board.

Duties and powers.

(2) The secretary shall make, keep and be in charge of all books and records required to be kept by the board, including a record of all registrations under this act, and shall attend to the correspondence of the board, and perform such other duties as the board may require. He may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which may have been rendered under this act, including the nature of the charge and the disposition thereof. He may also cause to be disseminated information regarding drugs, devices or cosmetics in situations involving, in his opinion, imminent danger to health, or gross deception of the consumer. He may also report the results of all investigations carried out under the provisions of this act. All powers of the secretary shall be subject to the direction of the board.

Fees.

(3) The secretary shall receive and receipt for all fees and such collections as are made under this act, and deposit them with the state treasury to be credited to the general fund. All salaries and expenses shall be paid from appropriations made for this purpose.

Compensation, bond.

(4) The secretary shall receive annually a salary as shall be appropriated by the legislature and shall be reimbursed for all reasonable and necessary traveling expenses incurred by him in the performance of his official duties. He shall furnish a bond at the expense of the board, in an amount to be fixed by the board, conditioned upon the faithful receipt, disbursement, and accounting of all moneys that may come into his hands, in accordance with this act, which bond shall be filed with the secretary of state.

HISTORY: New 1962, p. 144, Act 151, Eff. Mar. 28, 1963.

338.1105 Pharmacy boards; inspectors.

Sec. 5. The board shall appoint, within the limit of appropriations, inspectors who shall be registered pharmacists and who shall act as agents of the board within the provisions of this act and such rules and regulations as the board shall promulgate. Inspectors shall be hired from the eligible civil service roster of qualified persons.

HISTORY: New 1962, p. 144, Act 151, Eff. Mar. 28, 1963.

338.1106 Pharmacy board; regulatory powers.

Sec. 6. The board shall:

- (a) Regulate the practice of pharmacy.
- (b) Regulate, control and inspect the sale, character and standard of drugs, devices, and new drugs compounded, possessed or dispensed in this state and procure samples and prevent the sale of such drugs, devices and new drugs as do not conform with the provisions of this act.
- (c) Regulate the employment of interns in pharmacies.
- (d) Investigate alleged violations of the provisions of this act and all other acts and administrative rules regulating the practice of pharmacy and the use of drugs and devices, conduct hearings in respect thereto when, in its discretion, it appears to be necessary, to subpoena witnesses for such hearings, and to bring such violations to the notice of the prosecuting attorney of the county in which a violation took place or to the attorney general.
- (e) Employ inspectors, chemists, agents, clerical help or other employees as it may deem necessary, within the limits of its appropriation.
- (f) Prescribe the minimum of professional and technical equipment and supplies for compounding and dispensing drugs, devices and prescriptions.
- (g) Make such bylaws, decisions and rules, not inconsistent with law and in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as may be necessary to carry out the purposes and enforce the provisions of this act.
- (h) Adopt rules of professional conduct, not including rules relating to price determination. The rules shall be appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession.
- (i) Issue certificates of registration as pharmacist to those persons who qualify for registration under the terms of this act. This amendatory act shall not require pharmacists who are registered on the effective date of this amendatory act to reregister prior to the next registration specified in section 12.
- (j) Issue licenses for manufacturing or distributing wholesale of drugs which are saleable on prescription only when the applicant for such license demonstrates fitness and competence to manufacture such drugs and distribute them wholesale and further demonstrates his fitness and competence to comply with the laws of the state relative to the use or dispensing of such drugs.

HISTORY: New 1962, p. 144, Act 151, Eff. Mar. 28, 1963;—Am. 1965, p. 257, Act 163, Imd. Eff. Jul. 15;—Am. 1969, p. 24, Act 15, Eff. Oct. 1.

338.1107 Applicant for registration; prerequisites.

Sec. 7. (1) Every applicant for registration as a pharmacist shall:

- (a) Be a citizen of the United States or have applied for citizenship.
- (b) Be at least 21 years of age.
- (c) Be of good moral character.
- (d) Be duly graduated with a degree of bachelor of science, or its equivalent, from a pharmacy course in a school or college of pharmacy accredited by the American council on pharmaceutical education.
- (e) Have completed subsequent to completion of 2 academic years of study in an accredited college or university, at least 1 year of practical experience as an intern under the supervision of a registered pharmacist in a pharmacy approved by the board for such purposes, with at least 6 months of such practical experience acquired subsequent to graduation from an accredited school or college of pharmacy. The board may

grant credit for this requirement for experience obtained by the applicant while employed as a registered pharmacist or intern in another state.

(f) Submit an application for examination to the board setting forth by affidavit his qualifications as required by subdivisions (a), (b), (c), (d) and (e).

(g) Except as provided in section 8 of this act, have passed an examination in pharmacy satisfactory to the board. In no event shall the examination be given prior to completion of intern training.

(h) Have paid an examination fee and a certificate fee of such amount as fixed by the board, but in no event shall either fee exceed the sum of \$25.00. If an applicant fails upon his first application to pass the examination, the fee for such subsequent examination, as may be permitted by the board, shall not exceed the sum of \$15.00.

HISTORY: New 1962, p. 145, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 25, Act 15, Eff. Oct. 1.

338.1108 Registrants from other states, reciprocity.

Sec. 8. The board may register as a pharmacist, with or without examination, any person:

(a) Who is duly registered by examination in some other state.

(b) Who produces evidence satisfactory to the board that he has the age, moral character, education and experience as demanded of applicants for registration by examination under the provisions of this act, and rules and regulations promulgated hereunder. Persons of good character and morals who have registered as pharmacists by examination in other states prior to the effective date of this act shall be required to satisfy only those requirements in existence in this state at the time they were registered in the other states.

(c) Who comes from a state which, under equivalent conditions, will grant reciprocal registration as pharmacist to pharmacists duly registered by examination in this state.

(d) Who pays a reciprocal registration fee of \$50.00.

HISTORY: New 1962, p. 146, Act 151, Eff. Mar. 28, 1963.

338.1109 Certificate of registration; replacement, fee.

Sec. 9. The board may issue a certificate of registration as a pharmacist to replace a prior certificate upon the payment of a \$10.00 fee and upon receipt of an affidavit containing such information as the board deems necessary.

HISTORY: New 1962, p. 146, Act 151, Eff. Mar. 28, 1963.

338.1110 Interns; registration, fee, computation of time, preceptors.

Sec. 10. (1) A person who desires to fulfill the practical experience requirements for registration as a pharmacist and has satisfactorily completed 2 academic years of study in an accredited college or university shall apply to the board for registration as an intern. The board shall furnish proper forms for this purpose, and issue a certificate of registration as a registered intern to a qualified applicant upon the payment of \$3.00. The certificate of registration shall remain valid while the applicant is actively pursuing a degree in an accredited school or college of pharmacy and for not to exceed 3 years from the date of graduation of the applicant from such a school or college.

(2) To fulfill the practical experience requirement, the period shall be computed from the date of registration as an intern. In computing the period of service as an intern, 40 hours shall be construed as 1 week's time, but hours of service in excess of 40 hours in 1 calendar week shall not be computed.

(3) The board may require an examination to establish the educational qualifications of an applicant for internship.

(4) In order to train an intern, a pharmacist shall apply for and be certified by the board as a preceptor who meets the qualifications established by rule. The preceptor

certificate shall be issued annually for a fee of \$5.00 and may be revoked by the board for failure to supervise properly the internship program prescribed by the board.

(5) The pharmacy in which the intern is employed shall meet the qualifications for internship training established by board rules and shall be certified annually by the board as an approved pharmacy for internship training. Each approved pharmacy shall designate a preceptor who is in charge of its internship program and who is responsible for providing adequate personal supervision of its interns.

HISTORY: New 1962, p. 146, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 25, Act 15, Eff. Oct. 1.

338.1111 Pharmacy license; application, fees, term, liability.

Sec. 11. No person shall engage in, conduct, carry on, or be employed in the compounding, other than as a manufacturer or wholesale distributor licensed under section 16, dispensing or retailing of drugs, devices, prescriptions or poisons or receive prescription orders within this state without first securing from the board a license for each separate place in which such conduct is to be carried on and providing for continual and personal supervision of each separate place by a registered pharmacist. Application for the license on a form furnished by the board shall be submitted by the proprietor or owner of each pharmacy with a payment of \$15.00 as a license fee to the board. The license shall be valid for a period of 1 year, commencing on July 1 and ending on June 30 next. A penalty fee of \$25.00 shall be assessed if payment of the license fee is in arrears for more than 30 days. The license shall contain the name of the licensee, the address of the place at which such transactions will be conducted, a description of the pharmacy and the premises thereof, and all other information the board may require. Every proprietor of a registered pharmacy shall be responsible for the strength, quality, purity and the labeling of all drugs and devices sold or dispensed therein unless such items are sold in their original package.

HISTORY: New 1962, p. 146, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 26, Act 15, Eff. Oct. 1.

338.1112 Registered pharmacist; registration renewal; fees, penalty.

Sec. 12. Each registered pharmacist engaged in the practice of pharmacy on or before June 30 of each year, after the first year of his registration, shall renew his registration certificate by paying a renewal fee of \$5.00 to the secretary of the board, in return for which a renewal certificate shall be issued. In order to be actively engaged in the practice of pharmacy he must re-register within 30 days after June 30. A penalty of \$25.00 shall be paid for failure to re-register by this date. Any registered pharmacist who has retired for more than 1 year may have his certificate renewed upon application and payment of a fee of \$5.00 and no further examination shall be required by the board as a condition for such renewal.

HISTORY: New 1962, p. 146, Act 151, Eff. Mar. 28, 1963.

338.1113 Certificates and licenses; display requirements; notice of change of place of business or employment.

Sec. 13. All certificates and licenses required by this act shall be displayed in full public view, and every registered pharmacist shall within 10 days after changing his place of business or employment notify the board of his new place of business or employment.

HISTORY: New 1962, p. 147, Act 151, Eff. Mar. 28, 1963.

338.1114 Pharmacy; supervision, responsibility, revocation of license.

Sec. 14. Every pharmacy when open for business shall be under the personal supervision of a duly licensed and registered pharmacist. A registered pharmacist may not simultaneously have personal supervision of more than 1 pharmacy. The owner of the pharmacy and the pharmacists on duty are responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy. The board may revoke or suspend any license or certificate issued under this act for vi-

olation of the provisions of this section. No penalty for any violation of this section shall affect the pharmacy license of any place of business other than the place of business where the violation occurred.

HISTORY: New 1962, p. 147, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 26, Act 15, Eff. Oct. 1.

338.1115 License; revocation or suspension, grounds.

Sec. 15. The board shall have power to withhold, revoke or suspend any license or any certificate of registration issued under this act after giving reasonable notice and an opportunity to be heard to any person who shall have:

(1) Become unfit or incompetent to function as a manufacturer or wholesale distributor of any drug saleable on prescription only or to practice pharmacy by reason of:

- (a) Acts of gross immorality;
- (b) Habitual intoxication;
- (c) Habitual use of narcotics or habit forming drugs;
- (d) Insanity; or

(e) Any abnormal physical or mental condition which threatens the safety of persons to whom such person might sell or dispense prescriptions, drugs or devices, or for whom he might manufacture, prepare or package, or supervise the manufacturing, preparation or packaging of prescriptions, drugs or devices.

(2) Been convicted in any of the courts of this state, the United States of America, or any other state, of a felony or any other crime involving moral turpitude.

(3) Been convicted of any misdemeanor punishable under this act.

(4) Failed, in the case of pharmacies or pharmacists, to comply with the rules of professional conduct.

(5) Promoted to the public in any manner a drug which may only be dispensed pursuant to a prescription.

(6) Employed the mail to sell, distribute, or deliver a drug which requires a prescription when the prescription for such an article has been received by mail.

(7) Violated any of the provisions of this act or any other acts enforced by this board or any rules adopted by the board.

HISTORY: New 1962, p. 147, Act 151, Eff. Mar. 28, 1963;—Am. 1965, p. 258, Act 163, Imd. Eff. Jul. 15;—Am. 1969, p. 26, Act 15, Eff. Oct. 1.

338.1116 Licensing of manufacturers or wholesale distributors of drugs; fee, relicensing, price regulating prohibited.

Sec. 16. All manufacturers and wholesale distributors of any drug saleable on prescription only, who are doing business in this state, shall be licensed by the board in accordance with this act and pay an annual fee of \$25.00, such fee to be paid on or before June 30 of each year. In order to continue to be actively engaged in the practice of manufacturing or wholesale distribution the licensee must be relicensed annually within 30 days after June 30. A penalty of \$50.00 shall be paid for failure to be relicensed by this date. Each such manufacturer or wholesale distributor may designate a person to be the licensee for the manufacturer or wholesale distributor and such licensee shall be the person responsible for compliance with the terms of this act. No license may be withheld, revoked or suspended for a reason based on a price charged for such drugs by the manufacturer or wholesale distributor, and no rules may be promulgated which regulate the price to be charged by manufacturers or wholesale distributors for such drugs.

HISTORY: New 1962, p. 147, Act 151, Eff. Mar. 28, 1963;—Am. 1965, p. 258, Act 163, Imd. Eff. Jul. 15.

338.1117 Pharmacy; misdemeanors.

Sec. 17. It is a misdemeanor for:

- (a) Any person to procure or attempt to procure a license or certificate for himself or for any other person by making, or causing to be made, any false representations.
- (b) Any person to fraudulently represent himself to have a license or any certificate.
- (c) Any pharmacist or owner of a pharmacy to permit the compounding and dispensing of prescriptions by any person not a registered pharmacist or not a registered pharmacy intern.
- (d) Any pharmacist or owner of a pharmacy to permit the compounding and dispensing of prescriptions by a registered pharmacy intern, except in the presence and under the immediate personal supervision of a registered pharmacist.
- (e) Any person not a registered pharmacist or not a registered pharmacy intern to prepare or to dispense a prescription, or to dispense or sell at retail, poisonous or deleterious drugs.
- (f) Any registered pharmacy intern to prepare or to dispense a prescription, or to dispense or sell at retail poisonous drugs, or deleterious drugs, except under the immediate personal supervision of a registered pharmacist whose license or certificate is displayed in the pharmacy.
- (g) Any physician, dentist or veterinarian to permit the compounding or dispensing of drugs in the course of his professional practice by any person not permitted by this act to compound or dispense drugs, except under his immediate supervision.
- (h) Any pharmacist to display his license or certificate or permit it to be displayed in a pharmacy of which he is not the proprietor or in which he is not employed.
- (i) Any proprietor of a pharmacy to display or permit to be displayed in his place of business the license or certificate of any pharmacist not employed in said place of business.
- (j) Any holder of a license or certificate issued under the provisions of this act to fail to display the license or certificate of registration as provided in this act.
- (k) Any person whose license or certificate has been revoked to refuse to deliver the license or certificate to the board.
- (l) Any person to adulterate, misbrand or substitute any drug or device knowing or intending that it shall be used.
- (m) Any person to sell, offer for sale, or cause to be sold, any adulterated or misbranded drug.
- (n) Any person to violate any of the provisions of this act in relation to the retailing or dispensing of any drug or device for which violations no other punishment is imposed.
- (o) Any person to intentionally prevent or refuse to permit any inspector to enter a pharmacy, or any other establishment for the purpose of lawful inspection in accordance with the provisions of this act.
- (p) Any person to sell, offer for sale, or possess for sale, a drug or device bearing or accompanied by a label that is misleading as to its contents, uses or purposes.
- (q) Any person to sell at auction drugs in bulk or in open packages unless the sale has been approved in accordance with the rules adopted by the board.
- (r) Any person to obtain or attempt to obtain any prescription, poisonous or deleterious drug by giving a false or fictitious name to any pharmacist, or other authorized seller or dispenser thereof.
- (s) Any person to carry on, conduct or transact business under any name which contains as a part thereof the terms, "pharmacy", "pharmacist", "apothecary", "drugs", "drugstore", "druggist", "medicines", "medicine store", "prescriptions", "remedies", or similar terms or combinations of terms, or in any manner by advertisement, circular, poster, sign, or otherwise describe or refer to the place of business conducted by

such person by such terms unless the place of business so conducted is a pharmacy duly registered and authorized by the board.

(t) Any person to carry on or transact business as a manufacturer or wholesale distributor or establish or conduct a pharmacy or practice pharmacy without a license or certificate from this board.

(u) Any person to falsely represent himself to be a lawful prescriber or licensee of the board or acting on behalf of such in order to obtain any prescription, poisonous or deleterious drug.

(v) Any person to falsely make, utter, publish, pass or to alter or forge any prescription.

(w) Any person to knowingly have in his possession, any false, fictitious, forged or altered prescription.

(x) Any person to knowingly attempt to obtain, obtain or have in his possession any drug as a result of a false, fictitious, forged or altered prescription.

(y) Any person to possess or control for the purpose of resale, or to sell, offer to sell, dispense or give away any drug, pharmaceutical preparation or chemical which has been dispensed upon prescription and has left the control of a pharmacist; or has been damaged or subjected to damage by heat, smoke, fire or water or other causes and which is unfit for human or animal use.

(z) Any pharmacist or owner of a pharmacy to permit the selling or dispensing of a hypodermic syringe or a hypodermic needle or both, except in the presence and under the immediate personal supervision of a registered pharmacist.

HISTORY: New 1962, p. 147, Act 151, Eff. Mar. 28, 1963;—Am. 1965, p. 259, Act 163, Imd. Eff. Jul. 15;—Am. 1969, p. 27, Act 15, Eff. Oct. 1.

338.1118 Prescriptions; preservation requirements, confidentiality, copies.

Sec. 18. (1) All prescriptions shall be preserved for a period of 5 years by the owner or lessee of the place where the drugs are dispensed, subject to inspection by the board or its agents.

(2) A prescription shall not be knowingly refilled after the demise of the prescriber.

(3) Prescription orders on file in a pharmacy are not a public record. A person having custody of or access to such prescription orders shall not divulge the contents thereof or provide a copy thereof to anyone except to:

(i) The patient for whom the prescription order was issued, or another pharmacist acting on behalf of the patient.

(ii) The physician, dentist or veterinarian who issued the prescription.

(iii) A physician, dentist or veterinarian who is then treating the patient.

(iv) A member, inspector or investigator of the board or any federal, state, county or municipal officer whose duty it is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug.

(v) An agency of state government charged with the responsibility of providing medical care for the patient.

(vi) An insurance carrier, hospital service corporation, medical service corporation, pharmaceutical service corporation or attorney on receipt of written authorization signed by the patient or his legal representative, authorizing the release of such information.

(vii) Any person duly authorized by a court order.

(4) Such copies furnished shall be used for informational purposes only and shall be clearly marked for informational or reference purposes.

(5) No drug requiring a prescription under the federal act or laws of this state shall be dispensed except under the authority of an original prescription.

HISTORY: New 1962, p. 148, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 28, Act 15, Eff. Oct. 1.

338.1119 Habit forming or harmful drugs; dispensation.

Sec. 19. A drug intended for use by man and which is a habit forming drug or because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug shall be dispensed only upon a written prescription of a practitioner licensed by law to administer such drug, or upon an oral prescription of such practitioner which is reduced to writing, immediately dated, and filed by the pharmacist, or by refilling any written or oral prescription if the refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing, immediately dated, and filed by the pharmacist. The board by regulation may remove drugs from the requirements of this section when such requirements are not necessary for the protection of the public health. In addition to the provisions of this section, all narcotic laws and regulations thereunder shall be complied with.

HISTORY: New 1962, p. 148, Act 151, Eff. Mar. 28, 1963.

338.1120 Poisonous drugs; record of sale, preservation, inspection.

Sec. 20. Every person authorized by this act to give, sell or dispose of any poisonous drug at retail shall enter, before delivering the same, in a register kept for that purpose the date of sale, the name and address of the purchaser, the name and quantity of the poisonous drug, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser. The poison register shall be open for inspection by the proper authorities and shall be preserved for at least 5 years after the last entry. Nor shall any person deliver any poisonous or deleterious drug without satisfying himself that the purchaser is aware of its poisonous character and that such drug is to be used for a legitimate purpose. The provisions of this section do not apply to dispensing on a prescription.

HISTORY: New 1962, p. 149, Act 151, Eff. Mar. 28, 1963.

338.1121 Poisonous drugs; labels on containers.

Sec. 21. It shall be unlawful for any person authorized by this act to give, sell or dispose of any poisonous drug at retail without affixing or causing to be affixed to the bottle, box, vessel or package, a label with the word "poison" together with the true name thereof, the name of some simple antidote, if any is known, and the name and place of business of the seller, all printed in red ink in plain legible characters. The provisions of this section do not apply to dispensing on a prescription.

HISTORY: New 1962, p. 149, Act 151, Eff. Mar. 28, 1963.

338.1122 Poisonous drugs; wholesale dealers; labels on original package.

Sec. 22. Wholesale dealers in drugs, devices, or chemicals shall affix or cause to be affixed to every bottle, box, parcel or outer enclosure of an original package containing any poisonous drug, a suitable label or brand in red ink with the word "poison" upon it.

HISTORY: New 1962, p. 149, Act 151, Eff. Mar. 28, 1963.

338.1123 Violation of section; misdemeanor.

Sec. 23. Any person who violates any of the provisions in section 17 is guilty of a misdemeanor.

HISTORY: New 1962, p. 149, Act 151, Eff. Mar. 28, 1963.

338.1124 Drugs; adulteration or misbranding.

Sec. 24. (1) No person shall be subject to the penalties of section 23, for having violated any of the provisions of this act dealing with adulteration or misbranding, if he establishes that a guaranty or undertaking was made in accordance with the provisions of the federal act, or a guaranty signed by and containing the name and address of the person residing in this state from whom he received in good faith the drug or device, to the effect that the drug or device is not adulterated or misbranded within the meaning of this act. The guaranty shall not afford protection to the vendor in any case if the product is adulterated or misbranded under the provisions of this act, and the board shall have previously notified the vendor of such fact, in writing, but in no case shall the board serve such notice upon any vendor until the board has notified the manufacturer or jobber of the findings of the state analyst with reference to the product. The notification shall be in writing and mailed 10 days previous to any notice sent to any vendor in accordance with this section.

(2) If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

HISTORY: New 1962, p. 149, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 28, Act 15, Eff. Oct. 1.

338.1125 Violation of acts, prosecuting attorney, legal assistance.

Sec. 25. Each prosecuting attorney to whom the board, or any person authorized by it, reports any violations of this act, shall render any legal assistance, and cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

HISTORY: New 1962, p. 150, Act 151, Eff. Mar. 28, 1963.

338.1126 Minor violations of act, written notice or warning.

Sec. 26. Nothing in this act shall be construed as requiring the board to report, for the institution of proceedings under this act, minor violations of this act, whenever the board believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

HISTORY: New 1962, p. 150, Act 151, Eff. Mar. 28, 1963.

338.1127 Violations of act; injunction.

Sec. 27. In addition to the remedies set forth, the board may apply to the circuit court having proper jurisdiction for an injunction to restrain any person from continuing or repeating violations of the provisions of this act, irrespective of whether or not an adequate remedy at law exists.

HISTORY: New 1962, p. 150, Act 151, Eff. Mar. 28, 1963.

338.1128 Applicability of act as to physicians, dentists or veterinarians.

Sec. 28. Except as to the quality of drugs dispensed, this act shall not apply to the practice of a physician, dentist or veterinarian provided:

(a) The drugs are dispensed in a container the label of which bears the name and address of the patient, directions for use, and date of delivery; and

(b) He is not the proprietor of a pharmacy or an employee of such a proprietor.

HISTORY: New 1962, p. 150, Act 151, Eff. Mar. 28, 1963;—Am. 1969, p. 29, Act 15, Eff. Oct. 1.

338.1129 Inapplicability of act.

Sec. 29. Except as to the labeling of poisonous or deleterious drugs and to adulterating, misbranding, and substituting, this act shall not apply:

- (a) To the sale of paris green, white hellebore and other insecticides.
- (b) To the sale of any substance for use in the arts.
- (c) To the manufacture and sale of proprietary medicines except those proprietary medicines which are poisonous, deleterious or habit forming.
- (d) To the sale by merchants of ammonia, sulphur, any nonpoisonous flavoring essences or extracts, salt, bicarbonate of soda, or other prepackaged common household remedies or any food or food product which may also be found in any of the official compendiums and is not also considered as a poisonous, deleterious or habit forming drug.
- (e) To surgical or dental instruments and accessories, hearing aids, gases, oxygen tents, gas pressure reducing regulators, x-ray apparatus, therapeutic lamps, splints and stethoscopes, and their component parts and accessories, or to equipment, instruments, apparatus and contrivances used to render such articles effective in medical, surgical or dental treatment; or to articles intended for external use.
- (f) To articles or substances intended for generally recognized mechanical, agricultural, horticultural, or industrial consumption or use or photographic chemicals for home use.

HISTORY: New 1962, p. 150, Act 151, Eff. Mar. 28, 1963.

338.1130 Registered pharmacist; jury duty exemption.

Sec. 30. Every registered pharmacist dispensing and compounding drugs shall be exempt and free from all jury duty in the courts of this state.

HISTORY: New 1962, p. 151, Act 151, Eff. Mar. 28, 1963.

338.1131 Repeal.

Sec. 31. Act No. 134 of the Public Acts of 1885, as amended, being sections 338.401 to 338.434 of the Compiled Laws of 1948 and Act No. 403 of the Public Acts of 1913, as amended, being section 338.461 of the Compiled Laws of 1948, are hereby repealed.

HISTORY: New 1962, p. 151, Act 151, Eff. Mar. 28, 1963.

Act 149, 1967, p. 175; Eff. Nov. 2.

AN ACT to regulate the practice of nursing; to create a state board of nursing and prescribe its functions; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

338.1151 Nursing practice act of 1967; short title.

Sec. 1. This act shall be known and may be cited as the "nursing practice act of 1967".

HISTORY: New 1967, p. 175, Act 149, Eff. Nov. 2.

338.1152 Nursing practice act; definitions.

Sec. 2. As used in this act:

- (a) "Board" means the state board of nursing.
- (b) "Practice of nursing" means performance of the functions of a registered professional nurse, licensed practical nurse, licensed psychiatric attendant nurse or trained attendant. The practice of nursing does not include acts of medical diagnosis or the

prescribing of a medical remedy, treatment or medication. Selected acts delegated to unlicensed persons by licensed physicians, dentists or registered nurses, in the performance of their professional functions and performed under the delegation and direction of the licensed physician, dentist or registered nurse do not constitute the practice of nursing.

(c) "Practice of professional nursing" means the performance for compensation:

(i) Of any act requiring substantial specialized judgment and skill founded on formal education which provides knowledge and application of the principles of nursing based on biological, physical and social sciences, in the care, counsel, treatment or observation of the ill, injured or infirm, or for the maintenance of the health or the prevention of illness of others.

(ii) Of the supervising, directing or teaching of less skilled personnel in the carrying out of delegated nursing activities.

(d) "Practice of practical nursing" means the performance for compensation of acts in the care, treatment or observation of the ill, injured or infirm, or for the maintenance of the health or the prevention of illness of others, performed in accordance with education and preparation which has provided the practitioner with a lesser degree of specialized skill, knowledge, education or training than that required to practice as a registered nurse. A licensed practical nurse shall perform such acts only under the direction of a registered nurse or licensed physician or dentist.

(e) "Practice of nursing by a licensed psychiatric attendant nurse" means the performance for compensation of acts in the care of the mentally ill or mentally handicapped, or for the maintenance of the health or the prevention of illness of others, performed in accordance with education and preparation which has provided the practitioner with a lesser degree of specialized skill, knowledge, education or training than that required to practice as a registered nurse. A licensed psychiatric attendant nurse shall perform such acts only under the direction of a registered nurse or licensed physician or dentist.

(f) "Practice of nursing by a trained attendant" means the performance for compensation of acts in the care of the ill, injured or infirm, or for the maintenance of the health or the prevention of illness of others, performed in accordance with education and preparation which has provided the practitioner with a lesser degree of specialized skill, knowledge, education or training than that required to practice as a registered nurse. A trained attendant shall perform such acts only under the direction of a registered nurse or licensed physician or dentist.

HISTORY: New 1967, p. 175, Act 149, Eff. Nov. 2.

338.1153 State board of nursing; members, qualifications, terms.

Sec. 3. The governor shall appoint, with the advice and consent of the senate, a state board of nursing consisting of 12 members, 6 of whom shall be registered nurses, with 1 of the 6 engaged in practical nursing education or administration, 3 licensed practical nurses and 3 licensed psychiatric attendant nurses. The members of the board holding office on the effective date of this act under the provisions of Act No. 319 of the Public Acts of 1909, as amended, being sections 338.351 to 338.362 of the Compiled Laws of 1948, shall serve as members of the board until the expiration of their terms or until their successors have been appointed. The term of office of members of the board shall be 3 years and until their successors are appointed, and no member shall be appointed to more than 2 consecutive terms.

HISTORY: New 1967, p. 176, Act 149, Eff. Nov. 2.

338.1154 Nursing board; nomination of new members, removal.

Sec. 4. (1) On expiration of the term of any registered nurse member, the Michigan nurses association may submit to the governor a list of 5 persons qualified to serve. On

expiration of the term of any licensed practical nurse member, the Michigan licensed practical nurses association may submit to the governor a list of 5 persons qualified to serve. On expiration of the term of any licensed psychiatric attendant nurse member, the psychiatric attendant nurses association of Michigan may submit to the governor a list of 5 persons qualified to serve. Appointments may be made from these lists. Vacancies occurring on the board shall be filled for the unexpired terms by appointments by the governor in the same manner.

(2) The licensed practical nurse board members shall serve as members of the board only in relation to and for the purpose of administering the provisions of this act relating to practical nursing. The licensed psychiatric attendant nurse board members shall serve as members of the board only in relation to and for the purpose of administering the provisions of this act which relate to psychiatric attendant nursing.

(3) The governor may remove any member from the board for neglect of any duty required by law or for incompetency or unethical or dishonorable conduct.

HISTORY: New 1967, p. 176, Act 149, Eff. Nov. 2.

338.1155 Nursing board; experience and qualification requirements, oath of office.

Sec. 5. (1) A member of the board shall be a citizen of the United States, a resident of this state, and shall take and file the constitutional oath of office before beginning his term of office.

(2) A registered nurse member of the board shall possess these additional qualifications:

(a) Graduation from a state approved educational program for the preparation of persons to practice as registered nurses, and graduation from an accredited college with a baccalaureate degree.

(b) Be a registered nurse in this state.

(c) Have had at least 5 years' experience in nursing administration or nursing education and have been actively engaged therein for at least 3 years immediately preceding appointment.

(3) A licensed practical nurse member shall possess these additional qualifications:

(a) Graduation from a state approved educational program for the preparation of persons to practice as licensed practical nurses.

(b) Be a licensed practical nurse in this state.

(c) Have had at least 5 years' experience in practical nursing and have been actively engaged therein for at least 3 years immediately preceding appointment.

(4) A licensed psychiatric attendant nurse member shall possess these additional qualifications:

(a) Graduation from a state approved educational program for the preparation of persons to practice as licensed psychiatric attendant nurses.

(b) Be a licensed psychiatric attendant nurse in this state.

(c) Have had at least 5 years' experience in psychiatric attendant nursing and have been actively engaged therein for at least 3 years immediately preceding appointment.

HISTORY: New 1967, p. 176, Act 149, Eff. Nov. 2.

338.1156 Nursing board; election of officers, quorum, concurrence of members, meetings.

Sec. 6. (1) The board shall meet annually and elect from its registered nurse members a chairman and a vice chairman. The board may convene at the request of the chairman or as the board may determine for such other meetings as may be deemed necessary to transact its business.

(2) Four registered nurse members of the board, including either the chairman or vice chairman, constitute a quorum at any meeting. In the consideration of matters affecting the practice of practical nursing, at least 2 licensed practical nurse board members shall be present, and not less than 2 licensed practical nurse members of the board shall concur in all matters exclusively affecting the practice of practical nursing. In the consideration of matters affecting the practice of psychiatric attendant nursing, at least 2 licensed psychiatric attendant nurse board members shall be present, and not less than 2 licensed psychiatric attendant nurse members of the board shall concur in all matters exclusively affecting the practice of psychiatric attendant nursing.

HISTORY: New 1967, p. 177, Act 149, Eff. Nov. 2.

338.1157 Nursing board; powers, duties.

Sec. 7. The board may:

(a) Adopt such rules and regulations not inconsistent with the law as may be necessary to enable it to carry into effect the provisions of this act. Rules and regulations shall be adopted in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(b) Define minimum curricula and standards for educational programs preparing persons for licensing under this act, and approve programs which meet the requirements of this act and of the board.

(c) Approve organized programs of study offered to foreign graduate nurses in the United States on nonimmigration status studying in this state. Initial approval shall be followed by periodic review of the programs to assure maintenance of acceptable standards. An individual hospital maintaining an exchange-visitor educational program for foreign graduate nurses shall pay to the board all costs of the services rendered to it by the board in regard to such program.

(d) Deny or withdraw approval of educational programs for failure to meet minimum curricula or other standards.

(e) Examine, license and renew the licenses of duly qualified applicants.

(f) Encourage and promote creditable standards of nursing.

(g) Conduct hearings upon charges calling for discipline of a licensee, or denial, revocation or suspension of a license.

(h) Cause the prosecution of all persons violating this act and incur necessary expenses therefor.

(i) Keep a record of all its proceedings.

(j) Appoint and employ a qualified person who shall not be a member of the board to serve as administrative secretary to the board, and define the duties of the administrative secretary, and to employ other persons necessary to carry on the functions of the board.

HISTORY: New 1967, p. 177, Act 149, Eff. Nov. 2.

338.1158 Nursing board; administrative secretary, qualifications.

Sec. 8. The administrative secretary shall meet the qualifications for registered nurse board members and in addition shall:

(a) Have had at least 8 years' experience in the practice of nursing.

(b) Have been actively engaged in nursing education or nursing administration for at least 5 years immediately preceding appointment.

HISTORY: New 1967, p. 178, Act 149, Eff. Nov. 2.

338.1159 Nursing board; compensation and expenses.

Sec. 9. A member of the board shall receive compensation at the rate of \$30.00 per day plus actual and necessary travel and other expenses incurred while engaged in the discharge of official duties in accordance with the standard travel regulations of the department of administration.

HISTORY: New 1967, p. 178, Act 149, Eff. Nov. 2.

338.1160 Resource consultants; employment, expenses.

Sec. 10. The board may secure the services of resource consultants as deemed necessary by the board. Resource consultants shall receive travel and other necessary expenses incurred while engaged in consultant services to the board.

HISTORY: New 1967, p. 178, Act 149, Eff. Nov. 2.

338.1161 Registered nurse; application for license, oath, qualifications, foreign applicants.

Sec. 11. (1) An applicant for a license to practice as a registered nurse shall submit to the board written evidence, verified by oath, that the applicant:

(a) Has completed an approved 4-year high school course of study or the equivalent thereof as determined by the appropriate educational agency.

(b) Has completed an approved nursing education program for licensing as a registered nurse or a program deemed by the board to be equivalent thereto.

(2) The applicant shall be required to pass a written examination as determined by the board, whereupon, the board shall issue to the applicant a license to practice as a registered nurse.

(3) The board may issue a license to practice as a registered nurse by indorsement to an applicant who has been duly licensed as a registered nurse under the laws of another state, territory or country if the qualifications of the applicant are deemed by the board to be equivalent to those required in this state.

HISTORY: New 1967, p. 178, Act 149, Eff. Nov. 2.

338.1162 Practical nurse; application for license, oath, qualifications, foreign applicants.

Sec. 12. (1) An applicant for a license to practice practical nursing shall submit to the board written evidence, verified by oath, that the applicant:

(a) Has completed an approved 4-year high school course of study or the equivalent thereof as determined by the appropriate educational agency.

(b) Has completed an approved practical nursing education program or an equivalent program.

(2) The applicant shall be required to pass a written examination as determined by the board, whereupon, the board shall issue to the applicant a license to practice as a licensed practical nurse.

(3) The board may issue a license to practice as a licensed practical nurse by indorsement to an applicant who has been duly licensed as a licensed practical nurse or a person entitled to perform similar services under a different title, under laws of another state, territory or country if the qualifications of the applicant are deemed by the board to be equivalent to those required in this state.

HISTORY: New 1967, p. 178, Act 149, Eff. Nov. 2.

338.1163 Psychiatric attendant nurse; application for license, oath, qualifications.

Sec. 13. (1) An applicant for a license to practice psychiatric attendant nursing shall submit to the board written evidence, verified by oath, that the applicant:

(a) Has completed an approved 4-year high school course of study or the equivalent thereof as determined by the appropriate educational agency.

(b) Has completed an approved psychiatric attendant nursing education program or a program deemed by the board to be equivalent thereto.

(2) The applicant shall be required to pass a written examination as determined by the board, whereupon, the board shall issue to the applicant a license to practice as a licensed psychiatric attendant nurse.

HISTORY: New 1967, p. 179, Act 149, Eff. Nov. 2.

338.1164 License fees; reexamination fees; abandonment of application.

Sec. 14. An applicant applying for a license to practice as a registered nurse, a licensed practical nurse or a licensed psychiatric attendant nurse shall pay a fee of \$20.00 to the board. A fee of \$10.00 shall be required for each reexamination. If an applicant fails to complete the requirements for licensing within 3 years from the date of filing the application, the application is deemed to be abandoned.

HISTORY: New 1967, p. 179, Act 149, Eff. Nov. 2.

338.1165 Temporary permit; duration, additional permit, fee.

Sec. 15. The board may issue without fee a permit to practice nursing for a period of 6 months to an applicant for licensing pending compliance with the requirements for licensing. An applicant for licensing by indorsement shall show evidence of current active licensing in another state, territory or country. On expiration of the permit and on payment of a fee of \$10.00 the board may issue a permit to practice nursing for an additional period not to exceed 12 months from the date of issuance of the original permit pending reexamination or compliance with other provisions of this act. Reapplication following abandonment of an application shall not entitle the applicant to a permit.

HISTORY: New 1967, p. 179, Act 149, Eff. Nov. 2.

338.1166 Titles; use, authority conferred.

Sec. 16. A person holding a license to practice as a registered nurse in this state may use the title "registered nurse" and the abbreviation "R.N." A person holding a license to practice as a licensed practical nurse in this state may use the title "licensed practical nurse" and the abbreviation "L.P.N." A person holding a license to practice as a psychiatric attendant nurse in this state may use the title "licensed psychiatric attendant nurse" and the abbreviation "L.P.A.N." A person holding a license to practice as a trained attendant in this state may use the title "trained attendant" and the abbreviation "T.A."

HISTORY: New 1967, p. 179, Act 149, Eff. Nov. 2.

338.1167 Current licensees deemed licensed under act.

Sec. 17. A person holding a license or certificate of registration to practice nursing as a registered nurse, a licensed practical nurse, a licensed psychiatric attendant nurse or a trained attendant issued by the board which is valid on the effective date of this act is deemed to be licensed as a registered nurse, a licensed practical nurse, a licensed psychiatric attendant nurse or a trained attendant under the provisions of this act.

HISTORY: New 1967, p. 179, Act 149, Eff. Nov. 2.

338.1168 Licenses; annual renewal, notice, fees, issuance, reinstatement, nonpractice.

Sec. 18. (1) A license shall be renewed annually, except as hereinafter provided. The board shall mail notices for renewal of licenses to every person to whom a license was issued or renewed during the preceding renewal period. The licensee shall complete the notice of renewal and return it to the board with the renewal fee of \$3.00 before the date of expiration.

(2) Upon receipt of the notice of renewal and the fee, the board shall verify its contents and shall issue to the licensee a license for the current renewal period, which

renders the holder thereof a legal practitioner of nursing for the period stated thereon.

(3) A licensee shall show his license when requested. A licensee who allows his license to lapse by failing to renew it may be reinstated by the board upon satisfactory explanation for the failure to renew and on payment of the renewal fee of \$3.00 and a reinstatement fee of \$3.00.

(4) A nurse who does not engage in the practice of nursing during the succeeding renewal period is not required to pay the renewal fee as long as he remains inactive. If he desires to resume the practice of nursing, he shall notify the board and remit the renewal fee for the current renewal period and the reinstatement fee.

HISTORY: New 1967, p. 179, Act 149, Eff. Nov. 2.

338.1169 Fees; disposition; appropriations by legislature.

Sec. 19. Fees received by the board and moneys collected under this act shall be deposited in the state treasury to the credit of the general fund. Expenses incurred in the performance of this act shall be paid in accordance with the accounting laws of the state within the appropriation made therefor by the legislature. The legislature shall not appropriate more than the amount of moneys collected.

HISTORY: New 1967, p. 180, Act 149, Eff. Nov. 2.

338.1170 Nursing education programs; application for approval, survey, findings; standards.

Sec. 20. (1) An institution desiring to conduct a nursing education program to prepare persons for licensing shall apply to the board and submit evidence that:

(a) It is prepared to carry out the defined minimum curriculum for preparation of persons for licensing.

(b) It is prepared to meet other standards established under this act and by the board.

(2) The administrative secretary or other authorized employees of the board shall make a survey of the institution and its entire nursing education program and submit in writing a report of findings to the board. If the board determines that the requirements for a nursing education program are met, the board shall approve the program. Nursing education programs which have been approved by the board at the effective date of this act shall continue to be approved until further action of the board.

(3) When deemed necessary by the board, it shall survey through its administrative secretary or other authorized employees all nursing education programs in the state. Written reports of such surveys shall be submitted to the board. If the board determines that the standards required by this act and by the board are not being met, written notice specifying the defect shall be given immediately to the institution conducting the program.

(4) A nursing education program which within a reasonable length of time as determined by the board fails to meet standards defined by the board shall be removed from the list of approved programs.

HISTORY: New 1967, p. 180, Act 149, Eff. Nov. 2.

338.1171 Permits and licenses; revocation, suspension or refusal to renew; grounds.

Sec. 21. The board may revoke, suspend or refuse to renew any license or permit or place on probation, or otherwise reprimand a licensee or permit holder upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license or permit to practice nursing.

(b) Has been convicted of a criminal offense in a court of competent jurisdiction.

(c) Is unfit or incompetent by reason of negligence, habits or other causes of incompetency.

(d) Is habitually intemperate in the use of alcoholic beverages.

(e) Is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics.

(f) Is guilty of dishonesty or unethical conduct.

(g) Has practiced nursing after his license or permit has expired or has been suspended.

(h) Has practiced nursing under cover of any permit or license illegally or fraudulently obtained or issued.

(i) Is guilty of any act derogatory to the morals or standing of those engaged in nursing or attending the sick, as may be determined by the board.

(j) Has violated or aided or abetted others in violation of any provision of this act.

HISTORY: New 1967, p. 180, Act 149, Eff. Nov. 2.

338.1172 Violation of act; complaint, investigation, hearing, witnesses, denial of license, list of violators.

Sec. 22. (1) Upon filing of a written complaint with the board, charging a person with having been guilty of any of the acts described in section 21, the administrative secretary, or other authorized employees of the board, shall make an investigation. If the board finds reasonable grounds for the complaint, a time and a place for a hearing shall be set, notice of which shall be served on the licensee, permit holder or applicant at least 15 days prior thereto. The notice shall be by personal service or by certified or registered mail sent to the last known address of the person.

(2) The board may petition the circuit court for the county within which the hearing is being held to issue subpoenas for the attendance of witnesses and the production of necessary books, records and paper in any hearing before it. Upon request of the respondent or his counsel, the board shall petition the court to issue subpoenas in behalf of the respondent. The circuit court upon such showing as it deems necessary may issue the subpoenas petitioned for.

(3) The board may deny a license to an applicant upon proof that the applicant is guilty of any act, which if committed by a licensee would be grounds for disciplinary action.

(4) The board shall make public a list of the names and addresses of persons whose licenses or permits have been denied, surrendered, revoked, suspended, or who have been denied renewal of their licenses or permits and persons who have been practicing nursing in violation of this act.

HISTORY: New 1967, p. 181, Act 149, Eff. Nov. 2.

338.1173 Exemptions from act.

Sec. 23. This act does not prohibit:

(a) The furnishing of nursing assistance in an emergency created by natural disaster, enemy attack or other accident.

(b) The practice of nursing which is an integral part of the program of study by students enrolled in nursing education programs approved by the board.

(c) The practice of any legally qualified nurse of another state who is employed by the United States government or any agency thereof, while in the discharge of his official duties.

(d) The practice of non-medical nursing or caring for the sick in accordance with the tenets and practice of a well recognized church or religious denomination which relies on spiritual means alone through prayer for healing.

HISTORY: New 1967, p. 181, Act 149, Eff. Nov. 2.

338.1174 Misdemeanors; penalties.

Sec. 24. (1) It is a misdemeanor for any person to:

- (a) Sell, fraudulently obtain or furnish any nursing diploma, permit, license or record, or aid or abet therein.
 - (b) Practice nursing under cover of any nursing diploma, permit, license or record illegally or fraudulently obtained or issued.
 - (c) Practice nursing unless duly licensed to do so under the provisions of this act.
 - (d) Impersonate in any manner or pretend to be a registered nurse, licensed practical nurse, licensed psychiatric attendant nurse or trained attendant, or use the title "registered nurse", the letters "R.N.", the title "licensed practical nurse", the letters "L.P.N.", the title "licensed psychiatric attendant nurse", the letters "L.P.A.N.", the title "trained attendant", the letters "T.A." or any other words, letters, signs, symbols or devices to indicate the person using them is a registered nurse, licensed practical nurse, licensed psychiatric attendant nurse or trained attendant, unless duly authorized by license or permit to practice under the provisions of this act.
 - (e) Practice nursing during the time his license or permit is suspended, revoked or expired.
 - (f) Conduct a nursing education program for the preparation for licensing of practitioners of nursing unless the program has been approved by the board.
 - (g) Knowingly employ unlicensed persons in the practice of nursing.
 - (h) Make false representation or impersonation or act as a proxy for another person or allow or aid any person to impersonate him in connection with any examination or application for licensing or request to be examined or licensed.
 - (i) Otherwise violate any provision of this act.
- (2) Such misdemeanor shall be punishable by a fine of not more than \$500.00, or by imprisonment for not more than 6 months, or by both.

HISTORY: New 1967, p. 181, Act 149, Eff. Nov. 2.

338.1175 Repeal.

Sec. 25. Act No. 319 of the Public Acts of 1909, as amended, being sections 338.351 to 338.362 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1967, p. 182, Act 149, Eff. Nov. 2.

Act 166, 1969, p. 332; Eff. Nov. 1.

AN ACT to provide for the licensing and regulation of nursing home administrators.

The People of the State of Michigan enact:

338.1181 Nursing home administrators; definitions.

Sec. 1. As used in this act:

- (a) "Department" means the department of licensing and regulation.
- (b) "Director" means the director of the department of licensing and regulation.
- (c) "Nursing home" means an establishment or institution other than a hospital having as 1 of its functions the rendering of healing care for periods of more than 24 hours to 4 or more individuals afflicted with illness, injury, infirmity or abnormality who are not related to the owner or administrator by blood or marriage within the third degree of consanguinity.

(d) "Nursing home administrator" means the individual responsible to the governing board or owner of the nursing home for planning, organizing, directing and controlling the total operation of the nursing home.

HISTORY: New 1969, p. 332, Act 166, Eff. Nov. 1.

338.1182 Nursing home; licensed administrator required.

Sec. 2. After July 1, 1970, no nursing home shall operate except under the supervision of a nursing home administrator, and no person shall be a nursing home administrator unless he is the holder of a sufficient nursing home administrator's license issued pursuant to this act.

HISTORY: New 1969, p. 332, Act 166, Eff. Nov. 1.

338.1183 Licenses; rules, issuance, term; temporary operation, application, fee.

Sec. 3. (1) The department shall license nursing home administrators in accordance with rules issued and, from time to time revised by it, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. A nursing home administrator's license shall be nontransferrable and shall be valid for 1 year or until surrendered for cancellation or suspended or revoked for violation of this act or any other laws or regulations relating to the proper operation of a nursing home. No license shall issue to any nursing home administrator for the purpose of administering an unlicensed nursing home. If a nursing home administrator ceases for any reason to act, the department may, in its discretion, permit said nursing home to operate for a reasonable time to permit the qualification and employment of a licensed nursing home administrator.

(2) An application for a license shall be made under oath on a form prescribed and furnished by the department and shall be accompanied by a fee of \$50.00. If the applicant is denied a license 1/2 the fee shall be returned.

(3) The director shall appoint an advisory council to assist in carrying out the provisions of this act.

HISTORY: New 1969, p. 332, Act 166, Eff. Nov. 1.

338.1184 Licenses; qualifications.

Sec. 4. In order to be eligible for licensing pursuant to this act, a person shall:

(a) Be not less than 21 years of age, of good moral character, and physically and emotionally capable of administering a nursing home.

(b) Have satisfactorily completed a course of instruction and training approved by the department, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes; laws governing the operation of nursing homes and the protection of the interests of patients therein; and the elements of good nursing home administration; or have presented evidence satisfactory to the department of sufficient education and training in the foregoing fields.

(c) Have passed an examination administered by the department and designed to test for competence in the subject matter referred to in subdivision (b) or have completed 4 years of actual administration of hospitals or licensed nursing homes within 6 years immediately preceding January 1, 1970.

(d) Have such additional qualifications as may be required by the department for licensing as a nursing home administrator.

HISTORY: New 1969, p. 333, Act 166, Eff. Nov. 1.

338.1185 Educational courses; approval.

Sec. 5. If the director finds that there are not a sufficient number of courses of instruction and training sufficient to meet the requirements of this act conducted within the state, it may conduct 1 or more such courses, and shall make provisions for such courses and their accessibility to residents of this state. The director may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this act.

HISTORY: New 1969, p. 333, Act 166, Eff. Nov. 1.

338.1186 Temporary licenses; expiration.

Sec. 6. Persons who, on January 1, 1970, have been actively engaged as nursing home administrators for at least 2 years next preceding such date, and who do not meet the requirements in force pursuant to subdivisions (b) and (c) of section 4 shall be issued a temporary license without the need to present evidence of satisfactory completion of a course of instruction and training and without examination, but any such licenses shall expire no later than June 30, 1972.

HISTORY: New 1969, p. 333, Act 166, Eff. Nov. 1.

338.1187 Licenses; renewal, fee, exception.

Sec. 7. All licenses issued under this act shall be renewed annually on or before October 31, but not before October 31, 1971, upon application and payment of a fee of \$50.00. If a license is not renewed before expiration, an applicant shall pay a delinquent fee of \$5.00. An application for a reinstated license or a duplicate license shall be accompanied by a fee of \$5.00. A licensee is not required to pay renewal fees while on active duty with the armed forces of the United States.

HISTORY: New 1969, p. 333, Act 166, Eff. Nov. 1.

338.1188 Licenses; Christian Science nursing homes.

Sec. 8. Nothing in this act or the rules shall be construed to require an applicant for a license as a nursing home administrator of any nursing home exempt under section 9 of Act No. 139 of the Public Acts of 1956, as amended, being section 331.659 of the Compiled Laws of 1948, to meet any medical educational qualifications or to pass an examination on any medical subjects. A nursing home administrator licensed under this section is not qualified to be an administrator of any nursing home except a Christian Science nursing home and the license shall so state.

HISTORY: New 1969, p. 333, Act 166, Eff. Nov. 1.

338.1189 Licensees of other states; reciprocity.

Sec. 9. The director may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another state if the director finds that the standards for licensing in such other state are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified.

HISTORY: New 1969, p. 333, Act 166, Eff. Nov. 1.

338.1190 Licenses; refusal, suspension or revocation, grounds.

Sec. 10. The director may revoke, suspend or refuse to issue or renew any license upon proof that the person:

- (a) Is guilty of fraud or deceit in procuring or attempting to procure a license as a nursing home administrator.
- (b) Has been convicted of a felony involving moral turpitude in a court of competent jurisdiction within the past 10 years.
- (c) Is unfit or incompetent by reason of negligence, habits or other causes of incompetency.

- (d) Is habitually intemperate in the use of alcoholic beverages.
- (e) Is addicted to, or has illegally obtained, possessed, used or distributed drugs or narcotics.
- (f) Is guilty of dishonesty or unethical conduct.
- (g) Has violated or aided or abetted others in violation of any provision of this act.
- (h) Has, directly or indirectly, offered to pay, caused to be paid, or inferred that payment might be made of, any sum or [sic] money or other thing of value to a physician, pharmacist or other person or institution in the health professions as consideration for any referral of patients to the licensee or has accepted or demanded payment of any sum of money or other thing of value from any such person or institution in connection with the rendition of professional services by said person or institution.

HISTORY: New 1969, p. 334, Act 166, Eff. Nov. 1.

338.1191 Complaints against licensees; limitation, hearing, notice.

Sec. 11. (1) Any person wishing to make a complaint against a licensee under this act shall file a written complaint with the department within 1 year from the date of the action causing the complaint.

(2) If the department determines the charges made in the complaint are sufficient, if true, to warrant suspension or revocation of a license issued under this act, it shall make an order fixing the time and place for a hearing, requiring the licensee complained against to appear and answer the complaint. The order shall have annexed thereto a copy of the complaint and both shall be served upon the licensee at least 20 days before the date set for hearing either personally or by registered mail sent to licensee's last known address.

HISTORY: New 1969, p. 334, Act 166, Eff. Nov. 1.

338.1192 Effective date.

Sec. 12. This act shall take effect on November 1, 1969.

HISTORY: New 1969, p. 334, Act 166, Eff. Nov. 1.

Act 126, 1963, p. 177; Eff. Sep. 6.

AN ACT relating to landscape architects; to require the registration of landscape architects; to create the board of landscape architects and to prescribe their powers and duties; to prescribe the qualifications of landscape architects; to fix the fees for examination and registration; to prescribe the powers and duties of the director of agriculture and the state agricultural commission; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

338.1201 Landscape architect act; short title.

Sec. 1. This act shall be known and may be cited as the "landscape architect act".

HISTORY: New 1963, p. 177, Act 126, Eff. Sep. 6.

338.1202 Landscape architect act; definitions.

Sec. 2. As used in this act:

(a) "Landscape architect" means a person registered to practice landscape architecture as provided in this act.

(b) "Landscape architecture" means the performance of professional services such as consultation, investigation, reconnaissance, research, planning, design, or responsible supervision in connection with the development of land areas where, and to the extent that the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting.

naturalistic and aesthetic values, the settings and approaches to structures or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight or other hazards. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined herein but shall not include the design of structures or facilities with separate and self-contained purposes such as are ordinarily included in the practice of engineering or architecture; and shall not include the making of land surveys or final land plats for official approval or recording. Nothing contained herein shall preclude a duly licensed landscape architect from performing any of the services described in the first sentence of this subdivision in connection with the settings, approaches or environment for buildings, structures or facilities. Nothing contained in this act shall be construed as authorizing a landscape architect to engage in the practice of architecture, engineering or land surveying.

(c) "Board" means the board of landscape architects created in this act.

(d) "Director" means the state director of agriculture.

(e) "Department" means the state department of agriculture.

(f) "Commission" means the state agricultural commission.

HISTORY: New 1963, p. 177, Act 126, Eff. Sep. 6.

338.1203 Landscape architect; registration, titles not restricted.

Sec. 3. No person shall use or advertise any title or description tending to convey the impression that he is a landscape architect unless he is registered as provided in this act. Nothing in this act shall restrict the use of the titles landscape gardener, landscape contractor, landscape designer or landscape nursery man.

HISTORY: New 1963, p. 177, Act 126, Eff. Sep. 6.

338.1204 Board of landscape architects; membership, qualifications, term, expenses, meetings.

Sec. 4. (1) The board of landscape architects is created to consist of ex officio and appointed members. The ex officio members are the director, who shall be chairman, and the heads of the department of landscape architecture from each of the state supported universities providing professionally accredited programs of study in landscape architecture. The commission shall appoint the appointed members of the board, 2 each from names submitted by the Michigan chapter of the American society of landscape architects and the Michigan association of landscape architects. Two of the appointed members shall be in government service and 2 shall be engaged in general landscape architecture. The term of office of appointed members shall be 4 years and until their successors are appointed and qualified, except that of the members first appointed, 1 shall be appointed for 1 year, 1 for 2 years, 1 for 3 years and 1 for 4 years. Members of the board, except the director, shall qualify by taking the constitutional oath of office.

(2) Each appointed member of the board shall be a citizen of the United States, a resident of this state and qualified as a landscape architect under the terms of this act.

(3) Appointed members of the board shall be entitled to reimbursement of actual and necessary travel and other expenses incurred in the discharge of their duties under this act, to be paid from appropriations made for this purpose. Expenses of the appointed members shall not exceed the limits established by standard travel regulations of the department of administration in effect at the time of the expenditures.

(4) The commission may remove any appointed members, after notice and hearing, for official misconduct or habitual or willful neglect of duty. Vacancies on the board shall be filled for the unexpired term in the same manner as appointments for a full term.

(5) The board shall meet at least twice a year at a time and place fixed by the director or by a majority of the members of the board.

HISTORY: New 1963, p. 178, Act 126, Eff. Sep. 6.

CITED IN OTHER SECTIONS: The above section is cited in § 16.427.

338.1205 Board of landscape architects; duties.

Sec. 5. The board shall:

(a) Prescribe the scope, method and form of examination of applicants for registration.

(b) Certify to the director all applicants approved for registration.

(c) Advise the director on the disposition of matters pertaining to landscape architecture, including but not limited to the design of a seal for landscape architects and the form of the certificate of registration.

HISTORY: New 1963, p. 178, Act 126, Eff. Sep. 6.

338.1206 Landscape architects; applicants for registration, qualifications.

Sec. 6. Except as otherwise specifically provided in this act, every applicant for registration as a landscape architect shall be of good character, over 21 years of age, a citizen of the United States and shall pass such written examinations as may be prescribed by the board. In addition, every applicant shall have had not less than 7 years of training and experience in the actual practice of landscape architecture. Satisfactory completion of each year up to 5 years of an accredited course in landscape architecture in a school acceptable to the board shall be considered as the equivalent to a year of experience.

HISTORY: New 1963, p. 178, Act 126, Eff. Sep. 6.

338.1207 Landscape architects; registration application, form, fees.

Sec. 7. Applications for registration shall be made under oath, to the director on forms prescribed and furnished by him and shall be accompanied by a fee of \$30.00. If applicant is denied registration the fee shall be retained.

HISTORY: New 1963, p. 178, Act 126, Eff. Sep. 6.

338.1208 Examinations; re-examinations, fee.

Sec. 8. The board shall conduct all examinations at such times and places as determined by it. The procedure for conducting examinations shall be prescribed in the rules and regulations. An applicant who fails an examination may apply for re-examination at the expiration of 6 months and is entitled to 1 re-examination without payment of an additional fee. Subsequent re-examinations may be granted upon application and payment of a fee of \$25.00.

HISTORY: New 1963, p. 178, Act 126, Eff. Sep. 6.

338.1209 Certificate of registration; form, contents, evidence.

Sec. 9. The director shall issue a certificate of registration to all applicants certified by the board as having met the requirements of this act and the rules and regulations promulgated hereunder. The director, after consultation with the board, shall prescribe the form of the certificate which shall be serially numbered and contain the name of the registrant. The director shall sign all certificates. The certificate shall be evidence that the person named therein is entitled to all the rights and privileges of a registered landscape architect.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1210 Certificate of registration; renewal, fee, military service.

Sec. 10. Certificates expire on August 1 following their issuance, and shall be renewed before the expiration date upon application and payment of a fee of \$25.00. If a certificate is not renewed before expiration, a delinquent fee of \$3.00 shall be charged. Applications for reinstated certificate and duplicate certificates shall be accompanied

by a fee of \$3.00. Landscape architects shall not be required to pay the renewal fees while on active duty with the armed forces of the United States.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1211 Registration; individual basis.

Sec. 11. Registration under this act shall be on an individual basis, and the director shall not register any firm, company, partnership, corporation or public agency.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1212 Registration; practical experience.

Sec. 12. At any time within 2 years after the effective date of this act, the board may certify for registration any applicant who submits proof acceptable to the board that the applicant has had at least 7 years of practice in landscape architecture as a principal livelihood.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1213 Registration; nonresident applicant, reciprocity.

Sec. 13. The board may certify for registration without examination any applicant who is legally registered as a landscape architect in any other state or country whose requirements for registration are at least substantially equivalent to the requirements of this state and which extends the same privileges of reciprocity to landscape architects registered in this state.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1214 Registration certificate; revocation or suspension; reissuance.

Sec. 14. After notice and hearing, the director may revoke or suspend any certificate of registration issued under this act for fraud, deceit, gross negligence, incompetency or misconduct in the practice of landscape architecture. The director may reissue a certificate that has been revoked.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1215 Rules and regulations; examinations.

Sec. 15. The director may promulgate rules and regulations, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for the administration and enforcement of this act. Rules and regulations relating to the scope, method and form of examinations shall be in accordance with the recommendations of the board.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1216 Board of landscape architects; record of proceedings, register, contents, roster.

Sec. 16. The board shall file a record of its proceedings with the director. The director shall keep a register of all applications for registration which register shall show the name, age and business and residence addresses of each applicant; the date of application; the educational and other qualifications of the applicant; the disposition of the application and such other information as the director deems necessary. Each year the director shall prepare a roster of the names and business addresses of all landscape architects. A copy of the roster may be mailed to each landscape architect.

HISTORY: New 1963, p. 179, Act 126, Eff. Sep. 6.

338.1217 Deposit of receipts; appropriations.

Sec. 17. All moneys received under the provisions of this act shall be deposited in the state treasury to the credit of the general fund. The legislature shall not appropriate funds for the administration of this act in excess of the fees received under the provisions of this act.

HISTORY: New 1963, p. 180, Act 126, Eff. Sep. 6.

338.1218 Seal of registered landscape architect; permitted use.

Sec. 18. (1) Every landscape architect shall have a seal, approved by the director, which shall contain the name of the landscape architect, the serial number of his certificate of registration and the legend "registered landscape architect, state of Michigan" and such other words or figures as the director may deem necessary. All plans, specifications and reports, prepared by the landscape architect or under his supervision, shall be stamped with his seal when filed with public authorities.

(2) Any landscape architect who indorses any document with his seal while his certificate is not in full force and effect, or who indorses any document which he did not actually prepare or supervise the preparation, is guilty of a misdemeanor. Improper use of the seal is ground for revocation or suspension of the certificate of registration.

HISTORY: New 1963, p. 180, Act 126, Eff. Sep. 6.

338.1219 Violation of act; misdemeanor.

Sec. 19. Any person who violates any provision of this act is guilty of a misdemeanor.

HISTORY: New 1963, p. 180, Act 126, Eff. Sep. 6.

Act 147, 1963, p. 201; Eff. Sep. 6.

AN ACT to require the state health commissioner to register sanitarians and provide for issuance, renewal and revocation of certificates of registrations of sanitarians; to create a board of examiners for sanitarians; to provide for fixing of fees; to provide for payment of actual and necessary expenses of board members; to delegate authority for making rules and regulations; to provide a method for reciprocity between states for registered sanitarians; and to provide remedies and penalties for the violation of this act.

The People of the State of Michigan enact:

338.1301 Sanitarian's registration act; short title.

Sec. 1. This act shall be known and may be cited as the "sanitarian's registration act".

HISTORY: New 1963, p. 201, Act 147, Eff. Sep. 6.

CITED IN OTHER SECTIONS: Sections 338.1301 to 338.1315 are cited in § 16.431.

338.1302 Sanitarian's registration act; definitions.

Sec. 2. As used in this act:

- (a) "Board" means the board of examiners for sanitarians.
- (b) "Commissioner" means the state health commissioner.
- (c) "Sanitarian" means a person who by education and experience in the physical, biological and sanitary sciences is qualified to carry out educational, investigational and technical duties in the field of environmental health.
- (d) "Registered sanitarian" means a sanitarian registered in accordance with the provisions of this act.
- (e) "Certificate of registration" means a document issued as evidence of registration and qualification to practice as a registered sanitarian under this act, bearing the des-

ignation "registered sanitarian" and showing the name of the person, date of issue, serial number, seal and signatures of the state health commissioner and chairman of the board.

HISTORY: New 1963, p. 201, Act 147, Eff. Sep. 6.

338.1303 Registration of qualified sanitarians.

Sec. 3. The state health commissioner shall register qualified sanitarians whose duties in environmental health are important to the protection of the public health and welfare, and who are recommended to him by the board.

HISTORY: New 1963, p. 201, Act 147, Eff. Sep. 6.

338.1304 Board of examiners for sanitarians; membership.

Sec. 4. A board of examiners for determining the eligibility of sanitarians for registration is created to consist of 5 members appointed by the governor, by and with the consent of the senate, only one of whom shall be a member of the section of environmental health of the state department of health, and 1 from each of 4 geographic regions. Region 1: The Upper Peninsula; region 2: That part of the Lower Peninsula bordered on the south by Oceana, Newaygo, Mecosta, Isabella, Midland, Gladwin and Arenac counties and the area north of such counties; region 3: The area bordered on the north and west by Huron, Bay, Saginaw, Shiawassee, Livingston, Washtenaw and Lenawee counties and the area south and east of such counties; region 4: The area bordered on the east and north by Hillsdale, Jackson, Ingham, Clinton, Gratiot, Montcalm, Kent and Muskegon counties and the area south and west of such counties.

HISTORY: New 1963, p. 201, Act 147, Eff. Sep. 6.

338.1305 Board of examiners; terms, vacancies.

Sec. 5. The term of office of all board members shall be 2 years. Vacancies shall be filled for unexpired terms in the same manner as the original appointments.

HISTORY: New 1963, p. 202, Act 147, Eff. Sep. 6.—Am. 1969, p. 386, Act 205, Eff. Mar. 20, 1970.

338.1306 Board of examiners; chairman, secretary, meetings, examination, quorum.

Sec. 6. As soon as appointed, the board shall organize and elect from their number a chairman. Annually when new members are appointed to the board a chairman shall be elected at the next board meeting. The secretary of the board shall be the member from the state department of health. The board shall hold at least 1 meeting each year for the purpose of examining candidates for registration. The board shall hold a written examination within 1 year after the effective date of this act for persons presently practicing as sanitarians to be given the opportunity to become registered. Additional meetings may be called by the chairman or commissioner as may be necessary to carry out the provisions of this act. Three members constitute a quorum.

HISTORY: New 1963, p. 202, Act 147, Eff. Sep. 6.

338.1307 Board of examiners; compensation, expenses.

Sec. 7. The members of the board shall serve without compensation except for their actual and necessary expenses incurred while discharging their official duties.

HISTORY: New 1963, p. 202, Act 147, Eff. Sep. 6.

338.1308 Rules and regulations; approval by legislature.

Sec. 8. The state health commissioner with the advice of the board and with the advice and consent of the state council of health shall make such rules and regulations as are reasonably necessary to carry out the intent of this act, in accordance with Act.

No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, except that rules and regulations shall not take effect until approved by the legislature.

HISTORY: New 1963, p. 202, Act 147, Eff. Sep. 6.

338.1309 Registration; application, form, fees, qualifications.

Sec. 9. The commissioner shall provide an application form for the use of all applicants. A fee of \$20.00 shall be paid at the time of making application for registration. No application fee shall be returned to an applicant unless he does not qualify for registration. After January 1, 1965 the qualifications for registration shall be a graduate with a baccalaureate, or higher, degree from an accredited college or university in the field of physical, biological and sanitary sciences plus experience as a practicing sanitarian. The combination of education and experience shall total 7 years.

HISTORY: New 1963, p. 202, Act 147, Eff. Sep. 6.

338.1310 Registration certificate; fee, term, appropriations.

Sec. 10. The commissioner, upon recommendation of the board, shall issue a certificate of registration to all qualified applicants who have successfully passed a written examination approved by the board and are of sound moral character. A certificate of registration shall be valid for a period of 1 year. A sanitarian registered under the provisions of this act may renew his certificate by submitting an application to the commissioner for renewal, accompanied by a fee of \$20.00. All certificates of registration shall expire on the renewal dates unless renewed prior to such date. Certificates of registration which have expired for failure of the registrant to apply for renewal may be reinstated under the rules and regulations adopted by the commissioner. All fees collected under this act shall be deposited in the state treasury to the credit of the general fund. The legislature shall not appropriate any sum for the administration of this act in excess of the fees collected.

HISTORY: New 1963, p. 202, Act 147, Eff. Sep. 6.

338.1311 Registration certificate; revocation or suspension.

Sec. 11. The commissioner, upon recommendation of the board, may suspend or revoke, after due notice and proper hearing, a certificate of registration when the holder is guilty of unprofessional conduct, the practice of fraud or deceit in obtaining a certificate of registration, dereliction of duty, incompetence in the practice of environmental health or for other good and sufficient cause, as defined under the rules and regulations which have been approved by the legislature.

HISTORY: New 1963, p. 203, Act 147, Eff. Sep. 6.

338.1312 Registration; agreements for reciprocity.

Sec. 12. Agreements for reciprocity with those states having an act for the registration of sanitarians, whose provisions are substantially equivalent, may be entered into by the commissioner under such appropriate rules and regulations as may be prescribed.

HISTORY: New 1963, p. 203, Act 147, Eff. Sep. 6.

338.1313 Registered sanitarians; conflicts of interest prohibited.

Sec. 13. No registered sanitarian shall be engaged in or have any interest in any work, project or operation prejudicial to his professional interest therein, nor be in conflict with Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Compiled Laws of 1948.

HISTORY: New 1963, p. 203, Act 147, Eff. Sep. 6.

338.1314 Registered sanitarians; title use.

Sec. 14. Only a person who has qualified as a registered sanitarian and who holds a valid current registration certificate for use in this state shall represent himself to be a registered sanitarian, and shall have the right and privilege of using the title "registered sanitarian" and to use the abbreviation "R.S." after his name.

HISTORY: New 1963, p. 203, Act 147, Eff. Sep. 6.

338.1315 Violation of act; misdemeanor.

Sec. 15. Any person who violates any of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1963, p. 203, Act 147, Eff. Sep. 6.

Act 218, 1966, p. 245; Imd. Eff. Jul. 11.

AN ACT to register and regulate professional community planners; to create a state board of registration for professional community planners, and to prescribe its powers and duties; to impose certain powers and duties upon the state and political subdivisions thereof; to protect public health, safety and welfare; and to provide penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

338.1351 Professional community planners act; short title.

Sec. 1. This act shall be known and may be cited as the "professional community planners act".

HISTORY: New 1966, p. 245, Act 218, Imd. Eff. Jul. 11.

338.1352 Professional community planners act; definitions.

Sec. 2. As used in this act:

(a) "Board" means the state board of registration for professional community planners.

(b) "Comprehensive community plan" means a unified document of text, charts, graphics or maps, or any combination, designed to portray general, long-range proposals for the arrangement of land uses and which is intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community.

(c) "Community" means village, city, township, county, region, metropolitan area, state or combinations thereof, except state supported colleges, universities and institutions.

(d) "Professional community planner" means a person registered in accordance with the provisions of this act.

(e) "Department" means the department of licensing and regulation.

HISTORY: New 1966, p. 246, Act 218, Imd. Eff. Jul. 11.

338.1353 Professional community planner; use of title.

Sec. 3. A person registered under this act may use the title "professional community planner" or "community planner".

HISTORY: New 1966, p. 246, Act 218, Imd. Eff. Jul. 11.

338.1354 Registered professional community planners; scope of practice, restrictions.

Sec. 4. (1) A registered professional community planner may engage in the preparation of the comprehensive community plan including the preparation of planning stud-

ies which assist in the preparation or the implementation of the comprehensive community plan.

(2) Only individual persons shall be granted registration under this act.

(3) No professional community planner shall engage in the practice of architecture, engineering or land surveying, as defined in Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Compiled Laws of 1948, unless duly registered as an architect, professional engineer or land surveyor in accordance with law.

HISTORY: New 1966, p. 246, Act 218, Imd. Eff. Jul. 11.

338.1355 Professional community planner; use of seal.

Sec. 5. A professional community planner shall place a seal upon his work or the planning work for which he is responsible with a seal bearing his name.

HISTORY: New 1966, p. 246, Act 218, Imd. Eff. Jul. 11.

338.1356 Registration; qualifications, examinations, false or forged evidence.

Sec. 6. (1) Every person applying for registration as a professional community planner under this act shall:

(a) Be of good moral character.

(b) Be required to pass a written examination, and when deemed necessary, an oral examination, prescribed by the board, except as provided by section 7.

(c) Have had not less than 6 years of planning experience, except as provided in subdivision (d), in the types of work necessary to the preparation or implementation of comprehensive community plans, not less than 2 years of which shall have been in the United States.

(d) A minimum of 2 years of planning experience, as described in subdivision (c), is mandatory. A maximum waiver of 4 years may be allowed for 1 degree only as follows:

Doctorate or master's degree in planning, 4 years' credit;

Bachelor's degree in planning, 3 years' credit;

Doctorate or master's degree in a related field including, but not limited to, architecture; landscape architecture; civil engineering; sociology; economics; geography; political science; or public administration, 3 years' credit;

Any other degree in a related field, 2 years' credit.

(2) An applicant meeting the above requirements of this section, upon payment of the fees required under this act, shall be granted an examination unless deemed exempt from examination under the provisions of section 7. The examinations will have special reference to the applicant's knowledge of basic community planning theory, ability to solve practical community planning problems and understanding of professional responsibilities. The board shall, at least once annually, hold examinations in the separate items of its requirements as provided by this section. When examinations are required, they shall be held at such time and place as the board may determine.

(3) The board may permit the applicant to take the prescribed examination in 2 stages. The stages are as follows:

(a) The first stage of the examination may be taken after the applicant has 3 years of experience credit which may be based on 1 of the degrees listed in subdivision (d) of subsection (1). A candidate failing an examination may apply for reexamination at the expiration of 6 months after failure of the examination. Satisfactory passage of the first stage of the examination shall be valid for the life of the applicant. The board shall give the applicant an appropriate document declaring this.

(b) The second stage of the examination shall be given only after the applicant has completed the required 6 years of experience, and has passed the first stage of the ex-

amination. It shall test the applicant's ability to apply his training and knowledge to practical problems in the profession and shall further test his understanding of his professional responsibilities.

(4) No person shall give any false or forged evidence of any kind to the board in obtaining a certificate of registration.

HISTORY: New 1966, p. 246, Act 218, Imd. Eff. Jul. 11.

338.1357 Registration without examination; qualifications, experience required.

Sec. 7. At any time within 2 years after this act becomes effective, the board shall grant, upon application, registration under this act without examination to any applicant with at least 6 years of planning experience in the types of work necessary to the preparation or implementation of comprehensive community plans, not less than 2 years of which shall have been in the United States, and of which formal education can count as much as 4 years, according to the provisions of subdivision (d) of subsection (1) of section 6.

HISTORY: New 1966, p. 247, Act 218, Imd. Eff. Jul. 11.

338.1358 State board of registration for community planners; members, appointment, qualifications, terms, oath, vacancies, removal, compensation.

Sec. 8. (1) The state board of registration for professional community planners is created. The board shall consist of 5 members, all of whom shall have been residents of the state for at least 3 years, who shall be appointed by the governor within 60 days after passage of this act with the advice and consent of the senate. Each member of the board shall have a minimum of 10 years' experience as defined in section 6, not including experience credit for education.

(2) The members of the initial board will each be appointed as follows: 2 for a term of 1 year, 2 for a term of 2 years, and 1 for a term of 3 years. Thereafter an appointee to the board must be registered in the state under the provisions of this act, and must have had a minimum of 10 years' experience as defined in section 6, not including experience credit for education, and each such appointment shall be for a term of 3 years.

(3) Members of the board shall qualify by taking and filing the constitutional oath of office with the secretary of state, and shall hold office until appointment and qualification of their successors. On the expiration of the term of any member, the governor shall appoint a registered replacement. Vacancies shall be filled for the balance of any unexpired term, in the same manner as the original appointment. The governor may remove any member of the board for misfeasance, malfeasance or nonfeasance in office, after hearing and on written charges.

(4) Members of the board shall serve without compensation, but shall be entitled to their actual and necessary traveling and other expenses incurred in the performance of their official duties in accordance with standard travel regulations of the department of administration.

HISTORY: New 1966, p. 247, Act 218, Imd. Eff. Jul. 11.

338.1359 Registration board; powers and duties.

Sec. 9. (1) The board shall have the power to administer the registration of applicants as professional community planners, to issue a certificate of registration as set forth in section 12, to revoke the certificate of registration of any registrant as set forth in section 13, and to promulgate rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for the administration

and enforcement of this act not inconsistent with the constitution and the laws of this state, which may be reasonably necessary for the proper performance of their duties, including methods of procedure in processing before the board. The board shall adopt an official seal for professional community planners and shall also adopt an official certificate of registration.

(2) For purposes of organization, the board shall be assigned to the department of licensing and regulation under the provisions of section 3(b) of Act No. 380 of the Public Acts of 1965.

(3) The board shall hold an organization meeting within 60 days after it has been appointed, and thereafter shall hold at least 2 regular meetings each calendar year. The board shall elect annually a chairman and a vice-chairman. Special meetings may be called by the chairman. A majority vote of the entire board shall be necessary for a decision. At no time shall the vested authority for approving or disapproving registration of an applicant be delegated.

(4) The board shall keep a record of its proceedings and a register of all applicants for registration, which register shall show (a) the name, age and residence of each applicant; (b) the date of the application; (c) the place of business of the applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was accepted; (g) whether a certificate of registration was granted; (h) the date of the action of the board; and (i) such other information as may be deemed necessary by the board.

(5) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the director of the department, shall be admissible in evidence with the same force and effect as if the original were produced.

(6) On or before March 15 in each year, the board shall make a report to the governor and to the legislature, setting forth the workings of the board during the period covered by the report, and containing the findings and recommendations of the board.

HISTORY: New 1966, p. 249, Act 218, Imd. Eff. Jul. 11.

338.1360 Registration board; officers, custody of records and money, roster of registrants, notice of certificate expiration.

Sec. 10. (1) The department shall have charge of the offices of the board and of its records and all moneys collected, shall supervise all necessary administrative work of the board, shall perform the duties usually appertaining to such offices.

(2) A roster showing the names and business addresses of all professional community planners shall be prepared by the department during the month of February of each year, commencing in the year following the date on which this law becomes effective. Copies of this roster shall be placed on file with the secretary of state, and furnished at cost to the public upon request.

(3) The department shall notify every person registered under this act of the date of expiration of his certificate. The notice shall be mailed to the latest address on file with the executive secretary at least 1 month in advance of the date of expiration of the certificate.

HISTORY: New 1966, p. 249, Act 218, Imd. Eff. Jul. 11.

338.1361 Registration; application form, contents, fees, deposit.

Sec. 11. (1) Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and a summary of his professional work. The initial registration fee shall be for 1 year and shall be \$60.00, \$40.00 of which shall accompany the application, the remaining \$20.00 to be paid upon issuance of the certificate. If the board denies the is-

suance of a certificate of registration to any applicant, the initial fee deposited shall be retained as an application fee. The fee schedule shall be as follows:

- (a) One year initial registration\$60.00
- (b) Two year renewal of registration 80.00
- (c) Replacement of lost certificate 10.00
- (d) Reexamination fee—no fee for
first reexamination 10.00 for
subsequent reexaminations.

(e) Reinstatement—the fee to be paid for the renewal of a certificate at any time after 1 month subsequent to the date of expiration of said certificate shall be increased 10% for each month or fraction thereof that reinstatement is delayed. The maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

(2) All moneys received under the provisions of this act shall be deposited in the state treasury to the credit of the general fund. The legislature shall not appropriate funds for the administration of this act in excess of the fees received under the provisions of this act.

HISTORY: New 1966, p. 248, Act 218, Imd. Eff. Jul. 11.

338.1362 Certificate of registration; issuance, contents, rights and privileges, seal, expiration and renewal.

Sec. 12. (1) The board shall issue a certificate of registration upon payment of registration fees, as provided for in this act, to any applicant who has satisfactorily met all the requirements of this act. Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman of the board under seal of the board.

(2) The issuance of a certificate of registration by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered professional community planner while the certificate remains valid.

(3) Each registrant hereunder shall upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "professional community planner".

(4) Initial certificates of registration shall expire 1 year after date of issuance. Renewal of registration may be effected at any time within 1 month after the date of expiration of the certificate by the payment of the required fee. Renewal of registration shall be for a period of 2 years. The failure on the part of the registrant to renew his certificate within 1 month after the date required by the rules of the board, as prescribed above, shall not deprive such person of the rights of renewal, excepting when the lapse exceeds a period of 6 years, in which case the board shall review the registrant's qualifications and may require reexamination of the second stage as defined in section 6. In addition to the maximum fee for delayed renewal, reexamination shall require the standard registration fee.

HISTORY: New 1966, p. 249, Act 218, Imd. Eff. Jul. 11.

338.1363 Certificate; revocation; grounds, hearing, reissuance.

Sec. 13. (1) The board may revoke the certificate of registration of any registrant who is found guilty by the board of either:

- (a) The practice of any fraud or deceit in obtaining a certificate of registration.
- (b) Any gross negligence, incompetence or misconduct in the performance of the types of work necessary to the preparation or implementation of comprehensive community plans.

(2) Any person may prefer charges under subsection (1) against any registrant. The charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the department.

(3) All charges, unless dismissed by the board as unfounded, shall be heard by the board within a reasonable time after the date on which they shall have been preferred.

(4) The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed by certified mail with return receipt requested to the last known address of such registrant, at least 30 days before the date fixed for the hearing. At any hearing the person preferring charges shall be present. The accused registrant shall have the right to appear personally and to be represented by counsel of his choice, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

(5) If, after such hearing, 3 or more members of the board vote in favor of finding a violation of the provisions of this act, the board shall revoke the certificate of registration of such professional community planner.

(6) The board may reissue a certificate of registration to any person whose certificate has been revoked, provided 3 or more members of the board vote in favor of such reissuance.

HISTORY: New 1966, p. 249, Act 218, Imd. Eff. Jul. 11.

338.1364 Registration of nonresidents; fees, reciprocity.

Sec. 14. Upon application and the payment of the registration fee as provided in section 11, the board shall issue a certificate of registration as a professional community planner to any person who holds a valid certificate of qualification or registration issued to him by proper authority of any state or territory or possession of the United States if the requirements for the registration of professional community planners, under which said certificate of qualification or registration was issued, do not conflict with the provisions of this act and are of a standard not less restrictive than that specified in this act; and if equal reciprocal privileges are granted to registrants of this state.

HISTORY: New 1966, p. 250, Act 218, Imd. Eff. Jul. 11.

338.1365 Unauthorized use of title; penalty; duty of prosecuting attorney and attorney general.

Sec. 15. Any person who after January 1, 1967 uses the title registered professional community planner, when he is in fact not a registered professional community planner, or uses as his own the seal of another, or uses an expired or revoked certificate of registration is guilty of a misdemeanor, and shall be fined not more than \$500.00, or imprisoned for a period not exceeding 90 days, or both.

It shall be the duty of all law enforcing officers of this state to enforce the provisions of this act. It shall be the duty of the several prosecuting attorneys and the attorney general of the state to prosecute any person violating any of the provisions of this section.

HISTORY: New 1966, p. 250, Act 218, Imd. Eff. Jul. 11.

338.1366 Construction of act as to other legally recognized professions.

Sec. 16. This act shall not be construed to affect or prevent the practice of any other legally recognized profession, or to prohibit any person from engaging in the practice of planning or use of titles other than registered professional community planner.

HISTORY: New 1966, p. 250, Act 218, Imd. Eff. Jul. 11.

Act 201, 1965, p. 358; Eff. Mar. 31, 1966.

AN ACT to provide for the certification of horologists; to create a state board of horology and to prescribe its powers and duties; and to provide penalties for violation of the provisions of this act.

The People of the State of Michigan enact:

338.1401 Horologist's certification act; short title.

Sec. 1. This act shall be known and may be cited as the "horologist's certification act".

HISTORY: New 1965, p. 358, Act 201, Eff. Mar. 31, 1966.

CITED IN OTHER SECTIONS: Sections 338.1401 to 338.1414 are cited in § 16.427.

338.1402 Horologist certification act; definitions.

Sec. 2. As used in this act:

(a) "Horology" means the science of time measurement and the construction, repairing, replacing, rebuilding or adjusting of the mechanical parts of watches.

(b) "Horologist" means one skilled in horology.

(c) "Apprentice" means any person having reached the age of 18 years, of good moral character, and who for compensation, under the direction of a certified horologist, engages in horology.

(d) "Board" means the state board of horology.

(e) "Watchmaking" means the repair, replacement, rebuilding, adjustment or the regulation of the mechanical parts of watches or clocks and the manufacturing and fitting of parts designed for use in watches or clocks in public commerce, but not including such watches or clocks as are handled and used by any firm or corporation as instruments on vehicles or aircraft employed in interstate or international commerce. The term shall not be applied to the manufacture, repair or other activity connected with any device other than watches or clocks for sale or repair as a public service.

HISTORY: New 1965, p. 358, Act 201, Eff. Mar. 31, 1966;—Am. 1968, p. 245, Act 159, Imd. Eff. Jun. 17.

338.1403 State board of horology; members, qualifications, appointment.

Sec. 3. The state board of horology is created and is vested with the administration of the provisions of this act. The board shall consist of 5 members, who shall be qualified horologists, to be appointed by the governor, with the advice and consent of the senate, for terms of 2 years each. Of the members of the board first appointed, 2 shall hold office for terms of 1 year each, and 3 for 2 years each, as designated by the governor. Members of the board shall qualify by taking and filing the constitutional oath of office with the secretary of state, and shall hold office until the appointment and qualification of their successors. Each member of the board shall be a citizen of the United States and a resident of this state. Vacancies shall be filled for the balance of any unexpired term in the same manner as the original appointment.

HISTORY: New 1965, p. 358, Act 201, Eff. Mar. 31, 1966.

338.1404 Board of horology; meetings, officers, quorum, official seal.

Sec. 4. The board shall hold an organization meeting within 60 days after this act becomes effective, and thereafter shall hold at least 2 regular meetings each calendar year. The board shall elect annually a chairman and a vice chairman from its membership. The board shall appoint a certified horologist who is not a member of the board as secretary. Three members constitute a quorum for the transaction of business. The board shall adopt an official seal.

HISTORY: New 1965, p. 358, Act 201, Eff. Mar. 31, 1966.

338.1405 Board of horology; members, compensation, employees, expenses, quarters.

Sec. 5. Members of the board shall receive compensation of \$25.00 per day while in official session and shall be entitled to their actual and necessary traveling and other expenses incurred in accordance with standard travel regulations of the department of administration in the performance of their official duties. All employees and assistants of the board, except the secretary, shall be appointed in accordance with civil service commission regulations. Compensation and expenses of all assistants and employees shall be paid from the appropriation made therefor by the legislature. The board may incur such expense as shall be required to carry out the provisions of this act, not in excess of the appropriation made therefor by the legislature. The department of administration shall furnish suitable quarters for the board.

HISTORY: New 1965, p. 359, Act 201, Eff. Mar. 31, 1966.

338.1406 Board of horology; powers and duties.

Sec. 6. The board shall:

(a) Certify applicants as to their qualifications and competence as specified by this act.

(b) Evaluate applicants for certification after the qualification and competence as specified by this act.

(c) Make such rules and regulations, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as may be necessary to carry out the purposes and enforce the provisions of this act.

(d) Investigate alleged violations of the provisions of this act and conduct hearings in respect thereto when in his discretion it appears to be necessary.

HISTORY: New 1965, p. 359, Act 201, Eff. Mar. 31, 1966.

338.1407 Applicants for certification; requirements.

Sec. 7. Every applicant for certification under this act shall:

(a) Be of good moral character and reputation.

(b) Be at least 18 years of age.

(c) Meet the minimal educational and experience requirements in section 8.

HISTORY: New 1965, p. 359, Act 201, Eff. Mar. 31, 1966;—Am. 1968, p. 245, Act 159, Imd. Eff. Jun. 17.

338.1408 Applicants for certification; additional requirements, fees.

Sec. 8. (1) Except as provided in this act, every applicant for certification as a horologist shall meet the following requirements, in addition to those specified in section 7.

(2) A horologist in good standing, registered, certified or licensed in another state, and having engaged in horology therein for 2 years preceding his application for a certificate, upon filing with the board satisfactory proof thereof, may be issued a temporary permit for horology without examination upon the payment of a fee of \$15.00. After 6 months' residence in this state, the board shall issue to him a state certificate for horology.

(3) Any person who has been actually engaged in horology within this state for a period of 2 years preceding the effective date of this act shall be exempt from taking the examination required herein if he makes an application within 6 months after January 1, 1969, pays a fee of \$15.00, and files an affidavit with the board setting forth the fact of having so actually engaged in horology.

(4) He shall have passed such examination in horology as deemed necessary by the board to assure his professional competence.

(5) He shall not have failed such an examination within the 6 months next preceding the date of the examination.

(6) When the applicant successfully passes the examination, the board shall register such fact and shall issue to him a certificate of registration. The board shall grant apprentice certificates for a fee of \$10.00. Application for apprentice certificates shall be signed by a certified horologist. Apprentice certificates may be renewed annually for a fee of \$10.00 up to a period of 4 years, which need not be continuous.

(7) He shall have paid a certificate fee of \$15.00, and, where an examination is required, an examination fee of \$15.00.

HISTORY: New 1965, p. 359, Act 201, Eff. Mar. 31, 1966;—Am. 1968, p. 245, Act 159, Imd. Eff. Jun. 17.

338.1409 Certificates of registration; expiration, renewal, fee.

Sec. 9. Certificates of registration shall expire annually on December 31, and may be renewed for 1 year upon the payment of a fee of \$15.00.

HISTORY: New 1965, p. 360, Act 201, Eff. Mar. 31, 1966;—Am. 1968, p. 246, Act 159, Imd. Eff. Jun. 17.

338.1410 Certificates; revocation or suspension, grounds.

Sec. 10. The board may withhold, revoke or suspend any certificate issued under the provisions of this act, after giving reasonable notice and opportunity to be heard, to any person who:

(a) Commits acts of gross immorality.

(b) Obtained certification through error of the board or fraud on the part of the applicant.

(c) If guilty of unethical conduct which is defined as any conduct of a character likely to mislead, deceive or defraud the public, including the loaning of a certificate to any unauthorized person.

(d) Fails to make identifying marks, as registered with the state police, on the inside of the cases of watches held for repair.

(e) Fails to keep proper repair records showing the names and addresses of persons leaving watches for repair.

HISTORY: New 1965, p. 360, Act 201, Eff. Mar. 31, 1966.

338.1411 Certificates; revocation or suspension, notice of hearing and charges.

Sec. 11. Whenever charges are made against any person certified under this act, which charges, if true, would result in the revocation or suspension of his certificate, the certified horologist shall be given 20 days' notice in writing enumerating the charges and specifying a date for the hearing on the charges.

HISTORY: New 1965, p. 360, Act 201, Eff. Mar. 31, 1966.

338.1412 Certificates; display requirements, use of title.

Sec. 12. No person shall engage in watchmaking or use the title "certified horologist" for profit or compensation of any kind, without first obtaining a certificate of registration. The certificate shall be conspicuously displayed in his place of business at all times.

HISTORY: New 1965, p. 360, Act 201, Eff. Mar. 31, 1966;—Am. 1968, p. 246, Act 159, Imd. Eff. Jun. 17.

338.1413 False advertising; representation prohibited.

Sec. 13. No person, other than a certified horologist, may advertise or represent himself to the public in any way which will lead the public to believe that he is a certified horologist.

HISTORY: New 1965, p. 360, Act 201, Eff. Mar. 31, 1966.

338.1414 Violation of act; penalty.

Sec. 14. Any person violating this act is guilty of a misdemeanor.

HISTORY: New 1965, p. 360, Act 201, Eff. Mar. 31, 1966.

Act 265, 1966, p. 373; Eff. Jan. 1, 1967.

AN ACT to license hearing aid dealers and salesmen; to establish a board of hearing aid dealers; to establish an advisory council; to prescribe the powers and duties of the board and advisory council; to provide for enforcement of this act; and to provide penalties for its violation.

The People of the State of Michigan enact:

338.1451 Hearing aid dealers and salesmen; license required.

Sec. 1. It is unlawful after September 1, 1967, for any person in this state to engage in the business of selling or fitting hearing aids without having a license.

HISTORY: New 1966, p. 373, Act 265, Eff. Jan. 1, 1967;—Am. 1967, p. 210, Act 154, Eff. Jul. 1.

338.1452 Hearing aid dealers and salesmen; definitions.

Sec. 2. As used in this act:

(a) "Hearing aid" means any instrument or device designed for regular and constant use in or proximate to the human ear and represented as aiding or improving defective human hearing.

(b) "Board" means the board of hearing aid licensing.

(c) "Council" means the advisory council to the board of hearing aid licensing created by this act.

(d) "Hearing aid dealer" means a person who engages in the sale or offering for sale at retail of a hearing aid.

(e) "Hearing aid salesman" means a person who engages in the sale or offering for sale at retail of a hearing aid and who is an employee of a hearing aid dealer.

HISTORY: New 1966, p. 373, Act 265, Eff. Jan. 1, 1967.

338.1453 Retail sales by corporations; conformance with rules and regulations.

Sec. 3. Nothing in this act shall prohibit a corporation, partnership, trust, association or other like organization from engaging in the business of selling or offering for sale hearing aids at retail without a license, if it employs only properly licensed natural persons in the direct sale and fitting of such products. Such corporations, partnerships, trusts, associations or other like organizations shall file annually with the board a list of licensed hearing aid dealers and salesmen directly or indirectly employed by it. Such corporations, partnerships, trusts, associations or other like organizations shall also file with the board a statement on a form approved by the board that it submits itself to the rules and regulations of the board and the provisions of this act which the board shall deem applicable to them.

HISTORY: New 1966, p. 374, Act 265, Eff. Jan. 1, 1967.

338.1454 Board of hearing aid dealers; members, terms, geographical representation, appointment, vacancies, expenses.

Sec. 4. (1) The board of hearing aid dealers is created to consist of 7 members. Members shall be qualified hearing aid dealers who have been actively engaged in the sale of hearing aids for at least 3 years. The term of members shall be for 4 years or until their successors are appointed and qualified, except that of the members first appointed, 1 shall be appointed for 1 year, 2 for 2 years, 2 for 3 years and 2 for 4 years. Members of the board shall be geographically representative of the state.

(2) The governor shall appoint the members of the board by and with the advice and consent of the senate and fill vacancies in the same manner. Persons appointed to fill vacancies shall have at the time of their appointment an unrevoked license issued by the board.

(3) Each member of the board shall be a resident of this state. No more than 2 members of the board shall be employees of, franchised by or associated exclusively with the same hearing aid manufacturer.

(4) Each member of the board shall be entitled to reimbursement for his actual and necessary travel and other expenses to be paid from appropriations made for this purpose. Expenses of members shall not exceed the limits established by standard travel regulations of the department of administration in effect at the time of the expenditures.

(5) For purposes of organization, the board shall be assigned to the department of licensing and regulation under the provisions of section 3 (b) of Act No. 380 of the Public Acts of 1965, being section 16.103 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 374, Act 265, Eff. Sep. 1;—Am. 1967, p. 210, Act 154, Eff. Apr. 1.

338.1455 Board of hearing aid dealers; powers and duties.

Sec. 5. The board shall:

(a) Issue a license as hearing aid dealer and salesman to those persons it finds qualified under the provisions of this act.

(b) Meet within 30 days after their appointment and elect a president from their own number, and elect or appoint a secretary who need not be a member of the board, each of whom shall hold office for 1 year and until his successor is elected and qualified. The president and secretary shall have the power to administer oaths. The secretary shall give to the treasurer of the state a bond in the penal sum of \$5,000.00 with sureties to be approved by the state administrative board for the faithful discharge of his duties. A simple majority of the board constitutes a quorum for the transaction of business.

(c) Hold an annual meeting in Lansing on the second Saturday in January of each year and hold other meetings and examinations for applicants at such times and places as the board may direct. Examinations shall be held at least twice each calendar year, at approximately 6-month intervals.

(d) Keep a record of its proceedings, a register of persons licensed as hearing aid dealers and salesmen and a register of persons whose licenses have been revoked. The books and records of the board shall be prima facie evidence of all matters reported therein.

(e) Adopt and promulgate rules and regulations for the transaction of its business and a code of ethics for the betterment and promotion of the standards of service and practice to be followed in the sale and fitting of hearing aids and the protection of the public with the advice of the advisory council. Rules and regulations issued by the board shall be in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(f) The board shall appoint from within its membership an ethics committee to carry out the provisions of this act and to investigate irregularities in the sale and fitting of hearing aids and report to the board for action. All salaries and expenses authorized by this act shall be paid out of appropriations made by the legislature for this purpose.

(g) Appoint an advisory council consisting of 4 members for a term of 3 years to assist the board in carrying out the provisions of this act. The advisory council shall include 2 members who shall be persons holding at least a masters degree in audiology

who have been actively engaged in the field of audiology, 1 member who is an optometrist licensed to practice in this state, and 1 member who is a medical or osteopathic physician licensed to practice in this state whose practice is devoted to persons who have sustained a hearing loss or hearing impairment. Members of the advisory council shall receive no compensation for their services but shall be reimbursed for their actual and necessary travel and other expenses to be paid from appropriations made for that purpose. Expenses of members of the advisory council shall not exceed the limits established by standard travel regulations of the department of administration in effect at the time of the expenditure. The council shall advise the board in matters relating to this act. The council shall assist the board in carrying out the provisions of this act. The board shall consider the recommendations of the council in matters relating to this act, and provisions shall be made for some joint meetings of the council and the board. The board shall submit to the council the examination it proposes to use to test applicants for a license at least 60 days prior to the date on which the examination shall take place. The council shall advise the board as to whether the tests meet proper standards.

(h) Make a report on or before January 15 of each year to the governor and the legislature of all its official acts during the preceding year.

(i) Upon the request of any person furnish a list of licensed hearing aid dealers.

HISTORY: New 1968, p. 374, Act 265, Eff. Sep. 1.

338.1456 Application for license; form, fee, qualifications and eligibility, specialized educational courses.

Sec. 6. (1) Any person wishing to sell hearing aids or fit hearing aids in connection with the sale thereof as a dealer shall make application to the board on forms prescribed by it accompanied by a fee of \$100.00. Any person employed by a dealer as a hearing aid salesman shall make application to the board on forms prescribed by it accompanied by a fee of \$50.00.

(2) Any applicant for a license as a hearing aid dealer during the years 1967 and 1968 shall be issued a license without being required to take an examination if he is of good character, over 21 years of age, has continuously engaged in the sale or fitting of hearing aids in connection with the sale thereof as a dealer or salesman during the 2 years immediately preceding January 1, 1967, or if he has served as a dealer or salesman for a shorter period, he shall pass a written examination as prescribed by the board.

(3) An applicant for a license as a hearing aid dealer after January 1, 1969, shall be issued a license if he is of good moral character, over 21 years of age and a graduate of an accredited high school or secondary school. In addition, he shall have served as a licensed salesman for a period of 2 years under the direction of a licensed hearing aid dealer and shall pass a written examination as prescribed by the board.

(4) Any applicant for a license as a hearing aid salesman during the years 1967 and 1968 shall be issued a license without being required to take an examination if he is of good character, over 21 years of age, has continuously engaged in the sale or fitting of hearing aids in connection with the sale thereof as a dealer or salesman during the 2 years immediately preceding January 1, 1967.

(5) Any applicant for a license as a hearing aid salesman after July 1, 1967, shall be issued a license if he is at least 18 years of age, a graduate from an accredited high school or secondary school and successfully completes such additional training and education as may be required by the board and passes a written examination as prescribed by the board and has served 6 months as a trainee licensed by the board and shall have complied with the provisions of section 10.

(6) The board shall do all in its power to encourage the establishment of a specialized educational course of training for all persons wishing to become licensed hearing aid dealers.

HISTORY: New 1966, p. 375, Act 265, Eff. Jan. 1, 1967;—Am. 1967, p. 211, Act 154, Eff. Jul. 1.

338.1457 License; renewal application, fee, statement of educational studies, notice of expiration.

Sec. 7. (1) Each person who has a license to sell hearing aids issued by the board shall make application to renew the license on forms prescribed by the board at least 45 days prior to the anniversary date of the license. The renewal applications shall be accompanied by a fee of \$50.00 for a dealer license and \$25.00 for a salesman license.

(2) Before a renewal license is issued by the board each applicant shall verify his business address to the board and furnish the board with satisfactory evidence that he has studied current educational material in the hearing aid field during the previous year. A simple statement in writing under oath by the applicant listing the material he has studied or the educational classes he has attended is sufficient evidence.

(3) At least 60 days prior to the anniversary date of each license the secretary of the board shall notify the licensees of the expiration date of the license.

HISTORY: New 1966, p. 376, Act 265, Eff. Jan. 1, 1967.

338.1458 Nontransferable trainee license; conditions of issuance, period, renewal, fee, revocation.

Sec. 8. (1) The board may grant a nontransferable trainee license to an applicant working for a licensed dealer on the following conditions:

(a) The trainee license shall be valid for a 6-month period. A new trainee license may be issued only after a waiting period of 1 year from the expiration of the first license.

(b) The trainee license shall provide that the person to whom it was issued shall work for and under the direction of a named licensed hearing aid dealer.

(2) Any person who wishes to obtain a trainee license shall make application to the board on a form prescribed by it and accompanied by a fee of \$25.00.

(3) A trainee license is subject to revocation for the same reasons and in a similar manner as a regular license.

HISTORY: New 1966, p. 376, Act 265, Eff. Jan. 1, 1967.

338.1459 Written examinations; minimum requirements.

Sec. 9. The written examination provided for in section 6, as a minimum, shall test the applicant's knowledge of hearing aids and other abilities as outlined by the board. There shall be a practical demonstration of the potential seller's abilities in giving basic audiometric tests, in taking an ear mold impression, and in following the prescribed regulations and rules with regard to fitting and referral for otologic examination.

HISTORY: New 1966, p. 376, Act 265, Eff. Jan. 1, 1967.

338.1460 License; nonissuance, nonrenewal or revocation, causes.

Sec. 10. The board may refuse to issue or may refuse to renew, or may suspend or may revoke any license, after proper public hearing, for any of the following causes:

(a) The conviction of a felony or misdemeanor involving moral turpitude.

(b) When a license has been secured by fraud or deceit practiced upon the board.

(c) For unethical conduct or for gross ignorance or inefficiency in the sale or fitting of hearing aids in connection with the sale thereof.

HISTORY: New 1966, p. 376, Act 265, Eff. Jan. 1, 1967.

338.1461 Unethical conduct; definition.

Sec. 11. Unethical conduct means:

- (a) The obtaining of any fee or the making of any sale by fraud or misrepresentation.
- (b) Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this act.
- (c) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceiving or untruthful.
- (d) Advertising a particular model, type or kind of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.
- (e) Representing that the services or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the word "doctor", "clinic", or other like words, abbreviations or symbols which tend to connote the medical profession when such use is not accurate.
- (f) Habitual intemperance.
- (g) Permitting another to use the license.
- (h) Representing, advertising or implying that the product is guaranteed without a clear and concise disclosure of the identity of the guarantor, the nature and extent of the guarantee, and any conditions or limitations imposed.
- (i) Selling a hearing aid intended to be used by a person 16 years of age or less without an otologic examination and approval by a medical or osteopathic physician licensed to practice in this state and an audiologic evaluation and recommendation.
- (j) Canvassing from house to house or place of business either in person or by agents for the purpose of selling a hearing aid without prior referral or request.
- (k) Failure to properly and reasonably accept responsibility for the actions of the licensed trainees.
- (l) To offer, pay, cause to be paid, or infer that any payment might be made, directly or indirectly any monetary amount or other thing of value to an audiologist, otologist, medical doctor, clinic or other like medical persons or institutions as a consideration for any referral by such medical person or institution or as a part of any agreement with any such medical person or institution.

HISTORY: New 1966, p. 377, Act 265, Eff. Jan. 1, 1967;—Am. 1967, p. 211, Act 154, Eff. Jul. 1.

338.1462 Complaint against licensee; hearing, notice, subpoenas, procedures.

Sec. 12. (1) Any person wishing to make a complaint against a licensee under this act shall reduce the same to writing and file the complaint with the secretary of the board within 1 year from the date of the action causing such complaint.

(2) If the board determines the charges made in the complaint are sufficient, if true, to warrant suspension or revocation of a license issued under this act, it shall make an order fixing the time and place for a hearing, requiring the licensee complained against to appear and answer the complaint. The order shall have annexed thereto a copy of the complaint and both shall be served upon the licensee at least 20 days before the date set for hearing either personally or by registered mail sent to licensee's last known address.

(3) The licensee complained against shall appear at the time and place fixed in the order and answer the complaint and make his defense thereto unless for sufficient reason the board assigns some other date. If the licensee does not appear, the board may hear and determine the matter in his absence.

(4) If the licensee complained against admits the truth of the charges or, if, after the hearing the board finds that the charges are true, the board may revoke the license or suspend the license for a limited period. The board's action upon the complaint shall be entered upon its records. If the board revokes or suspends the license, it shall notify the clerk of the counties where the licensee is registered.

(5) At the hearing the board and the licensee complained against may be represented by counsel and the board may take depositions and compel the attendance of witnesses by subpoenas issued under its seal and signed by the secretary.

HISTORY: New 1966, p. 377, Act 265, Eff. Jan. 1, 1967.

338.1463 License; recording, fee, display requirements.

Sec. 13. Every person to whom a license is issued, before engaging in the sale and fitting of hearing aids, shall cause the same to be recorded in the office of the county clerk in all counties in which the person carried on his business, for which recording the county clerk shall charge a fee of \$2.00. Every licensed dealer shall display his license in a conspicuous place in his principal office. Every licensed dealer shall promptly notify the board of the counties in which he has recorded his licenses.

HISTORY: New 1966, p. 378, Act 265, Eff. Jan. 1, 1967.

338.1464 Violation of act; misdemeanor, penalty.

Sec. 14. Any person or his agents or representatives who violates any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000.00 or imprisoned for not more than 1 year, or by both. All prosecuting attorneys shall enforce the provisions of this act in their counties.

HISTORY: New 1966, p. 378, Act 265, Eff. Jan. 1, 1967.

338.1465 Violation of act; injunction.

Sec. 15. Upon the violation of any provisions of this act or upon the violation of any rule, regulation or order of the board, any judge of the circuit court of any county where such violation occurs shall have the power to restrain and enjoin any person or his agents or representatives from further violating any of the provisions of this act or the rules, regulations and orders. Such injunctive relief may be granted upon the application of the board. No bond is required when such injunctive relief is sought.

HISTORY: New 1966, p. 378, Act 265, Eff. Jan. 1, 1967.

338.1466 Effective date.

Sec. 16. The sections of this act relating to the creation of the hearing aid licensing board shall become effective April 1, 1967 and the remaining sections will become effective July 1, 1967.

HISTORY: New 1966, p. 378, Act 265, Eff. Jan. 1, 1967;—Am. 1967, p. 212, Act 154, Eff. Jul. 1.

Act 383, 1965, p. 772; Imd. Eff. Aug. 18.

AN ACT to provide for the licensing and rights of any person to engage in business as a residential builder or residential maintenance and alteration contractor or salesman; to prescribe the duties and powers of the corporation and securities commission relative thereto; to fix the standards of qualifications and eligibility for the practice thereof; to create a state residential builders' and maintenance and alteration contractors' board; to authorize the collection and expenditure of fees; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts. Am. 1966, p. 23, Act 12, Imd. Eff. Mar. 30.

The People of the State of Michigan enact:

338.1501 Residential builder or residential maintenance and alteration contractor; licensing.

Sec. 1. In order to safeguard and protect home owners and persons undertaking to become home owners, it shall be unlawful on and after September 1, 1966, for any person to engage in the business of or to act in the capacity of a residential builder or a residential maintenance and alteration contractor and/or salesman in this state without having a license therefor, unless such person is particularly exempted as provided in this act.

HISTORY: New 1965, p. 772, Act 383, Imd. Eff. Aug. 18;—Am. 1966, p. 23, Act 12, Imd. Eff. Mar. 30.
CITED IN OTHER SECTIONS: Sections 338.1501 to 338.1519 are cited in § 18.430.

338.1502 Residential builders; definitions.

Sec. 2. As used in this act:

(a) "Person" means any individual, firm, partnership, association, copartnership, corporation, common law trusts, or other organization or any combination thereof.

(b) "Residential builder" means any person engaged in the construction of residential structures or a combination of residential and commercial structures who, for a fixed sum, price, fee, percentage, valuable consideration or other compensation, other than wages, undertakes with another or offers to undertake or purports to have the capacity to undertake with another for the erection, construction, replacement, repair, alteration or any addition to, subtraction from, improvement, movement of, wrecking of or demolition of, a residential structure or combination of residential and commercial structure, or any person who manufactures, assembles, constructs, deals in, distributes residential or combination residential and commercial structures which are prefabricated, preassembled, precut, packaged or shell housing, or any person who erects a residential structure or combination of residential and commercial structure except for his own use and occupancy on his own property.

(c) "Residential maintenance and alteration contractor" means any person who, for a fixed sum, price, fee, percentage, valuable consideration or other compensation, other than wages, undertakes with another for the repair, alteration or any addition to, subtraction from, improvement of, movement of, wrecking of or demolition of a residential structure or combination of residential and commercial structure, or building of a garage, or laying of concrete on residential property, except for his own use and occupancy. The provisions of this act shall not be construed to prevent a duly licensed residential maintenance and alteration contractor from constructing an addition to an existing residential structure, or any other structure accessory to an existing residential structure.

(d) "Salesman" means any employee or agent, other than a qualifying officer, of a licensed residential builder or residential maintenance and alteration contractor, who for a salary, wage, fee, percentage, commission or other consideration, sells or attempts to sell, negotiates or attempts to negotiate, solicits for or attempts to solicit for, furnishes or attempts or agrees to furnish, labor and materials in maintenance and alteration contracts, except a person working for a licensed residential builder or maintenance and alteration contractor who makes maintenance and alteration sales which are occasional and incidental to his principal employment.

(e) "Commission" means the state residential builders' and maintenance and alteration contractors' board and the Michigan department of licensing and regulation.

HISTORY: New 1965, p. 773, Act 383, Imd. Eff. Aug. 18;—Am. 1967, p. 205, Act 153, Imd. Eff. Jun. 30;—Am. 1968, p. 90, Act 11, Imd. Eff. Nov. 15;—Am. 1969, p. 290, Act 142, Eff. Mar. 20, 1970.

338.1503 Inapplicability of act.

Sec. 3. This act shall not apply to:

(a) An authorized representative or representatives of the United States government, the state of Michigan, or any county, township, city, village or other political subdivision of this state;

(b) Owners of property, with reference to structures thereon for their own use and occupancy;

(c) Officers of a court acting within the terms of their office;

(d) Any person other than the salesman who shall engage or be engaged solely in the business of performing work and services under contract with a residential builder and/or builders or a residential maintenance and alteration contractor or contractors licensed under this act; and

(e) Any work or operation on 1 undertaking or project by 1 or more contracts, the aggregate contract price for which labor, materials and all other items is less than \$200.00, such work or operations being considered as of a casual, minor or inconsequential nature. This exemption does not apply in any case wherein the work of a construction is only a part of a larger or major operation, whether undertaken by the same or a different residential builder and/or residential maintenance and alteration contractor, or in which a division of the operation is made in contracts of amounts less than \$200.00, for the purpose of evasion of this act or otherwise.

HISTORY: New 1965, p. 773, Act 383, Imd. Eff. Aug. 18.

338.1503a Electrical contractors; exemption from act.

Sec. 3a. Every electrical contractor who is licensed and is in good standing under the provisions of Act No. 217 of the Public Acts of 1956, as amended, being sections 338.881 to 338.892 of the Compiled Laws of 1948 is exempt from the provisions of this act. This exemption applies only to the electrical installation, electrical maintenance or electrical repair work performed by the electrical contractor.

HISTORY: Add. 1968, p. 285, Act 190, Imd. Eff. Jun. 22.

338.1504 Application for license; form, contents, place of business, duplicate license, proof required.

Sec. 4. (1) All applications for licenses shall be made in writing to the commission, which shall prescribe the form of application for all licenses. Every applicant for a license shall furnish a sworn statement setting forth his present address, both of business and residence, the complete address of all former places where he may have resided or have been engaged in business during the last 5 years, and the length of such residence. Every applicant for a license shall also state the name of the person, firm, partnership, association, copartnership or corporation and the location of the place or places for which such license is desired, and set forth the period of time, if any, during which said applicant has been engaged in the business and such application shall be executed by such person or by any officer or member thereof. Every residential builder or residential maintenance and alteration contractor shall maintain a place of business in this state. In case a residential builder or residential maintenance and alteration contractor maintains more than 1 place of business within this state, a duplicate license shall be issued to such builder or contractor for each place of business so maintained, without further cost. The commission may require and procure satisfactory proof which it shall deem necessary with reference to the honesty, truthfulness and reputation of any applicant for a license under this act, or of any of the partners, trustees, directors, officers, members or shareholders of any such applicant prior to the issuance of any such license. The commission may require any applicant or licensee to submit reasonable evidence of his ability to perform his duties as a residential builder or residential maintenance and alteration contractor.

Written examination; subjects required.

(2) The commission shall also require each applicant for a license to pass a written examination establishing, in a manner satisfactory to the commission, that the applicant has a fair knowledge of the English language including reading, writing, spelling and elementary arithmetic and an ability to read and interpret plans and specifications, the obligations of a residential builder or residential maintenance and alteration contractor to the public and his principal, and the provisions of the Michigan statutes relating to their regulating and licensing.

Residential maintenance and alteration contractor's license; issuance.

(3) The commission, upon application, may issue a residential maintenance and alteration contractor's license to any applicant who, upon written examination, shall qualify therefor, which shall authorize the licensee according to his qualifications, crafts and trades to engage in the activities of a residential maintenance and alteration contractor. Licenses shall include the following crafts and trades, but not be limited thereto: Carpentry, concrete work, electrical work, garage building, swimming pools, waterproofing basements, excavation and sewer installation, heating and air conditioning installation, insulation work, lathing, masonry work, painting and decorating, plastering, plumbing work, roofing and siding, screens and storm sash installation, sheet metal work, tile and marble work, house moving and raising and house wrecking. Such license when issued shall specify the particular crafts and trades for which the licensee has qualified. The commission shall not require any applicant to pay more than 1 license fee regardless of the number of crafts and trades for which he is licensed. Nothing contained in this section shall prohibit a specialty contractor from taking and executing a contract involving the use of 2 or more crafts or trades if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

Refusal to issue license; hearing; proof of violation; written examination.

(4) No applicant shall be refused a license without an opportunity for a hearing before the commission. Satisfactory proof of having been engaged in the business of contracting for the erection, construction, alteration, repair, addition to, subtraction from, improvement, movement of, wrecking of or demolition of residential or combination of residential and commercial structures for a period of 5 years shall be prima facie proof of the applicant's fitness to carry on the business, and he shall not be required to take the examination, and upon compliance with all the provisions of this act, a license shall be granted forthwith. If, after a hearing of record before the commission, a residential builder or maintenance and alteration contractor is found guilty of violating any of the provisions of this act or the rules and regulations adopted pursuant thereto, the commission may require written examination or written reexamination of such residential builder or residential maintenance and alteration contractor.

Bond, amount after disciplinary action.

(5) If application for a license is made by any person whose license has been denied, suspended or revoked as a result of disciplinary action for violation of any of the provisions of this act or of the rules and regulations adopted pursuant thereto, the commission may require as a condition precedent to the issuance of a license to such applicant or the removal of suspension, that such applicant file or have on file with the commission a bond issued by an admitted surety insurer or cash in a sum to be fixed by the commission, not to exceed the sum of \$25,000.00 for each residential builder's license and \$5,000.00 for each trade specified on the license of a maintenance and alteration contractor up to a maximum of \$25,000.00 in which the state shall appear as the insured.

Wages, claims, preference.

(6) The claim of any employee of the applicant or licensee for wages shall be a preferred claim against any bond or cash deposit.

Loss of license for failure to maintain bond or cash deposit; reinstatement.

(7) The failure of the licensee to maintain in full force and effect the bond or cash deposit required by this section shall result in the suspension of his license which shall not be reinstated until a new bond or cash deposit has been furnished.

HISTORY: New 1965, p. 774, Act 383, Imd. Eff. Aug. 18;—Am. 1966, p. 24, Act 12, Imd. Eff. Mar. 30;—Am. 1967, p. 206, Act 153, Imd. Eff. Jun. 30.

338.1505 Corporation licenses; person designated to take examination, qualifications, suspension or revocation.

Sec. 5. In every case where a license is applied for by any corporation, or by any partnership or association or organization of more than 1 person, such applicant shall designate 1 of its officers, partners, members or managing agent as qualifying officer who, upon taking and passing said examination, if required, and upon meeting all other requirements of this act, shall be entitled to a license to act for said corporation, partnership, association or organization.

No license shall be issued to a corporation, partnership, association or organization unless each partner, trustee, director, officer, member and anyone exercising control meets all requirements for a license under this act other than those relating to knowledge and experience. The license of any corporation, partnership or other association or organization shall be suspended whenever any license or license application of any qualifying officer, partner, trustee, director, officer, member and anyone exercising control of the corporation, partnership or other association or organization is suspended, revoked or denied. The suspension shall remain in force until the commission determines that the disability created by the suspension, revocation or denial has been removed.

A suspension, revocation or denial of a license of an individual shall suspend, revoke or deny all other licenses held or applied for by that individual in any capacity issued under this act.

If the qualifying officer of a licensee ceases for any reason to be its qualifying officer, then said license is thereby suspended. However, upon request, the commission may in its discretion permit said license to remain in force for a reasonable time to permit the qualification of a new qualifying officer.

The qualifying officer shall be responsible for exercising such direct supervision or control of the building or construction operations as is necessary to secure full compliance with the provisions of this act and the rules and regulations made in pursuance thereof.

HISTORY: New 1965, p. 775, Act 383, Imd. Eff. Aug. 18;—Am. 1967, p. 207, Act 153, Imd. Eff. Jun. 30.

338.1506 Nonresident licensees; service of process, forms.

Sec. 6. A nonresident of this state may become a licensee under this act by conforming with the conditions of this act. No license shall be issued to any foreign corporation until such corporation has been duly authorized to do business in the state of Michigan by the corporation and securities commission. Such nonresident shall file an irrevocable consent to service of process. Such consent shall be signed by the applicant or by a duly authorized officer, member or partner thereof and shall be notarized. Further, if the applicant is a corporation, such consent shall be accompanied by a duly certified copy of the resolution of the corporation authorizing the consent. Any process or pleadings served upon the commission shall be sufficient service upon any such licensee. Any process or pleadings served upon the commissioner under the provisions of this section shall be in duplicate. The commission shall immediately forward by certi-

fied mail 1 copy of said process or pleadings to the main office of the licensee so served.

HISTORY: New 1965, p. 776, Act 383, Imd. Eff. Aug. 18.

338.1507 Licenses; form, seal, contents, display, change of location, notice.

Sec. 7. The commission shall issue to each licensee a license in such form and size as shall be prescribed by the commission. Each license shall have imprinted thereon the seal of the commission, shall show the name and address of the licensee, and shall contain such other matters as shall be prescribed by the commission. The license shall be delivered or mailed to the place of business or employment of the licensee. It shall be the duty of the licensee to conspicuously display his license in his place of business or employment at all times. Notice in writing shall be given to the commission by each licensee of any change of his principal business location or employment whereupon the commission shall issue a new license without further cost.

HISTORY: New 1965, p. 776, Act 383, Imd. Eff. Aug. 18.

338.1507a Salesmen; change of employment, reissuance of license.

Sec. 7a. A salesman shall be licensed in the employ of only one residential builder or maintenance and alteration contractor. If a salesman desires to change his employment from one residential builder or maintenance and alteration contractor to another, his license shall be forwarded to the department and application made for a transfer and the issuance of a new license under his new employer. The department may issue a new license to the salesman upon filing of an application for a transfer and payment of a transfer fee of \$5.00.

HISTORY: Add. 1967, p. 208, Act 153, Imd. Eff. Jun. 30.

338.1508 Licenses; form, fees, second examination, forfeiture, renewal, expiration, name and address change, notification.

Sec. 8. Application for a residential builder's, residential maintenance and alteration contractor's and/or salesman's license shall be made to the commission with the fee herein prescribed. Unless the applicant is entitled to a renewal license, he shall be licensed only after passing a satisfactory examination. The application for a salesman's license shall be submitted by the employing residential builder or residential maintenance and alteration contractor. The license fee for a residential builder shall be \$35.00. The license fee for a residential maintenance and alteration contractor shall be \$30.00. The license fee for a salesman shall be \$25.00. In case of the failure of an applicant to pass a satisfactory examination, the license fee shall be held to his credit for a second examination for a reasonable time not to exceed 1 year. Failure to pass a second examination will automatically forfeit the license fee to the commission. Licenses of residential builders shall be renewed upon payment of a fee of \$35.00. Licenses of residential maintenance and alteration contractors shall be renewed upon payment of a fee of \$30.00. Licenses of salesmen shall be renewed upon payment of a fee of \$25.00. All licenses issued under the provisions of this act shall lapse and expire 3 years from March 31, 1966, and on the same date each third year thereafter. All applications for renewals of licenses under this act must be made in proper form accompanied with the proper renewal fee before the date of expiration, and proper submission of said renewal application shall automatically grant said applicant permission to operate pending the actual issuance or refusal of renewal licenses. Renewal licenses may be refused for any reason which would be grounds for the revocation of said license. Every licensee shall report to the commission all changes of members and addresses of any such firm, copartnership, association or corporation holding a license under this act within 10 days after same shall occur.

HISTORY: New 1965, p. 776, Act 383, Imd. Eff. Aug. 18.

338.1509 Licenses; investigation, suspension or revocation, grounds; civil or criminal liability, time limitations.

Sec. 9. The commission may, upon its motion or upon the complaint in writing of any person made within 18 months after completion, occupancy or purchase of a residential or combination of residential and commercial building, investigate the actions of any residential builder or residential maintenance and alteration contractor or salesman or any person who shall assume to act in such capacity within this state, and shall have the power to suspend or revoke any licenses issued under the provisions of this act or deny any pending application at any time where the licensee or applicant is performing or attempting to perform any of the acts mentioned herein:

(a) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee.

(b) Diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and their application or use for any other construction project or operation, obligation or purposes.

(c) Failure to account for or to remit for any moneys coming into his possession which belong to others.

(d) Wilful departure from or disregard of plans or specifications in any material respect and prejudicial to another, without consent of the owner or his duly authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications.

(e) Wilful violation of the building laws of the state or of any political subdivision thereof.

(f) Misrepresentation of a material fact by an applicant in obtaining a license.

(g) Making any substantial misrepresentation, or making any false promise of a character likely to influence, persuade or induce.

(h) In maintenance and alteration contracts, failure to furnish to a lender, the purchaser's signed completion certificate executed upon completion of the work to be performed under the contract.

(i) Failure to notify the commission within 30 days of the change of name and/or the principal business location of the licensee.

(j) Failure to notify the commission within 10 days of the change of a partner, trustee, director, officer, member and/or shareholder, or the change of name of any such person.

(k) Failure to deliver to the purchaser the entire agreement of the parties including all finance and other charges arising out of or incidental to the agreement when such agreement involves repair, alteration or any addition to, subtraction from, improvement of, movement of, wrecking of, or demolition of a residential structure or combination of residential and commercial structure, or building of a garage, or laying of concrete on residential property, or manufacture, assembly, construction, sale or distribution of a residential or combination residential and commercial structure which is prefabricated, preassembled, precut, packaged or shell housing.

(l) Insolvency, filing in bankruptcy, receivership or assigning for the benefit of creditors.

(m) Failure by a salesman to pay over immediately upon receipt all moneys received by him in connection with any transactions governed by the provisions of this act to the residential builder or residential maintenance and alteration contractor under whom he is licensed.

(n) Aiding or abetting an unlicensed person to evade the provisions of this act, or knowingly combining or conspiring with, or acting as agent, partner or associate for an unlicensed person, or allowing one's license to be used by an unlicensed person.

(o) Acceptance of a commission, bonus or other valuable consideration by any salesman for the sale of any goods or the performance of any service specified in the act from any person other than from the residential builder or residential maintenance and alteration contractor under whom he is licensed.

(p) Conviction for a felony in connection with operations as a builder, salesman or a contractor.

(q) The violation of any of the provisions of this act; and

(r) Any conduct, whether of the same or of a different character than hereinbefore specified, which constitutes dishonesty or unfair dealings.

This act shall not be construed to relieve any person from civil liability or criminal prosecution under the general laws of this state, and complaints pertaining to the erection, construction, replacement, repair, alteration, additions to, subtractions from, improvement, movement of, wrecking or demolition of any building covered by the provisions of this act shall only be considered by the commission if made by written, verified complaint within 1 year after completion, occupancy or purchase of said structure by the proper authorities charged with the enforcement of the laws governing the construction of residential or a combination of residential and commercial buildings in the various political subdivisions of the state.

HISTORY: New 1965, p. 777, Act 383, Imd. Eff. Aug. 18;—Am. 1967, p. 208, Act 153, Imd. Eff. Jun. 30.

338.1509a Complaints by homeowners; time limitation, warranties.

Sec. 9a. The 1-year limitation for submitting a verified, written complaint shall not affect the right of a home owner under the provisions of this act to make a complaint within 90 days after the termination of any express warranty between the home owner and the licensee. Where there is no such warranty, then the 1-year limitation shall be extended 90 days to afford the home owner an opportunity to file a complaint that may have arisen during the 12-months' period if the home buyer has, previous to the expiration of the 12-month period, notified the home builder of the reasons for the complaint in writing.

HISTORY: Add. 1969, p. 291, Act 142, Eff. Mar. 20, 1970.

338.1510 Licenses; suspension or revocation, notice, hearing, subpoena, judicial review.

Sec. 10. The commission shall, before suspending or revoking any license and at least 10 days prior to the date set for the hearing, notify in writing the holder of such license of any charge made, and shall furnish said licensee with a copy of the complaint and afford said licensee an opportunity to be heard in person or by counsel in reference thereto. Such written notice shall be served by delivery of the same personally to the licensee or by mailing the same by certified mail to the last known business address of such licensee. The hearing on such charges shall be at such time and place as the commission shall prescribe. The commission shall have the power to subpoena and bring before it any person or to take testimony of any person in the same manner as prescribed by law in judicial procedure in courts of this state in civil cases, with the same fees and mileage as provided by law for criminal cases. If the commission shall determine that any licensee is guilty of any violation of any of the provisions of this act, said license shall be suspended or revoked for such period of time as shall be determined by the commission. All procedures and judicial review shall be in accordance with Act No. 197 of the Public Acts of 1952, as amended.

HISTORY: New 1965, p. 778, Act 383, Imd. Eff. Aug. 18;—Am. 1967, p. 209, Act 153, Imd. Eff. Jun. 30.

338.1511 Violation of act by employee; proof of guilty knowledge.

Sec. 11. Any unlawful act or violation of any of the provisions of this act upon the part of any employee or any officer or member of a licensed residential builder and/or residential maintenance and alteration contractor shall not be cause for suspension, revocation or denial of a license of any residential builder and/or residential maintenance and alteration contractor, unless it shall appear to the satisfaction of the commission that the residential builder and/or residential maintenance and alteration contractor had guilty knowledge thereof.

HISTORY: New 1965, p. 778, Act 383, Imd. Eff. Aug. 18.

338.1512 Indexed records of licensees; public inspection, lists, furnishing copies, fee.

Sec. 12. The commission shall maintain open to public inspection during office hours a complete indexed record of all applications and all licenses issued and of all renewed licenses under this act, and of all terminations, suspensions and revocations thereof, and shall furnish a certified copy of any license issued or of the suspension or revocation thereof, and such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts therein stated. Whenever funds are available for the purpose, the commission shall publish a list of the names and addresses of persons licensed under this act and such further information with respect to this act, its administration and enforcement, as it deems proper. It may furnish the lists to such public works and building departments, public officials or public bodies, and other persons interested in or allied with the building and construction industry in this or any other state, as it deems advisable and at such intervals as it deems necessary whenever funds are available. Copies of the lists may also be furnished by the commission upon request to any firm or individual upon payment of a reasonable fee fixed by the commission.

HISTORY: New 1965, p. 778, Act 383, Imd. Eff. Aug. 18.

338.1513 Administration and enforcement of act; rules and regulations.

Sec. 13. The commission shall administer and provide for the enforcement of all the provisions of this act. Copies of all rules and regulations shall be sent to all licensees when license or renewal is delivered to said licensee.

HISTORY: New 1965, p. 779, Act 383, Imd. Eff. Aug. 18;—Am. 1966, p. 25, Act 12, Imd. Eff. Mar. 30.

338.1513a State residential builders; maintenance and alteration contractors' board; appointment, compensation, terms.

Sec. 13a. (1) A state residential builders' and maintenance and alteration contractors' board is created which, together with the director of the department of licensing and regulation, will direct, supervise and enforce the provisions of this act. The board shall consist of the director of the department of licensing and regulation and 8 members appointed by the governor with the advice and consent of the senate, each member to serve for a period of 3 years or until his successor is appointed and qualified. The board members appointed shall be as follows: 3 members who are licensed residential builders, 1 member who is a licensed maintenance and alteration contractor, 2 members who are contractors in the construction trades, 1 member who is in the building suppliers industry and 1 member who is a representative of the building trades unions. The initial term of office shall be 1 year for 3 members, 2 years for 3 members and 3 years for 2 members. The director of the department of licensing and regulation shall attend all meetings personally or by a designated representative. The board shall elect such officers as it deems necessary.

(2) With the exception of the director of the department of licensing and regulation all members appointed shall serve without salary, but shall be entitled to their actual

expenses as may be provided by law. The board shall hold such meetings as may be necessary for the purpose of fulfilling its duties.

(3) In addition to all other duties the board shall promulgate rules setting standards of conduct, performance, qualifications and fitness of applicants; examination of applicants; conduct of investigations; settlement of complaints; and disciplinary procedures.

(4) The director of the department of licensing and regulation shall act as the chief executive officer of the board and is vested with full and complete authority to direct, supervise and administer all offices and personnel other than the members of the board which are provided and maintained in connection with this act: Provided, however, That the board may make such recommendations in connection with personnel and office procedures as it deems appropriate.

HISTORY: Add. 1966, p. 25, Act 12, Imd. Eff. Mar. 30;—Am. 1969, p. 291, Act 142, Eff. Mar. 20, 1970.

338.1514 Records as evidence; public inspection.

Sec. 14. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of said commission, shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the commission under authority of this act shall be open to public inspection under such rules and regulations as shall be prescribed by the commission.

HISTORY: New 1965, p. 779, Act 383, Imd. Eff. Aug. 18.

338.1515 Fees and charges; disposition; expenses, limitations.

Sec. 15. All fees and charges collected by the commission under the provisions of this act shall be paid into the general fund of the state treasury. All expenses incurred by the commission under the provisions of this act, including compensation to clerks and assistants and such costs as fees and mileage, shall be paid out of the general fund of the state treasury upon warrants of the auditor general from time to time when vouchers therefor are exhibited and approved by the commission: Provided, That the total expense for every purpose incurred shall not exceed the total fees and charges collected and paid into the state treasury under the provisions of this act.

HISTORY: New 1965, p. 779, Act 383, Imd. Eff. Aug. 18.

338.1516 Violation of act; penalty.

Sec. 16. Any person, firm, copartnership, corporation, association or other organization, acting in the capacity of a residential builder and/or residential maintenance and alteration contractor, and/or any salesman, within the meaning of this act, who shall violate any of the provisions of this act, without a license as herein provided, or any person aiding or abetting another person in the violation of any of the provisions of this act or conspiring with another person to violate any of the provisions of this act, shall upon conviction thereof, be punished by a fine of not to exceed \$1,000.00, or by imprisonment for a term of not to exceed 1 year, or by both such fine and imprisonment in the discretion of the court for a second conviction thereof by a fine not to exceed \$3,000.00, or by imprisonment for a term not to exceed 2 years or both. The same penalties shall apply, upon conviction, to a member of a copartnership or any construction or contracting officer or agent of any corporation, association or other organization who shall consent to, participate in, or aid or abet any violation of this act upon the part of the copartnership of which he is a member or of the corporation, association or organization of which he is such an officer or agent. No person engaged in the business or acting in the capacity of a residential builder and/or residential maintenance and alteration contractor may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this act without alleging and proving that he was duly licensed under this act at all times during the performance of such act or contract: Pro-

vided, however, That nothing herein contained shall be construed to defeat the right of a mechanic's lien on the part of any person who in good faith sells materials or performs labor for such residential builder and/or residential maintenance and alteration contractor.

HISTORY: New 1965, p. 779, Act 383, Imd. Eff. Aug. 18.

338.1516a Enforcement of act; nonissuance of building permit without license, affidavit.

Sec. 16a. All law enforcement officers of this state shall enforce the licensing requirements of this act. The prosecuting attorneys and the attorney general shall prosecute any person violating the licensing requirements of this act. It is unlawful for a public officer of this state or for a political subdivision to issue a building permit without requiring the applicant to show his residential builder's or residential maintenance and alteration contractor's license number on the application for the building permit, or in the absence of a license number without requiring the applicant to make an affidavit that he is exempt from the provisions of this act.

HISTORY: Add. 1967, p. 210, Act 153, Imd. Eff. Jun. 30.

338.1517 Rules and regulations; compliance with act.

Sec. 17. All rules and regulations issued under this act shall comply with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 780, Act 383, Imd. Eff. Aug. 18.

338.1518 Saving clause; licenses issued under prior acts.

Sec. 18. All hearings, matters and proceedings of whatever nature which were pending before the commission on August 31, 1966, with reference to applications for license or the suspension or revocation thereof under Act No. 208 of the Public Acts of 1953, as amended, being sections 338.971 to 338.991 of the Compiled Laws of 1948, shall not be terminated or abated but shall be treated in the same manner as if initiated or filed under this act.

All licenses issued under the provisions of Act No. 208 of the Public Acts of 1953, as amended, being sections 338.971 to 338.991 of the Compiled Laws of 1948, shall expire on August 31, 1966, and may be renewed under the provisions contained herein.

HISTORY: New 1965, p. 780, Act 383, Imd. Eff. Aug. 18;—Am. 1966, p. 26, Act 12, Imd. Eff. Mar. 30.

338.1519 Repeals.

Sec. 19. Act No. 311 of the Public Acts of 1939, as amended, being sections 338.701 to 338.720 of the Compiled Laws of 1948, and Act No. 208 of the Public Acts of 1953, as amended, being sections 338.971 to 338.991 of the Compiled Laws of 1948, are repealed effective September 1, 1966.

HISTORY: New 1965, p. 780, Act 383, Imd. Eff. Aug. 18;—Am. 1966, p. 26, Act 12, Imd. Eff. Mar. 30.

Act 355, 1968, p. 686; Eff. Jul. 1, 1969.

AN ACT to provide for the licensing of barbers; to create a state board of barber examiners; to prescribe the duties and powers of such board of barbers and the department of licensing and regulation; to fix standards for the practice thereof; to authorize the collection and expenditure of fees; to provide penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

338.1601 Barber licensing and regulation act of 1968; short title.

Sec. 1. This act shall be known and may be cited as the "barber licensing and regulation act of 1968".

HISTORY: New 1968, p. 686, Act 355, Eff. Jul. 1, 1969.

338.1603 Barber licensing and regulation act; definitions.

Sec. 3. As used in this act:

(a) "Barber" means any person licensed by the board who, shaves and trims the beard, cuts, trims, dresses, tints, bleaches, colors, arranges and styles the hair, massages the face and head and renders personal services of a similar nature customarily done by barbers on a male person and who cuts and trims the hair of any person.

(b) "Student" means any person licensed by the board attending barber school or college for the purpose of learning the theory and practice of the barber shop trade and receives no compensation while enrolled therein.

(c) "Apprentice" means any person licensed by the board practicing in a barber shop, to acquire the skill of a barber after having completed the requirements of a student under the provisions of this act.

(d) "Instructor" means any person licensed by the board who instructs another in the science, art and skills of a barber.

(e) "Barber shop" means any establishment having as its primary purpose the rendering for compensation of the several services of a barber.

(f) "Barber school" and "barber college" means any establishment rendering for compensation the several services of a barber, but having for its primary purpose the teaching for tuition fees of the theory and practice of barber services.

(g) "Board" means the state board of barber examiners.

HISTORY: New 1968, p. 686, Act 355, Eff. Jul. 1, 1969.

338.1604 Inapplicability of act.

Sec. 4. This act shall not apply to any person who cuts and trims the hair of his immediate family. "Immediate family" means any persons residing in one residence.

HISTORY: New 1968, p. 687, Act 355, Eff. Jul. 1, 1969.

338.1605 Board of barber examiners; membership, terms, officers, regulatory powers, compensation.

Sec. 5. (1) The board of barber examiners is created to consist of 3 members who are residents of this state, appointed by the governor with the advice and consent of the senate. The board members shall have been licensed in this state as a barber 5 years prior to appointment. The members of the board appointed under the provisions of Act No. 382 of the Public Acts of 1927, as amended, being sections 338.601 to 338.625 of the Compiled Laws of 1948, shall continue in office until the expiration of the term for which they were appointed. Each board member shall hold office for a term of 4 years, or until the appointment and qualification of his successor. The board shall not consist of all barber shop owners and proprietors nor shall all the members be from any one labor organization. At least 1 board member shall be a journeyman barber.

(2) The board shall elect such officers from within its membership as it deems necessary.

(3) The board shall promulgate rules setting standards of conduct, performance, qualifications of applicants; curriculum, examination of applicants, conduct of investigations and inspections; and disciplinary procedures in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(4) The board members shall receive \$35.00 per diem for every day actually engaged in board meetings and their necessary expenses and mileage subject to the rules as set by the department of administration.

HISTORY: New 1968, p. 687, Act 355, Eff. Jul. 1, 1969.

338.1608 Barber license; proof of residency; grandfather clause; certificate of health.

Sec. 8. The board shall not issue an original license under this act until the applicant submits proof that he has been a resident of the state for at least 6 months immediately prior to his application for a license. A barber license shall be granted without examination to an applicant who has had a valid hair cutters license for 10 years or more issued under the provisions of Act No. 382 of the Public Acts of 1927, as amended, being sections 338.601 to 338.625 of the Compiled Laws of 1948. The board shall not issue an original license under this act until the applicant files a certificate of health on a form prescribed by the department of licensing and regulation and the department of public health certifying that the applicant is free of contagious and infectious diseases that are in a communicable state.

HISTORY: New 1968, p. 687, Act 355, Eff. Jul. 1, 1969;—Am. 1970, p. 491, Act 151, Imd. Eff. Aug. 1.

338.1610 License; evidence of freedom from tuberculosis.

Sec. 10. The board shall not issue a renewal license under this act until the applicant submits evidence of freedom from communicable tuberculosis on a form prescribed by the department of licensing and regulation and the department of public health.

HISTORY: New 1968, p. 687, Act 355, Eff. Jul. 1, 1969.

338.1612 Student license; qualifications.

Sec. 12. A person is qualified to receive a license as a student, who:

- (a) Is at least 17 years of age and has completed the tenth grade of school, or has an equivalent education as determined by the board.
- (b) Is of good moral character and temperate habits.
- (c) Has passed an examination prepared by the board to determine his fitness to practice as a student in a barber college.

HISTORY: New 1968, p. 687, Act 355, Eff. Jul. 1, 1969.

338.1615 Apprentice license; qualifications.

Sec. 15. (1) A person is qualified to receive a license to practice as an apprentice, who:

- (a) Has met all the requirements under this act as a student.
- (b) Has passed a satisfactory examination to determine his fitness to practice as an apprentice.
- (c) Has practiced as a student in a licensed barber school or college for a period of 12 months and received a diploma.

(2) An applicant for a license as an apprentice who fails to pass a satisfactory examination shall practice as a student for an additional 3 months in a licensed barber school or college.

HISTORY: New 1968, p. 687, Act 355, Eff. Jul. 1, 1969.

338.1618 Barber's license; qualifications.

Sec. 18. (1) A person is qualified to receive a license to practice as a barber, who:

- (a) Has met all the requirements under this act as an apprentice.
- (b) Is at least 18 years of age and has completed the tenth grade of school, or has an equivalent education as determined by the board.
- (c) Is of good moral character and temperate habits.

- (d) Has practiced as an apprentice for a period of at least 2 years.
- (e) Has passed a satisfactory examination to determine his fitness to practice as a barber.

(2) An applicant for a license to practice as a barber who fails to pass a satisfactory examination shall continue to practice as a student for an additional 3 months in a licensed barber school or college.

HISTORY: New 1968, p. 688, Act 355, Eff. Jul. 1, 1969.

338.1620 Instructor's license; qualifications.

Sec. 20. A person is qualified to receive a license as an instructor, who:

- (a) Has met all the requirements under this act as a barber.
- (b) Has practiced as a licensed barber for not less than 5 years.
- (c) Has graduated from an accredited high school or has an equivalent education as determined by the board.
- (d) Has passed a satisfactory examination to determine his fitness to practice as an instructor.

HISTORY: New 1968, p. 688, Act 355, Eff. Jul. 1, 1969.

338.1623 Licensing; examination requirements, contents.

Sec. 23. The board shall prepare an examination for students, apprentices, barbers and instructors to be licensed under this act. The examination shall include both a practical demonstration and a written test and may include an oral test.

(1) All persons taking the examination shall receive an average grade of not less than 75% on both the practical demonstration and written test or oral test to pass.

(2) The examination shall include:

- (a) Knowledge and skill in shaving, hair cutting, scalp and face massage and treatment.
- (b) Knowledge and skill in antiseptic preparation in care of tools, materials and appliances.
- (c) Knowledge and care of common diseases of the face and skin.
- (d) Knowledge of the barber laws and board rules.

HISTORY: New 1968, p. 688, Act 355, Eff. Jul. 1, 1969.

338.1625 Barber schools and colleges; facilities and equipment required for licensing.

Sec. 25. No barber school or college shall be licensed under this act unless it has the following facilities and equipment:

- (a) A barber chair and customary fixtures provided in a barber shop for each enrolled student during the entire practical training period.
- (b) One stationary wash basin with hot and cold running water connected with a drain for every 3 barber chairs.
- (c) Reasonable classroom facilities and other equipment for the proper instruction of students as required by the board rules.

HISTORY: New 1968, p. 688, Act 355, Eff. Jul. 1, 1969.

338.1628 Barber schools and colleges; educational programs required for licensing.

Sec. 28. A barber school or college shall not be licensed under this act unless it requires as a prerequisite to graduation an education program that includes:

- (a) A course of practical barber training as a student of not less than 1,750 hours.
- (b) A course of classroom study, demonstrations and recitations of not less than 250 hours.

(c) The classroom course shall include the following subjects: scientific fundamentals for barbering; hygiene; bacteriology; histology of hair, skin and nails; structure of the head, face and neck, including muscles and nerves; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the head, face and neck; haircutting and shaving; cosmetic therapy; arranging, styling, dressing, coloring, bleaching and tinting of the hair; and elements of business training and barber laws and rules. The time to be devoted to each subject shall be governed by the board. No therapeutics or treatment provided for under this act shall include any form of therapeutics or treatment in any practice act or any other law requiring licensure.

HISTORY: New 1968, p. 688, Act 355, Eff. Jul. 1, 1969.

338.1630 Barber schools and colleges; number of licenses, chairs, fixtures and instructors.

Sec. 30. Original barber school or college licenses shall be issued in ratio to the population of this state. The ratio shall be not more than 1 barber school or college to each 1,000,000 people. A barber school or college shall not be approved with less than 20 barber chairs and customary fixtures or more than 60 barber chairs and customary fixtures. The maximum number of barber chairs and fixtures shall not apply to a barber school or college licensed prior to January 1, 1963. A barber school or college shall not be approved with less than 1 licensed instructor per each 20 students.

HISTORY: New 1968, p. 689, Act 355, Eff. Jul. 1, 1969.

338.1633 Licenses; original application forms, fees.

Sec. 33. Original applications for licenses under this act shall be on a form prescribed by the department of licensing and regulation and accompanied by the following fees:

- (a) Student license fee, \$7.00.
- (b) Apprentice license fee, \$20.00.
- (c) Barber license fee, \$25.00.
- (d) Barber shop license fee, \$25.00.
- (e) Instructor license fee, \$25.00.
- (f) School or college license fee, \$50.00.

HISTORY: New 1968, p. 689, Act 355, Eff. Jul. 1, 1969.

338.1635 Licenses; renewal application forms, fees.

Sec. 35. Renewal applications for licenses under this act shall be on a form prescribed by the department of licensing and regulation and accompanied by the following fees:

- (a) Apprentice license fee, \$5.00.
- (b) Barber license fee, \$10.00.
- (c) Barber shop license fee, \$10.00.
- (d) Instructor license fee, \$5.00.
- (e) School or college license fee, \$50.00.

HISTORY: New 1968, p. 689, Act 355, Eff. Jul. 1, 1969.

338.1638 Licenses; annual renewal; transfer of ownership or location, automatic revocation.

Sec. 38. (1) All licenses issued under this act shall be renewed annually on or before October 1 on a form prescribed by the department of licensing and regulation and accompanied by the required license fee.

(2) Any person who does not renew his license annually on or before October 1 may renew his license during the next 30 days upon payment of the regular fee and an additional \$5.00.

(3) Any license not renewed during the next 30 days shall be automatically revoked. The board may thereafter issue a license provided the person files an original license application accompanied by the original license fee and meets all other requirements under this act and board rules.

(4) Any transfer of ownership or location of any barber shop, barber school or college, shall automatically revoke the license. The board may thereafter issue an original license provided the person files an original application accompanied by the original license fee and meets all the other requirements under this act and board rules.

HISTORY: New 1968, p. 689, Act 355, Eff. Jul. 1, 1969.

338.1640 Barber shops; inspections, building use and operation regulations.

Sec. 40. (1) All barber shops shall be inspected at least once annually and all barber schools and colleges shall be inspected at least twice annually.

(2) Board members, inspectors and investigators from the department of licensing and regulation shall have the authority to enter and inspect during regular business hours any barber shop, barber school or barber college to ascertain that the licensee is conforming with the provisions of this act and board rules.

(3) A barber shop or barber school or college shall be completely partitioned from any other business or dwelling, with a separate public entrance upon a public street except for shopping and office buildings, hotels and motor hotels and hospitals. A licensed cosmetological establishment does not have to be partitioned from a barber shop.

(4) An apprentice shall be permitted to practice only under the direct supervision of a licensed barber. A barber shop shall not have more than 1 licensed apprentice.

(5) The individual licensee shall post the license in a conspicuous place in front of his barber chair. All other licenses issued by the board shall be posted in a conspicuous place on the premises.

(6) This act shall not prohibit a licensed physician, dentist or nurse from lecturing in a barber school or college.

(7) A barber shop, barber school or college shall not be occupied for lodging or for residential purposes.

(8) A barber shop, barber school or college shall not serve any food or beverage.

HISTORY: New 1968, p. 690, Act 355, Eff. Jul. 1, 1969.

338.1643 Barber shops, schools and colleges; sanitation regulations.

Sec. 43. (1) All barber shops, barber schools and colleges shall maintain sanitary conditions as follows:

(a) All barber shops shall have 1 stationary wash basin with hot and cold running water connected with a drain for every 3 barber chairs and all barber schools and colleges shall have 1 stationary wash basin with hot and cold running water connected with a drain for every 2 barber chairs. Barber shops, barber schools and colleges shall observe all state laws and local ordinances relating to sanitation and plumbing.

(b) Use only fresh and clean paper or laundered steam and dry towels and wash cloths on each patron.

(c) When the headrest of a barber chair is used it shall be covered with a fresh and clean paper or laundered towel for each patron.

(d) Use only fresh and clean paper or laundered towels to prevent the hair protection cloth from touching the neck of each patron.

(e) All cloth and paper towels shall be discarded immediately in a covered receptacle after being used on each patron.

(f) All barber and haircutting tools and equipment shall be maintained in a clean and sanitary condition as provided herein and in the rules of the board.

(2) Violation of any of the sanitation provisions of the section or the board rules may subject the licensee to suspension, revocation or a fine or both.

HISTORY: New 1968, p. 690, Act 355, Eff. Jul. 1, 1969.

338.1645 Licenses; complaint, investigation; suspension, revocation or denial, grounds.

Sec. 45. The board, upon its motion or upon a written complaint of any person made within 1 year from the act complained of, may have the department of licensing and regulation investigate the actions of any licensee or any person who shall assume to act in such capacity. The board may suspend or revoke any licenses issued under the provisions of this act or deny any pending application at any time where the licensee or applicant is performing or attempting to perform any of the acts mentioned herein:

- (a) Conviction of a felony or any crime involving moral turpitude.
- (b) Habitual drunkenness.
- (c) Having or importing any contagious or infectious disease.
- (d) Perform licensed activities in an unsanitary manner as provided herein.
- (e) Wilful violation of the health and safety laws of the state or of any political subdivision thereof.
- (f) Misrepresentation of a material fact by an applicant in obtaining a license.
- (g) Failure to notify the board within 30 days of the change of either the name or residence address or both.
- (h) Allowing one's license to be used by an unlicensed person.
- (i) The violation of any of the provisions of this act.

HISTORY: New 1968, p. 690, Act 355, Eff. Jul. 1, 1969.

338.1648 Licenses; suspension, revocation or denial, notice, hearing.

Sec. 48. Before suspending or revoking any license or before denying any application for a license and at least 10 days before the date set for the hearing, the board shall notify in writing the licensee or applicant for license of any charge made, and shall furnish the licensee or applicant with a copy of the written notice and afford the licensee or applicant an opportunity to be heard in person or by counsel in reference thereto. The written notice shall be served by mailing the written notice by certified mail to the last known address of the licensee or applicant or by delivery of the written notice personally. The hearing on such charges shall be at such time and place as the board shall prescribe. If the board determines the licensee or applicant is guilty of any violation of any of the provisions of this act, the licensee or applicant shall be suspended or revoked for such period of time as shall be determined by the board or denied. All procedures and judicial review shall be in accordance with Act No. 197 of the Public Acts of 1952, as amended, except as herein provided.

HISTORY: New 1968, p. 691, Act 355, Eff. Jul. 1, 1969.

338.1650 Hearing officer; qualifications, statement and recommendations; board of barber examiners, final order.

Sec. 50. The board may designate a hearing officer in the department of licensing and regulation to hear any case coming before the board for hearing. The hearing officer shall be an attorney admitted to practice law in the courts of this state. After conducting the hearing, the hearing officer shall submit to the board a statement of fact and conclusions of law and shall make a recommendation as to the disposition of the matter. The board shall issue a final order as to its finding. The board may either

adopt, modify or amend the recommendation of the hearing officer, and may order the matter to be heard before the board.

HISTORY: New 1968, p. 691, Act 355, Eff. Jul. 1, 1969.

338.1653 Enforcement of act.

Sec. 53. All law enforcement officers of this state shall enforce the licensing requirements of this act. The prosecuting attorneys and the attorney general shall prosecute any person violating the licensing requirements of this act.

HISTORY: New 1968, p. 691, Act 355, Eff. Jul. 1, 1969.

338.1655 Practice without license; penalties.

Sec. 55. Any person acting in the capacity of a licensed student, apprentice, barber, employer, instructor, barber school or college within the meaning of this act without a license, shall be fined not more than \$1,000.00, or imprisoned for not more than 1 year or both.

HISTORY: New 1968, p. 691, Act 355, Eff. Jul. 1, 1969.

338.1658 Fees and charges; disposition; expenses, payment.

Sec. 58. All fees and charges collected under the provisions of this act shall be paid into the general fund of the state treasury. All expenses incurred under the provisions of this act shall be paid out of appropriations made for this purpose which shall not exceed revenues derived under this act.

HISTORY: New 1968, p. 691, Act 355, Eff. Jul. 1, 1969.

338.1660 Saving clause; renewal of existing licenses.

Sec. 60. (1) All hearings, matters, proceedings of whatever nature which were pending before the board on the effective date of this act, with reference to applications, licenses, permits and certificates or the suspension or revocation thereof under Act No. 382 of the Public Acts of 1927, as amended, shall not be terminated or abated but shall be treated in the same manner as if initiated, licensed or filed under this act.

(2) All licenses issued under the provisions of Act No. 382 of the Public Acts of 1927, as amended, shall be renewed under this act on or before October 1, 1969.

HISTORY: New 1968, p. 691, Act 355, Eff. Jul. 1, 1969.

338.1662 Repeal.

Sec. 62. Act No. 382 of the Public Acts of 1927, as amended, being sections 338.601 to 338.625 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1968, p. 692, Act 355, Eff. Jul. 1, 1969.

338.1665 Effective date.

Sec. 65. This act shall take effect July 1, 1969.

HISTORY: New 1968, p. 692, Act 355, Eff. Jul. 1, 1969.

CHAPTER 340. EDUCATION—SCHOOL CODE OF 1955

Act 269 of 1955

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BLIND CHILDREN

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Act 269, 1955, p. 475; Eff. Jul. 1.

AN ACT to provide a system of public instruction and primary schools; to provide for the classification, organization, regulation and maintenance of schools and school districts; to prescribe their rights, powers, duties and privileges; to provide for registration of school districts, and to prescribe powers and duties with respect thereto; to provide for and prescribe the powers and duties of certain boards and officials; to prescribe penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

PART 1.

CHAPTER 1.

CLASSIFICATION.

340.1 School code of 1955; short title.

Sec. 1. This act shall be known and may be cited as "The school code of 1955".

HISTORY: New 1955, p. 475, Act 269, Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 340.1 to 340.984 are cited in §§ 388.650, 388.681, and 389.81.

340.2 School districts; organization.

Sec. 2. Hereafter, except as otherwise provided in this act, each and every school district shall be organized and conducted as:

1. A primary school district; or
2. A school district of the fourth class; or
3. A school district of the third class; or
4. A school district of the second class; or

5. A school district of the first class.

HISTORY: New 1955, p. 475, Act 269, Eff. Jul. 1.

340.3 School districts; disorganization, apportionment of territory, taxes.

Sec. 3. Any school district shall lose its organization whenever there are not enough persons in such district qualified under the law to hold district offices or who will accept such offices. Upon the happening of either condition, the county board of education of the county containing the district shall declare by resolution such district dissolved and shall immediately attach the territory thereof, in whole or in part, to other districts already organized and make an equitable distribution of the money, property and other material belonging to such district among the districts to which the territory thereof shall be attached. If the district extends into more than 1 county, the county boards of education of all such counties shall meet jointly and sit as a single board for the dissolution of such district. The property of the disorganized district shall be subject to any increase in the constitutional limitation on taxes which have been voted by the electors of the district to which it is attached, whether the voted increase is for building and site purposes, general fund purposes, or for the retirement of bonds except it shall receive a credit in the amount of any levy remaining to be paid on any outstanding debt in the disorganized district, which shall be paid until debt is retired and shall also pay an amount equal to the amount levied for debt retirement by the district to which it is attached not to exceed 5 mills on the state equalized valuation in the disorganized district. All other taxes levied for the purposes of the combined school district, including taxes for the retirement of bonded indebtedness, shall be spread over the entire area of the combined district.

Bonded indebtedness; board of trustees of receiving district; taxes; audit.

If any disorganized district has a bonded indebtedness the district shall be attached in whole to another district by the intermediate board of education. The identity of the district shall not be lost by virtue of the attachment, and its territory shall remain as a separate assessing unit for the purpose of the bonded indebtedness until the indebtedness has been retired or refunded. The board of the district to which the disorganized district is attached shall constitute the board of trustees for the disorganized district having the bonded indebtedness, and its officers shall be the officers for the disorganized district. The board of the district to which the disorganized district has been attached shall certify and order the levy of taxes for such bonded indebtedness in the name of the disorganized district, shall not commingle the debt retirement funds of the disorganized district with those of the district to which it has been attached, and shall do all things relative to the bonded indebtedness required by law and by the terms under which the issuance and sale of the bonds were originally authorized. All other taxes levied for the purposes of the combined school district, including taxes levied for the retirement of bonded indebtedness, shall be spread over the entire area of the combined district. Immediately upon the attachment of a disorganized district to another district the intermediate board shall audit the assets and liabilities of the disorganized district and if any considerable discrepancy is found the intermediate board shall order the receiving district to pay this discrepancy. The disorganized district shall repay from any moneys available including voted millage that amount in a time to be determined by the intermediate board.

HISTORY: New 1955, p. 475, Act 269, Eff. Jul. 1;—Am. 1964, p. 236, Act 176, Imd. Eff. May 19.

340.3a Disorganized school districts; assumption of bonded indebtedness; effect on original district; election; effective date; mutual assumption.

Sec. 3a. (1) Any time after 3 years from the effective date of the disorganization where the attached district has outstanding bonded indebtedness incurred after December 8, 1932, the combined district may assume the obligation of such bonded in-

debtedness and pay the same by spreading a debt retirement tax levy uniformly over the territory of the combined district, whenever the electors of the combined district shall approve an increase in the constitutional limitation on taxes for that purpose sufficient to provide a total tax levy when such increase is applied to the latest available taxable valuation of the combined district equal to or greater than such total levy when applying the increase in the limitation on taxes available or pledged for the bond issue or issues to the latest available taxable valuation of the district or districts as such territory existed prior to the disorganization and the school tax electors of the combined district shall approve the assumption of such bonded indebtedness. The assumption of the bonded indebtedness shall not operate to release the territory of the district originally incurring the bonded indebtedness from the final responsibility of paying the obligation or to rescind the increase in the limitation on taxes pledged to the bond issue or available for it in such district, nor be construed as so doing. The election may be held at any time following the effective date of attachment whenever a proposal is made to increase the bonded indebtedness of the combined district, and if such assumption of indebtedness is approved, it shall then become effective immediately. At the election to issue new bonds of the combined district any outstanding bond issues of any or all of the original districts may be refunded as a part of the new bond issue and, in that event, it shall not be necessary to present the question of assumption of such indebtedness as a separate proposition. Where a school district is attached to another school district under the provisions of section 3, the vote by the school electors of the combined district may be held at any time following the effective date of attachment.

(2) This section authorizes the holding of an election on the mutual assumption of bonded indebtedness in any school district attached prior to the effective date of this section to an operating school district under the provisions of section 3 at any time after the effective date of the attachment.

HISTORY: Add. 1968, p. 554, Act 316, Eff. Nov. 15. The bill was presented to the governor on June 19, 1968 at 1:55 p.m., and not having been returned by him to the house in which it originated became law on July 3, 1968 at 1:55 p.m., the legislature having continued in session. (See 1968 House Journal, page 3367.)

340.4 Board; definition.

Sec. 4. Except as otherwise provided in this act, the term "board" shall mean the board of education of a school district.

HISTORY: New 1955, p. 475, Act 269, Eff. Jul. 1.

340.5 School elector; definition.

Sec. 5. The term "school elector" as used in this act shall mean a person possessing the qualifications prescribed in section 1 of article 2 of the constitution and statutes enacted thereunder.

HISTORY: New 1955, p. 475, Act 269, Eff. Jul. 1;—Am. 1963, 2nd Ex. Ses., p. 48, Act 39, Imd. Eff. Dec. 27.

340.6 School tax elector; definition.

Sec. 6. The term "school tax elector" as used in this act shall mean a person possessing the qualifications prescribed in section 6 of article 2 of the constitution.

HISTORY: New 1955, p. 475, Act 269, Eff. Jul. 1;—Am. 1963, 2nd Ex. Ses., p. 48, Act 39, Imd. Eff. Dec. 27.

340.7 Meeting; definition.

Sec. 7. The term "meeting" as used in this act shall be construed as the annual or special meeting of the school electors as distinguished from the annual or special election in a school district.

HISTORY: New 1955, p. 475, Act 269, Eff. Jul. 1.

340.8 School elections; secretary of state as chief election officer.

Sec. 8. The secretary of state shall be the chief election officer of the state for the elections held under this act and shall have supervisory control over school election officials in the performance of their duties under the provisions of this act.

HISTORY: Add. 1959, p. 211, Act 149, Eff. Mar. 19, 1960.

340.9 Boarding school; definition.

Sec. 9. The term "boarding school" as used in this act means any place accepting for board, care and instructions 5 or more children under 16 years of age.

HISTORY: Add. 1965, p. 281, Act 180, Imd. Eff. Jul. 15.

CHAPTER 2.

PRIMARY SCHOOL DISTRICTS.

340.21 Primary school districts; continuance, reclassification.

Sec. 21. Each school district organized as a primary district at the time of the taking effect of this act shall continue to be a primary district, subject to reclassification as hereinafter provided, and be governed by the provisions of this chapter and by such provisions of part 2 of this act as are not inconsistent with this chapter.

HISTORY: New 1955, p. 476, Act 269, Eff. Jul. 1.

340.22 Primary school district name; number, change of name, distinctive name.

Sec. 22. Every school district, organized and operating in pursuance of this chapter, shall be known by the name and style of "School District Number" (such number as it has at the time of the taking effect of this act or as may be given a newly organized district by the county board of education) of (the name of the township or townships in which the district is situated): Provided, That the school electors may, at any annual meeting, adopt a distinctive name for such school district and such name, after being approved by the county board of education as not being in conflict with the name of another district, together with the name of the county or counties into which the school district extends, shall be the legal name of such school district for all purposes. The board may in like manner change the name of the district. The adoption of a distinctive name or the change in name of any district shall have no effect upon existing obligations incurred in the former name of the district or on the ownership of any real or personal property.

HISTORY: New 1955, p. 476, Act 269, Eff. Jul. 1.

340.23 School electors; powers.

Sec. 23. The school electors of any school district when lawfully assembled at the first and at each annual meeting or at an adjournment thereof, or at any special meeting lawfully called, except as hereinafter provided, shall have power:

First, In the absence of the president or his refusal to act, to appoint a chairman for the time being, and, in the absence of the secretary or his refusal to act, to appoint some person to act in his stead, who shall keep minutes of the proceedings of such meeting and certify same to the secretary, to be by him entered in the records of the district;

Second, To adjourn from time to time as occasion may require;

Third, To elect district officers as herein provided;

Fourth, To vote such tax as the meeting shall deem sufficient to purchase or lease a site or sites, or to build, hire or purchase a schoolhouse or schoolhouses; the foregoing tax when levied and collected, together with all the funds derived from bonding for the same purposes, and all insurance money received for the loss of a schoolhouse or schoolhouses, when received by the treasurer, shall be accounted for under the title of

“building and site fund”. Money belonging to the building and site fund shall be used for no other purpose than that for which it was raised without a consenting vote of a majority of the taxpaying voters of the district voting thereon;

Fifth, To determine the amount of money to be raised by tax for school purposes, except as otherwise provided by section 563 of this act; and

Sixth, To authorize and direct the sale of any schoolhouse, site, building or other property belonging to the district, when the same shall no longer be needed for the use of the district.

HISTORY: New 1955, p. 476, Act 269, Eff. Jul. 1.

340.24 Discontinuance of school or grade; tuition and transportation of pupils.

Sec. 24. At an annual or special meeting, the school electors may vote to discontinue school in the district for the ensuing or current year and direct the board to make provision to send the children resident therein to another school or schools; or they may vote to direct the board to make provision to send the children of any grade to another school or schools. When such action has been taken, the board may use any funds, except debt service, library or building funds, to pay the tuition and transportation of all such children.

HISTORY: New 1955, p. 476, Act 269, Eff. Jul. 1.

340.25 Transportation within district; routes.

Sec. 25. The board may provide for the transportation of pupils within the district when authorized by a majority vote of the school electors of the district voting on the question at any annual or special meeting or election. The board shall designate the routes over which the vehicles are to travel.

HISTORY: New 1955, p. 477, Act 269, Eff. Jul. 1.

340.26 Sites and schoolhouses; purchase, lease, sale or exchange of realty; sale of personalty.

Sec. 26. The board of any school district governed by the provisions of this chapter is authorized to locate, acquire, purchase or lease in the name of the district a site or sites within the district for schoolhouses; to purchase, lease, acquire, erect or build and equip such buildings for school purposes as may be necessary; to sell or exchange any real or personal property of the district which is no longer required for school purposes when authorized by a vote of the electors of the district, and give proper deeds or other instruments passing title to the same: Provided, That the board may sell personal property in an amount not to exceed a total of \$500.00 in any school year without a vote of the school electors.

HISTORY: New 1955, p. 477, Act 269, Eff. Jul. 1.

340.27 Board of education; officers, election, term, acceptance.

Sec. 27. At the first meeting in each school district, there shall be elected by ballot a president for the term of 3 years, a secretary for 2 years, and a treasurer for 1 year; and on the expiration of their respective terms of office and regularly thereafter at the annual meeting their several successors shall be elected in like manner for a term of 3 years each. The time intervening between the first meeting in a school district and the first annual meeting thereafter shall be reckoned as 1 year. Within 5 days after his election each member shall be notified of his election and within 10 days after his notification, each member shall file an acceptance of the office to which he has been elected, accompanied by a written affidavit setting forth the fact of eligibility as provided in section 493 of this act. All persons lawfully elected or serving as moderator, director or treasurer of primary school districts on the effective date of this act shall be deemed to have been elected as president, secretary or treasurer, respectively, under the terms

of this act and shall continue in office as such for the remainder of the term for which they were elected or appointed.

HISTORY: New 1955, p. 477, Act 269, Eff. Jul. 1;—Am. 1962, p. 5, Act 5, Eff. Mar. 28, 1963.

340.28 Board of education; members, meetings, majority vote.

Sec. 28. The president, secretary and treasurer shall constitute the board. Meetings of the board may be called by any member thereof by serving on the other members a written notice of the time and place of such meeting at least 24 hours before such meeting is to take place. A majority of the members of the board at a legal meeting thereof shall be necessary for the transaction of business. A meeting at which all members are present without notice shall be considered a legal meeting for the transaction of business. No act authorized to be done by the board of education shall be valid unless voted by a majority of those present at a meeting of the board and a record made of the same.

HISTORY: New 1955, p. 477, Act 269, Eff. Jul. 1.

340.29 President; duties.

Sec. 29. It shall be the duty of the president of each school district:

Presiding officer at meetings of district and board.

First, To preside, when present, at all meetings of the district, and of the board;

Countersignature of orders.

Second, To countersign all orders legally drawn by the secretary upon the treasurer for moneys to be disbursed by the district;

Prosecution of action on treasurer's bond.

Third, To cause an action to be prosecuted in the name of the district on the treasurer's bond, in case of any breach of any condition thereof; and

Other duties.

Fourth, To perform such other duties as are or shall be required of the president by law.

HISTORY: New 1955, p. 477, Act 269, Eff. Jul. 1.

340.30 Secretary; duties.

Sec. 30. It shall be the duty of the secretary of each school district:

Clerk at meetings of district and board.

First, To act as clerk, when present, at all meetings of the district and of the board;

Record of proceedings of district and board.

Second, To record the proceedings of all district meetings, and the minutes of all meetings, orders, resolutions and other proceedings of the board in proper record books;

Notice of meetings.

Third, To give the prescribed notice of the annual district meeting, and of all such special meetings as he shall be required to give notice of in accordance with the provisions of law;

Orders.

Fourth, To draw and sign orders upon the treasurer for all moneys to be disbursed by the district, and present them to the president, to be countersigned by that officer, and present them to the person for whom they are intended. Each order shall specify the object for which and the fund upon which it is drawn;

Contracts with teachers.

Fifth, To draw and sign all contracts with teachers when directed by the board, and present them to the other members of the board for further signature. If the secretary

shall neglect or refuse to draw such contract, the same may be drawn by any other person designated by and under the direction of the board;

Accounts.

Sixth, To keep an accurate account of all expenses incurred by him as secretary, and such accounts shall be audited by the president and treasurer, and on their order shall be paid out of any money provided for such purposes;

Copies of reports, records.

Seventh, To preserve and file copies of all reports and safely preserve and keep all books, papers and other documents belonging to the office of secretary or to the district, when not otherwise provided for, and to deliver the same to his successor in office; and

Other duties.

Eighth, To perform such other duties as are or shall be required of the secretary by law or by the board.

HISTORY: New 1955, p. 478, Act 269, Eff. Jul. 1.

340.31 Secretary; annual report.

Sec. 31. The secretary of each district shall make an annual report to such officer as shall be directed by the superintendent of public instruction. Said report shall contain such statistics and facts as the said superintendent may require.

HISTORY: New 1955, p. 478, Act 269, Eff. Jul. 1.

340.32 Treasurer; duties.

Sec. 32. It shall be the duty of the treasurer of each school district:

Bond, sureties, distribution of state moneys.

First, Within 30 days after his election, the treasurer shall obtain an official bond in such an amount and form as may be determined by the president and secretary of the board. Said bond shall be either personal or of some surety company authorized to do business in this state, and it shall be given for a sum not less than the greatest amount of money that the treasurer may have under his control at any one time during his term of office, as near as the same can be determined. When a personal bond is given it shall be signed by not less than 2 sureties, each of whom shall justify under oath to the full amount of the bond. If a surety bond is given, it shall be paid for by the district. The bond shall be filed with the county superintendent of schools, and none of the books or money of the district shall be placed in the hands of the treasurer until his bond has been approved by the president and secretary and filed, and, in case of any breach of the conditions thereof, the president shall cause a suit to be commenced thereon in the name of the district, and any moneys collected thereon shall be paid into the township treasury subject to the order of the district officers, and shall be applied to the same purposes as the moneys lost should have been applied by the treasurer. The county superintendent of schools shall provide the superintendent of public instruction with a list of the school districts in which the treasurers have filed bonds. No primary funds or other state moneys shall be sent to any district until the treasurer has properly filed his bond;

Payment of orders.

Second, To pay all orders of the secretary, when lawfully drawn and countersigned by the president, out of any moneys in his hands belonging to the fund upon which such orders may be drawn;

Receipts and disbursements; record.

Third, To keep a book in which all moneys received and disbursed shall be entered, the sources from which the same have been received and the persons to whom and the objects for which the same have been paid;

Same; report, vouchers.

Fourth, To present the board at the close of the school year a report in writing, containing a statement of all moneys received during the preceding year and each item of disbursement made, and exhibit the voucher therefor;

Appearance in suits.

Fifth, To appear for and on behalf of the district in all suits brought by or against the same when no other directions shall be given by the qualified voters in the district meetings, except in suits in which he is interested adversely to the district, and in all such cases the president shall appear for such district if no other directions be given as aforesaid;

Settlement with board, delivery of papers and moneys to successor.

Sixth, At the close of his term of office to settle with the board and deliver to his successor in office all books, vouchers, orders, documents and papers belonging to the office of treasurer, together with all district moneys remaining on hand; and

Other duties.

Seventh, To perform such other duties as are or shall be by law required of the treasurer.

HISTORY: New 1955, p. 478, Act 269, Eff. Jul. 1.

340.33 Board of education officers; salaries.

Sec. 33. The salaries of members of the board shall be determined by the qualified electors of the district at the annual meeting of the district. The electors may provide for a different salary for the office of secretary and the office of treasurer of the board. A salary once fixed by the electors shall remain the same until changed by the electors at an annual election: Provided, That the salary of any member of the board shall not be increased nor shall the salary of any member be decreased after his election or appointment.

HISTORY: New 1955, p. 479, Act 269, Eff. Jul. 1.

340.34 School district annual meeting; time.

Sec. 34. The annual meeting of each primary school district shall be held on the second Monday in June.

HISTORY: New 1955, p. 479, Act 269, Eff. Jul. 1;—Am. 1961, p. 30, Act 29, Eff. Imd. May 12.

CITED IN OTHER SECTIONS: The above section is cited in § 389.34.

340.35 School district special meetings; notice, expenses.

Sec. 35. Special meetings may be called by the board and the board or any of its members shall call such special meeting on the written request of not less than 5 legal voters of the district. Such meeting shall be called by giving the required legal notice and shall be held not less than 10 nor more than 15 days from the time the written request is received; but no special meeting shall be called unless the questions to be voted upon are within the lawful authority of the electors to decide. Whenever the board or any of its members fail to call a special meeting when petitioned to do so in accordance with this act and within the time specified in this act, the petitioners may request the county superintendent of schools of the county in which the district is located to call a meeting. The county superintendent, within 10 days after receiving the request, shall call the meeting by posting the required legal notice in the manner specified in this act. The county superintendent shall supply the necessary ballots and perform all other functions necessary for the conduct of the meeting, including the appointment of the board of election inspectors composed of at least 3 qualified school

electors of the district. All expenses incurred in conducting the special meeting shall be certified by the county superintendent of schools to the board of the primary district, and the board shall pay for the same out of the funds of the district.

HISTORY: New 1955, p. 479, Act 269, Eff. Jul. 1;—Am. 1959, p. 120, Act 118, Eff. Mar. 19, 1960.

340.36 School district meeting; notice, contents; place.

Sec. 36. The board shall determine the time and place of holding any annual or special meeting, and notice of such time and place shall be given by the secretary by causing notice thereof to be posted in not less than 5 of the most public places in the district, 1 copy of which for each meeting shall be posted on the school grounds on or near the front entrance of each schoolhouse in the district, at least 6 days previous to such election. The notice of meeting shall specify the day, hour and place, the offices to be filled at such meeting, and in the case of a special meeting the substance of all matters to be voted upon. All annual or special meetings shall be held within the district, and, except in case of emergency, shall be held in the schoolhouse.

HISTORY: New 1955, p. 480, Act 269, Eff. Jul. 1.

340.37 School district meeting; notice, submission of questions.

Sec. 37. Upon a written request of not less than 5 school electors of the district, made not less than 10 nor more than 30 days prior to the annual meeting, the board shall include in the notice of such annual meeting such question or questions submitted in the request as may lawfully be voted upon by the electors, and shall submit such question or questions to the electors at the annual meeting.

HISTORY: New 1955, p. 480, Act 269, Eff. Jul. 1.

CHAPTER 3.

SCHOOL DISTRICTS OF THE FOURTH CLASS.

340.51 Fourth class districts; reclassification as graded, township or rural agricultural districts.

Sec. 51. Each school district organized as a graded, township or rural agricultural school district at the time of the taking effect of this act shall be a school district of the fourth class subject to reclassification as hereinafter provided, and shall operate and be governed as such by the provisions of this chapter and by such provisions of part 2 of this act as are not inconsistent with this chapter.

HISTORY: New 1955, p. 480, Act 269, Eff. Jul. 1.

340.52 Fourth class districts; reclassification in certain primary districts.

Sec. 52. Any primary school district having a school census of more than 75 and less than 2,400 children between the ages of 5 and 20 as certified by the superintendent of public instruction, by a majority vote of the qualified voters present at an annual or special meeting may organize as a fourth class school district.

HISTORY: New 1955, p. 480, Act 269, Eff. Jul. 1;—Am. 1959, p. 451, Act 271, Imd. Eff. Nov. 3.

340.53 Fourth class districts; referendum on reclassification in certain primary districts.

Sec. 53. In each primary district which shall hereafter have a school census of more than 75 and less than 2,400 children between the ages of 5 and 20, as certified by the superintendent of public instruction, the question of organizing as a fourth class school district may be submitted to the school electors thereof at an annual or special school meeting following the attainment of such school census. The intention to submit the question of the organization of a fourth class school district shall be expressed in the notice of such annual or special meeting.

HISTORY: New 1955, p. 480, Act 269, Eff. Jul. 1;—Am. 1959, p. 452, Act 271, Imd. Eff. Nov. 3.

340.54 Fourth class districts; notice of reclassification.

Sec. 54. Whenever the electors of the district have by their vote approved the reclassification of a primary district to a district of the fourth class, it shall be the duty of the secretary of the board to give notice of such reclassification, in writing, to the county superintendent of schools of each county in which the district is situated and to the superintendent of public instruction within 10 days after the vote thereon.

HISTORY: New 1955, p. 490, Act 269, Eff. Jul. 1.

340.55 Board of education; election, term, qualification, acceptance.

Sec. 55. When such change in the organization of the district shall have been voted, the voters at the next annual election or annual meeting shall proceed to elect by ballot a board of 5 members, 1 member for the term of 1 year, 2 for the term of 2 years, and 2 for the term of 3 years, and annually thereafter a successor or successors to the member or members whose terms of office shall expire. The term of office of a member of the board of any district governed by the provisions of this chapter shall be for 3 years, except in the case of the board elected at the first annual election or annual meeting following reclassification. Successors to the members whose terms expire shall be elected by the school electors of the district, by ballot, at each annual election or annual meeting. The board of the primary district shall continue to be the board for the district until the election and qualification of the new board at the first annual election or annual meeting following reclassification, and upon the qualification for and acceptance of office pursuant to section 493 of this act by 3 of the newly elected members, the district shall be deemed duly organized. After the annual election or annual meeting in 1960, the board of all fourth class school districts operating grades kindergarten through 12 shall consist of 7 members. At the annual election or annual meeting in 1960, the voters shall elect by ballot for a term of 4 years, 2 board members, and the voters shall elect by ballot for a term of 3 years successors to the members whose terms of office shall expire. At the annual election or annual meeting thereafter, the voters shall elect for a term of 4 years successors to the members whose terms shall expire. After the rotation is established, not more than 2 members shall be elected in any one year to fill vacancies occurring by expiration of terms.

HISTORY: New 1955, p. 481, Act 269, Eff. Jul. 1;—Am. 1959, p. 16, Act 16, Eff. Mar. 19, 1960.

340.55a Board of education; school meetings, adoption of election system, rescission, election of board members.

Sec. 55a. In school districts of the fourth class having a school census of less than 600 children there shall be held school meetings rather than school elections: Provided, That the board of education may by resolution determine that school elections rather than school meetings be held within such district, as provided by sections 72 through 76 of this act. Such resolution once adopted may be rescinded by the board and shall be rescinded upon petition of a majority of the electors of the district, but such rescission shall not be effective as to any election held less than 90 days following the adoption of the resolution to rescind. In fourth class school districts holding school meetings rather than school elections, such meetings shall be called and held at the times and in the manner provided by sections 34 through 37 of this act. At the annual meeting there shall be elected by ballot school board members to succeed those whose terms then expire, and to fill vacancies. The school electors present at any annual meeting shall have all of the powers granted to school electors in districts of the fourth class. The president of the board of education shall preside, when present, at all meetings of the district, and the secretary of the board, when present, shall act as clerk.

HISTORY: Add. 1956, p. 462, Act 215, Imd. Eff. May 1;—Am. 1957, p. 90, Act 88, Imd. Eff. May 23.

340.56 Board of education; nominating petitions, canvass, withdrawal of candidate, ballot form.

Sec. 56. Candidates for members of the first and succeeding boards to be elected under this chapter shall be nominated by petition. To obtain the printing of the name of any candidate for member of the board on the ballot, the candidate shall file nomination petitions with the secretary of the board not later than 4 p.m. on the thirtieth day prior to the date of the election, unless the thirtieth day falls on a Saturday, Sunday or legal holiday in which case nomination petitions may be served on the secretary up to 4 p.m. on the next secular day. Each petition shall be signed by a number of qualified school electors of the district equal to not less than 1% nor more than 4% of the total number of votes received by the candidate for member of the board of education who received the greatest number of votes at the last election at which members to the board of education were elected but in no case shall such number be less than 20. No elector shall sign petitions for more candidates than are to be elected. The petitions shall be in the form prescribed in section 538 of this act except that the petition shall refer to qualified school electors rather than registered school electors.

Upon the filing of nomination petitions with the secretary of the board, the official shall canvass the same to ascertain if such petitions have been signed by the requisite number of qualified electors, and for the purpose of determining the validity thereof may cause any doubtful signatures to be checked against the registration records of the clerk of any political subdivision in which the petitions were circulated, or may use any other method he deems proper for determining the validity of such doubtful signatures. In case it is determined that the nomination petitions of any candidate do not comply with such requirements, or if such candidate does not possess the qualifications as required by law for membership on the board, it shall be the duty of the secretary of the board to notify immediately such candidate of such fact. In the case of nomination petitions filed on behalf of the secretary of the board, the treasurer of the board shall perform the duties of the secretary in connection therewith instead of the secretary.

After the filing of a nomination petition by or on behalf of a candidate for membership on the board, such candidate shall not be permitted to withdraw unless a written notice of withdrawal, signed by the candidate, is served on the secretary of the board not later than 4 p.m. of the third day after the last day for filing such petition unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the secretary up to 4 p.m. on the next secular day.

The secretary of the board shall prepare and have printed an official ballot which shall contain a separate area for each term of office. The ballot shall be substantially in the same form as provided in the general election law and the names of all candidates who have been duly nominated for each term of office shall be printed in the proper place thereon. In the printing of the ballots, the provisions of the general law of the state for transposing and alternating the positions of the names of candidates on primary election ballots shall apply. No party emblem or designation shall be placed on school election ballots. The head of each section of the ballot shall have printed on it the number of persons to be voted for, and the expiration date of the term involved.

HISTORY: New 1955, p. 481, Act 269, Eff. Jul. 1;—Am. 1961, p. 368, Act 218, Eff. Sep. 8;—Am. 1968, p. 133, Act 80, Imd. Eff. Jun. 4.

340.57 Board of education; officers, election; removal.

Sec. 57. The members of the board shall meet on the second Monday of July succeeding their election and annually on the same day thereafter. The members of the board shall organize the board by electing a president, a secretary and a treasurer, and for cause may remove the same from such offices and shall elect others of their number in such places.

HISTORY: New 1955, p. 481, Act 269, Eff. Jul. 1;—Am. 1961, p. 30, Act 29, Imd. Eff. May 12;—Am. 1967, p. 247, Act 185, Imd. Eff. Jun. 30.

340.58 Board of education; appointment of officers by county board.

Sec. 58. Whenever, in any case, the board shall fail or neglect to elect the officers of the board as provided in this chapter within 15 days after the annual election, the county board of education shall appoint the said officers from the members of the board: Provided, That if the district extends into more than 1 county, the county boards of education of all such counties shall meet jointly and sit as a single board for the purpose of appointing the officers.

HISTORY: New 1955, p. 482, Act 269, Eff. Jul. 1.

340.59 Treasurer; bond, sureties; exceptions.

Sec. 59. Within 30 days after his appointment, the treasurer of the board shall file with the secretary an official bond in such an amount and form as may be determined by said board, except that when the board treasurer is not directly handling school district money or signing checks no bond is necessary. When the authority for directing the administration of school district money rests with a school district employee, said person and all persons connected therewith shall be bonded. If a surety bond is given, it shall be paid for by the district.

HISTORY: New 1955, p. 482, Act 269, Eff. Jul. 1;—Am. 1966, p. 344, Act 255, Imd. Eff. Jul. 11.

340.60 President; duties.

Sec. 60. It shall be the duty of the president of the board:

Presiding officer at meetings of board.

First, to preside at all meetings of the board;

Countersignature of orders.

Second, To countersign all orders legally drawn by the secretary upon the treasurer for moneys to be disbursed on behalf of the district;

Prosecution of action on treasurer's bond.

Third, To cause an action to be prosecuted in the name of the district on the treasurer's bond in case of any breach of any condition thereof; and

Other duties.

Fourth, To perform such other duties as may be appropriate to the duties of his office in the management of the schools as the board shall determine.

HISTORY: New 1955, p. 482, Act 269, Eff. Jul. 1.

340.61 Secretary; duties.

Sec. 61. It shall be the duty of the secretary of the board:

Clerk at meetings of board.

First, To act as clerk at all meetings of the board;

Record of proceedings of board.

Second, To record the minutes of all meetings, orders, resolutions and other proceedings of the board in proper record books and sign the same;

Notice of elections.

Third, To give or cause to be given the prescribed notice of the annual election and of any special elections of the district;

Annual and other reports.

Fourth, To prepare the annual report of the school district and such other reports as may be required by the superintendent of public instruction;

Orders.

Fifth, To draw and sign orders upon the district treasurer for all moneys to be disbursed by the district, and present such orders to the president to be countersigned by that officer. Each order shall be properly numbered and dated, shall specify the sources of the funds called for, and the purpose for which and the fund upon which it is drawn; and

Other duties.

Sixth, To perform such other duties as are or shall be required by law or by the board.

HISTORY: New 1955, p. 482, Act 289, Eff. Jul. 1.

340.62 Treasurer; duties.

Sec. 62. It shall be the duty of the treasurer of the board:

School moneys; deposit as designated by board.

First, The treasurer shall have the care and custody of all the moneys of the district coming into his hands. He shall deposit all funds of the district with any bank or banking corporation or trust company designated by the board and in such proportion and manner as shall be provided by said board;

Payment of orders.

Second, To pay all orders of the secretary when lawfully drawn and countersigned by the president out of any moneys in his hands belonging to the fund upon which such orders shall be drawn;

Receipts and disbursements; record.

Third, To keep or cause to be kept a record book in which all moneys received and disbursed shall be entered, the sources from which the same have been received, and the person to whom and the objects for which the same have been paid;

Same; report, vouchers.

Fourth, To present to the board at the close of the school year a report in writing containing a statement of all moneys received during such year and of each item of disbursement made and exhibit the vouchers therefor if requested by the board, and he shall maintain a permanent file of said vouchers; and

Other duties.

Fifth, To perform such other duties as are or shall be required by law or by the board.

HISTORY: New 1955, p. 483, Act 289, Eff. Jul. 1.

340.63 Board of education monthly meetings; special meeting, notice, service.

Sec. 63. The board shall hold 1 regular meeting each month at a time and place to be determined by said board and no notice of such meeting shall be required if the hour and place of such meeting shall have been fixed by resolution of the board and placed on the records of the secretary of said board. Special meetings of the board may be called by the president of the board, or any 2 members thereof, by serving on the other members a written notice of the time and place of any such special meeting. Service of such notice may be made by delivering the notice to the members personally or by leaving the same at each member's residence with some person of the household at least 24 hours before such meeting is to take place, or by depositing the same in a government mail receptacle enclosed in a sealed envelope plainly addressed to such member at his last known residence address at least 72 hours before such meeting

is to take place. Such service may be made by a member of the board or any employee of the board.

HISTORY: New 1955, p. 483, Act 269, Eff. Jul. 1.

340.64 High schools; establishment, election.

Sec. 64. When directed by a majority vote of the school electors voting on the question at an annual or special election, the board shall establish a high school and determine the qualifications for admission to such high school: Provided, That such vote shall not be required in districts in which high schools have been established at the time of the taking effect of this act, or in the case of the formation of districts by consolidation or annexation where high schools have been established at the time of such consolidation or annexation.

HISTORY: New 1955, p. 483, Act 269, Eff. Jul. 1.

340.65 High schools; discontinuance; tuition and transportation.

Sec. 65. When directed by a majority vote of the school electors, the board may discontinue the high school in such district. In such event, however, said board shall make provision to send the pupils of said high school to the high school of another district or districts. When such action has been taken, said board shall use the necessary funds to pay the tuition as provided in section 761 of this act and shall provide transportation for all such pupils.

HISTORY: New 1955, p. 483, Act 269, Eff. Jul. 1.

340.66 Superintendent of schools; administrators; terms, duties.

Sec. 66. The board may employ a superintendent of schools who shall meet the qualifications prescribed in section 573, and shall employ a superintendent if 12 or more teachers are employed. The contract with the superintendent shall be for a term fixed by the board not to exceed 3 years. The board may employ assistant superintendents, principals, assistant principals, guidance directors and other classified administrators who do not assume tenure in position, for a term fixed by the board not to exceed 3 years, and shall define their duties. The employment shall be under written contract. Notification of nonrenewal of contract shall be given in writing at least 90 days prior to the contract termination date or the contract is renewed for an additional 1-year period. The superintendent shall have the following duties:

(a) To recommend in writing all teachers necessary for the schools and to suspend any teacher for cause until the board may consider such suspension.

(b) To classify and control the promotion of pupils.

(c) To recommend to the board the best methods of arranging the course of study and the proper textbooks to be used.

(d) To make reports in writing to the board and to the state board of education annually, or oftener if required, in regard to all matters pertaining to the educational interests of the district.

(e) To supervise and direct the work of the teachers and other employees of the board.

(f) To assist the board in all matters pertaining to the general welfare of the school and to perform such other duties as the board may determine.

(g) To put into practice the educational policies of the state and of the board in accordance with the means provided by the board.

HISTORY: New 1955, p. 484, Act 269, Eff. Jul. 1;—Am. 1958, p. 117, Act 110, Eff. Sep. 13;—Am. 1966, p. 342, Act 254, Imd. Eff. Jul. 11. —Am. 1970, p. 661, Act 247, Imd. Eff. Dec. 30.

340.67 Discontinuance of schools or grades; tuition and transportation of students.

Sec. 67. At an annual or special election, the school electors may vote to discontinue school in the district for the ensuing or current year and direct the board to make provision to send the children resident therein to another school or schools; or may vote to direct the board to make provision to send the children of any grade to another school or schools. When such action has been taken, the board shall use any funds, except library or building funds, to pay for the tuition and transportation of all such children.

HISTORY: New 1955, p. 484, Act 269, Eff. Jul. 1.

340.68 Transportation within district; routes.

Sec. 68. The board of any fourth class school district may provide for the transportation of pupils within the district when authorized by a majority vote of the school electors of the district voting on the question at an annual or special election. The board shall designate the routes over which the vehicles are to travel: Provided, however, That in districts in which the board was required by law or authorized by the electors to furnish such transportation at the time this act takes effect, such board shall continue such transportation until such authorization is rescinded by a majority of the electors of the district voting on the question at an annual or special election.

HISTORY: New 1955, p. 484, Act 269, Eff. Jul. 1.

340.69 Transportation and tuition to other districts; resident pupils.

Sec. 69. The board may use money in the general fund or funds received from state appropriations for aid to school districts for the purpose of paying tuition and transportation to another district or districts of resident pupils, even though the grades in which such pupils may be enrolled are maintained within the district.

HISTORY: New 1955, p. 484, Act 269, Eff. Jul. 1.

340.70 Number or name of school district; changes.

Sec. 70. The county board of education shall give a number to each of the fourth class school districts within the county: Provided, That when the territory of the district extends into more than 1 county, such number shall be given by the county boards of education of all such counties meeting jointly and sitting as a single board. Such number, together with the name of the county or counties in which the district is located, shall be the legal name of such district: Provided further, That the board of any fourth class school district may by resolution adopt a distinctive name for such school district and such name, after being approved by the county board of education as not being in conflict with the name of another district, together with the name of the county or counties into which the school district extends, shall be the legal name of such school district for all purposes. The board may in like manner change the name of the district. The adoption of a distinctive name or the change in name of any district shall have no effect upon existing obligations incurred in the former name of the district or on the ownership of any real or personal property.

HISTORY: New 1955, p. 485, Act 269, Eff. Jul. 1.

340.71 Board of education; officers, salaries.

Sec. 71. The salaries of members of the board shall be determined by the school electors of the district at the annual election. The electors may provide for a different salary for the office of secretary and the office of treasurer of the board. A salary once fixed by the electors shall remain the same until changed by the electors at an annual election: Provided, That the salary of any member of the board shall not be increased nor shall the salary of any member be decreased after his election or appointment.

HISTORY: New 1955, p. 485, Act 269, Eff. Jul. 1.

340.72 Annual election; time.

Sec. 72. The annual election of each school district of the fourth class shall be held on the second Monday in June.

HISTORY: New 1955, p. 485, Act 269, Eff. Jul. 1;—Am. 1961, p. 30, Act 29, Imd. Eff. May 12.
CITED IN OTHER SECTIONS: The above section is cited in § 389.34.

340.73 Special school elections; request, notice, scope.

Sec. 73. Special elections may be called by the board, and the board shall call special elections on the written request of 5% or more of the school electors of the district but not less than 25 electors. Such election shall be called by giving the required legal notice and shall be held in not less than 10 nor more than 15 days from the time the written request is received; but no special election shall be called unless the questions to be voted upon are within the lawful authority of the electors to decide, and no business shall be transacted at a special election unless the same shall be stated in the notice of such election. In a registration school district, the election shall be held in not less than 60 days from the time the written request is received.

HISTORY: New 1955, p. 485, Act 269, Eff. Jul. 1;—Am. 1963, p. 221, Act 157, Eff. Sep. 6.

340.74 Notice of election; publication, posting, contents.

Sec. 74. The board shall determine the time and place of holding any annual or special election, and notice of such time and place shall be given by the secretary by causing notice thereof to be posted in not less than 5 of the most public places in the district at least 6 days previous to such election, 1 copy of which notice for each election shall be posted on the school grounds on or near the front entrance of each school in the district. The notice of election shall specify the day, hours and place of the election, the offices to be filled at such election, if any, the names of all candidates who have been duly nominated for each office to be voted upon, and the substance of all special matters, if any, to be voted upon.

HISTORY: New 1955, p. 485, Act 269, Eff. Jul. 1.

340.75 Questions at annual elections; submission procedure.

Sec. 75. Upon a written request of a number equal to 5% of the registered school electors of a district, but not less than 25 school electors, made not less than 20 nor more than 40 days prior to the annual election, the board shall include in the notice of the annual election such questions submitted in the request as may lawfully be voted upon by the electors and shall submit such questions to the electors at the annual election.

HISTORY: New 1955, p. 486, Act 269, Eff. Jul. 1;—Am. 1965, p. 739, Act 375, Imd. Eff. Jul. 23.

340.76 Elections; polls, time, ballots, board of election inspectors.

Sec. 76. At each annual or special election, the polls of election shall be kept open at least 7 consecutive hours. All questions shall be voted upon by ballot and a proper poll list shall be kept. The board shall appoint school electors of the district in the number it deems sufficient to act as a board of election inspectors at each election. Members of the board of education may serve on any such board of election inspectors, unless they are candidates at such election. Each member of the board of election inspectors shall take the constitutional oath of office before entering upon his duties.

HISTORY: New 1955, p. 486, Act 269, Eff. Jul. 1;—Am. 1961, p. 369, Act 218, Eff. Sep. 8.

340.77 Board of education property and site; acquisition, purpose; handling of property, nonexemption from taxation.

Sec. 77. The board of any school district governed by the provisions of this chapter is authorized to locate, acquire, purchase or lease in the name of the district such site or sites within or without the district for schoolhouses, libraries, administration buildings, agricultural farms, athletic fields and playgrounds, as may be necessary; to purchase, lease, acquire, erect or build and equip such buildings for school or library or

administration or for use in connection with agricultural farms, athletic fields and playgrounds, as may be necessary; to pay for the same out of the funds of the district provided for that purpose; to sell, exchange or lease any real or personal property of the district which is no longer required thereby for school purposes, and give proper deeds or other instruments passing title to the same and to dedicate or sell and convey land for highway purposes to the state or any agency or instrumentality thereof, including specifically municipalities and boards of county road commissioners, when such action does not divide said school property into 2 or more separate parcels. Any real property owned by a school district which is leased to any private individual, association or corporation shall not be exempt from property taxation during the term of such lease.

HISTORY: New 1955, p. 496, Act 269, Eff. Jul. 1;—Am. 1956, p. 229, Act 119, Imd. Eff. Apr. 13;—Am. 1959, p. 118, Act 115, Eff. Mar. 19, 1960;—Am. 1963, p. 295, Act 208, Imd. Eff. May 15.

340.77a Board of education; borrowing powers.

Sec. 77a. The board of a school district of the fourth class operating a K-12 program has the power and duty:

Temporary purposes.

(a) To borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, for temporary school purposes such sums of money and on such terms as it deems desirable and to give notes of the district therefor, except that no such loan shall be made for any sum which exceeds the amount which has been voted by the board or the qualified electors of the district.

Long-term loans; bonds; purposes; limitations.

(b) To borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, such sums of money as it deems necessary to purchase sites for buildings, playgrounds, athletic fields or agricultural farms, and to purchase or erect and equip any building which it is authorized to purchase and erect, or to make any permanent improvement which it is authorized to make, and to accomplish this by the issue and sale of bonds of the school district in such form or on such terms as the board deems advisable, or by any other reasonable means. No loan shall be made and no bonds shall be issued for a longer term than 30 years nor for any sum which, together with the total outstanding indebtedness of the district, shall exceed 5% of the assessed valuation of the taxable property within the district, unless the proposition of making such loans or of issuing bonds has been submitted to a vote of the school tax electors of the district at a general or special school election and approved by the majority of the electors voting on the question. In such case loans may be made or bonds may be issued for the purposes hereinbefore set forth in an amount equal to that provided by chapter 12 of part 2.

HISTORY: Add. 1968, p. 554, Act 316, Eff. Nov. 15.

CHAPTER 4.

SCHOOL DISTRICTS OF THE THIRD CLASS.

340.101 Third class district; continuance, reclassification.

Sec. 101. Each school district organized as a school district of the third class at the time of the taking effect of this act shall continue to be a school district of the third class subject to reclassification as hereinafter provided and be governed by the provisions of this chapter and by such provisions of part 2 of this act as are not inconsistent with this chapter.

HISTORY: New 1955, p. 496, Act 269, Eff. Jul. 1.

340.102 Third class districts; reclassification in certain fourth class districts.

Sec. 102. The board of any fourth class school district having a school census of more than 2,400 and less than 30,000 children between the ages of 5 and 20, as certified by the superintendent of public instruction, may submit the question of becoming a district of the third class to a vote of the electors of such district at any annual or special election. The vote upon the question shall be by ballot which shall be in substantially the following form:

"Shall (name of school district) be reclassified and become a school district of the third class?"

Yes ☐

No ☐

If a majority of the school electors voting on the question vote in favor of becoming a district of the third class, then such reclassification shall take immediate effect.

HISTORY: New 1955, p. 486, Act 269, Eff. Jul. 1;—Am. 1959, p. 452, Act 271, Imd. Eff. Nov. 3.

340.103 Third class districts; election and reclassification.

Sec. 103. Whenever the board of a district of the fourth class having a school census of more than 2,400 and less than 30,000 children between the ages of 5 and 20, as certified by the superintendent of public instruction, is presented with a petition signed by not less than 300 school electors of the district to submit the question of becoming a third class district to a vote of the electors at a special election or the next annual election, the board shall proceed to call such special election or submit the question to a vote of the electors at the next annual election. If such petition is presented within 90 days, but not less than 20 days before the time of the annual election, such question shall be submitted at the annual election, even though the petition may request a special election. If the board is petitioned to submit the question at a special election and such petition is presented 91 or more days before the annual election, the board shall call such election to be held within 30 days from the time such petition is presented. If such petition is presented less than 20 days before the time of the annual election, such question shall be submitted at a special election held not more than 30 days after the annual election.

HISTORY: New 1955, p. 487, Act 269, Eff. Jul. 1;—Am. 1959, p. 452, Act 271, Imd. Eff. Nov. 3.

340.104 Repealed. 1959, p. 453, Act 271, Imd. Eff. Nov. 3.

Section provided for determination of population in third class districts.

340.105 Third class districts; notice of reclassification.

Sec. 105. Whenever the electors of the district have by their vote approved the reclassification of a fourth class district to a district of the third class, it shall be the duty of the secretary of the board to give notice of such reclassification, in writing, to the county superintendent of schools of each county in which the district is situated and to the superintendent of public instruction within 10 days of the vote thereon.

HISTORY: New 1955, p. 487, Act 269, Eff. Jul. 1.

340.106 Third class district name; changes.

Sec. 106. Each school district organized and operating under the provisions of this chapter shall be designated and known as the "School District of the (here insert the name of the city or village or township in which the whole or a part of said school district is situated)", and such designation, together with the name of the county or counties into which the district extends, shall be the legal name of such district for all purposes: Provided, That the board of any third class school district may by resolution adopt a distinctive name for such school district and such name, after being approved by the county board of education as not being in conflict with the name

of another district, together with the name of the county or counties into which the school district extends, shall be the legal name of such school district for all purposes. The board may in like manner change the name of the district. The adoption of a distinctive name or the change in name of any district shall have no effect upon existing obligations incurred in the former name of the district or on the ownership of any real or personal property.

HISTORY: New 1955, p. 487, Act 269, Eff. Jul. 1.

340.107 Board of education; membership, term, election, vacancies, term extension.

Sec. 107. In each school district of the third class, the board shall consist of 7 members elected from the district at large and their terms arranged so that 2 of those elected members shall serve for 1 year, 2 for 2 years, 2 for 3 years, and 1 for 4 years; thereafter, at the next school election immediately preceding the expiration of the respective terms of these officers, their successors shall be elected to serve for terms of 4 years and until their successors are elected and qualified. When any school district of the fourth class becomes a school district of the third class by a vote of the electors, additional members shall be elected to the board of education as provided under section 334 of this act. Any school district of the third class may hold its election biennially at the same time that the city or village election is held. The board shall determine whether the district shall hold its election at the time of the city or village election. If the school district holds its election at the same time of the city or village election, the term of office shall be for 6 years. Two of the members of the board shall serve for 2 years, 2 for 4 years, and 3 for 6 years. At the next school election immediately preceding the expiration of the respective terms of these officers, their successors shall be elected to serve for terms of 6 years and until their successors are elected and qualified. In case the board of any school district in which the members of the board are elected for a 6 year term of office, by a majority vote, provides that the term of office of members of the board shall be for 4 years, then in any such school district, notwithstanding the provisions of this section to the contrary, the term of office of members of the board shall be for 4 years. The present members of the board shall serve the balance of their respective unexpired terms. The board, in determining that members of the board shall serve for 4 year terms, shall provide in the resolution that elections thereafter shall be held on the second Monday in June, as provided in section 108 of this act, and shall provide for a system of rotation of terms of office which is as equal as may be and shall fairly adjust the length of terms and the number of members to be elected annually until the rotation is established. After the rotation is established, but not more than 8 years after the adoption of the resolution, not more than 2 members shall be elected in any one year to fill vacancies occurring by expiration of terms.

If any person elected fails to take the oath of office within 10 days after service of notice of his election, or if a vacancy occurs as provided in section 494 of this act, the vacancy shall be filled by an election by a majority of the remaining members of the board until the next school election, when the vacancy shall be filled by an election for the remainder of the term of the former member. Where the board of education of a school district of the third class has voted to hold elections biennially at the same time as the state spring biennial election and the city or village election is not held on the same date, such board of education may determine to hold its biennial election at the same time as the city or village election in 1966 and biennially in the even numbered years thereafter. The terms of office of the present members of such board of education expiring in 1965, 1967 and 1969, are extended until their successors are elected and qualified at the city or village biennial election held in 1966, 1968 and 1970, respectively.

HISTORY: New 1955, p. 487, Act 269, Eff. Jul. 1;—Am. 1958, p. 233, Act 195, Eff. Sep. 13;—Am. 1965, p. 81, Act 49, Imd. Eff. Jun. 8.

340.108 Board of education; annual election, time.

Sec. 108. The regular annual school election in each school district of the third class shall be held on the second Monday in June by the board. The members of the board in all school districts of the third class hereunder shall be elected at the regular annual school election and their terms shall begin on July first, following their election.

HISTORY: New 1955, p. 488, Act 269, Eff. Jul. 1.

CITED IN OTHER SECTIONS: The above section is cited in § 389.34.

340.109 Board of education; special election, notice, prerequisites.

Sec. 109. Special elections may be called by the board in any school district of the third class hereunder at such times and places in such district as they shall designate, and it shall be the duty of such board to call such an election on receipt of the written request of not less than 10% of the registered school electors of the district qualified to vote upon the question by giving the notice hereinafter prescribed. No special election shall be called unless the question to be voted on and decided thereat may be decided by the qualified school electors, and all questions to be submitted at such election shall be stated briefly in the notice thereof.

HISTORY: New 1955, p. 488, Act 269, Eff. Jul. 1.

340.110 Board of education; registered elections.

Sec. 110. All school districts of the third class shall be registration districts and all elections therein shall be governed by the provisions of chapter 8 of part 2 of this act.

HISTORY: New 1955, p. 488, Act 269, Eff. Jul. 1.

340.111 Board of education; meetings, officers, quorum, record.

Sec. 111. The members of the board of any district of the third class hereunder elected at the first election held under this chapter shall meet on or before the second Monday of July succeeding their election and annually on the same day thereafter, and organize the board by electing a president, a vice-president, a secretary and a treasurer. The president and vice-president shall be members of the board, but the secretary and treasurer need not be members. The board shall hold regular meetings on the second Monday of each month, or at such other times as it may by resolution or bylaws provide. The board may in its bylaws provide for calling and holding special meetings. A majority of the board shall constitute a quorum and it shall keep a proper record of all its proceedings.

HISTORY: New 1955, p. 488, Act 269, Eff. Jul. 1;—Am. 1958, p. 71, Act 66, Eff. Sep. 13;—Am. 1967, p. 247, Act 185, Imd. Eff. Jun. 30.

340.112 Board of education; treasurer, secretary; duties, salaries, bonds.

Sec. 112. The treasurer of the board shall keep the funds of the district, except that the board may place responsibility for the administration of school district money with the school district business manager; keep proper books of account thereof; keep an interest account of the interest received from all school funds belonging to the district and credit all interest received thereon to the funds; pay out the funds belonging to the school district for the purposes specified by law, or, in the case of gifts or donations for the purposes for which the money is given or donated, on a proper order signed by the secretary and countersigned by the president of the board; and perform such other duties as the board may in its bylaws prescribe. The board may prescribe the duties of the secretary and provide for the salary to be paid the secretary and treasurer thereof and may require proper bonds from such officers, except that when the board treasurer is not directly handling school district money or signing checks no bond is necessary, and where the authority for the administration of school district

money rests with the school district business manager, he and all persons connected therewith shall be bonded. No member of the board or officer thereof, except the secretary and treasurer, shall receive any compensation for any service rendered the district, unless authorized by the qualified electors of the district. The salary of any member of the board shall not be increased nor shall the salary of any member be decreased after his election or appointment.

HISTORY: New 1955, p. 489, Act 269, Eff. Jul. 1;—Am. 1966, p. 344, Act 255, Imd. Eff. Jul. 11.

340.113 Board of education; powers, duties.

Sec. 113. The board of any school district of the third class hereunder shall have the powers and duties:

Sites for schoolhouses, libraries, farms, athletic fields and playgrounds; buildings, property.

(a) To locate, acquire, purchase or lease in the name of the district such site or sites within or without the district for schoolhouses, libraries, administration buildings, agricultural farms, athletic fields and playgrounds, as may be necessary; to purchase, lease, acquire, erect, or build and equip such buildings for school or library or administration or for use in connection with agricultural farms, athletic fields and playgrounds, as may be necessary; to pay for the same out of the funds of the district provided for that purpose; to sell, exchange or lease, subject to the provisions of section 354 of this act, any real or personal property of the district which is no longer required thereby for school purposes, and to give proper deeds, bills of sale or other instruments passing title to the same;

Condemnation proceedings.

(b) To institute and maintain proceedings in the proper court for the condemnation of private property for public use for all purposes for which said board is authorized by law to acquire and hold property, when said board shall have first declared the taking necessary for such use and that the same is for the use and benefit of the public. When the board shall have made such declaration, such condemnation proceedings may be instituted and conducted in the court specified and in the manner provided by the general school laws of the state relating to the condemnation of private property for public use, or may be brought under the terms of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, or any other appropriate state law.

HISTORY: New 1955, p. 489, Act 269, Eff. Jul. 1;—Am. 1957, p. 127, Act 108, Imd. Eff. May 24.

340.114 Board of education; educational activities.

Sec. 114. The board of any school district of the third class hereunder shall have the powers and duties:

Grades, schools, departments, courses of study.

(a) To establish and carry on such grades, schools and departments or courses of study as it shall deem necessary or desirable for the maintenance and improvement of public education;

Agricultural, trade and other vocational schools.

(b) To establish, equip and maintain agricultural, trade and other vocational schools, and, if deemed necessary by such board, to acquire land outside the limits of the said school district therefor; and to have general control thereover for school purposes.

HISTORY: New 1955, p. 489, Act 269, Eff. Jul. 1.

340.115 Board of education; borrowing powers.

Sec. 115. The board of any school district of the third class hereunder shall have the powers and duties:

Temporary purposes.

(a) To borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, for temporary school purposes such sum or sums of money and on such terms as it may deem desirable and to give notes of the district therefor, except that no such loan shall be made for any sum which shall exceed the amount which has been voted by the board or the qualified electors of the district.

Long-term loans; bonds; purposes; limitations.

(b) To borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, such sum or sums of money as it may deem necessary to purchase sites for buildings, playgrounds, athletic fields or agricultural farms, and to purchase or erect and equip any building or buildings which it is authorized to purchase and erect, or to make any permanent improvement which it is authorized to make, and to accomplish this by the issue and sale of bonds of such school district in such form or on such terms as the board may deem advisable, or by any other reasonable means. No loan shall be made and no bonds shall be issued for a longer term than 30 years nor for any sum which, together with the total outstanding indebtedness of the district, shall exceed 5% on the assessed valuation of the taxable property within such district, unless the proposition of making such loans or of issuing bonds shall have been submitted first to a vote of the school tax electors of the district at a general or special school election and approved by the majority of the electors actually voting on the same. In such case loans may be made or bonds may be issued for the purposes hereinbefore set forth in an amount equal to that provided by chapter 12 of part 2.

HISTORY: New 1955, p. 490, Act 269, Eff. Jul. 1;—Am. 1968, p. 555, Act 316, Eff. Nov. 15.

340.116 Board of education; property, care, custody, sanitation, medical inspection; school term.

Sec. 116. The board of any school district of the third class hereunder shall have the powers and duties:

(a) To have the care and custody of all school property and to provide suitable school privileges, sanitary conditions, and medical inspection for the schools of the district;

(b) To fix the length of time school shall be kept in all of the schools of the district, which shall not be less than 180 days.

HISTORY: New 1955, p. 490, Act 269, Eff. Jul. 1.

340.117 Board of education; library, museum, employees.

Sec. 117. The board of any school district of the third class hereunder shall have the powers and duties:

To establish and maintain or continue a library and museum, which institutions may be separately operated if desired, for the public schools of the district, if it shall deem it advisable to do so, and to provide for its or their care and management. For this purpose, said board may appoint librarians and hire other employees for such library and museum and fix their salaries, may purchase such books and apparatus as may be necessary, and may include in the general budget for the purpose of the schools such sums as may be necessary for building for, and for the maintenance and support of, any library and museum established, and such board may appoint a board of library commissioners and a board of museum commissioners of not to exceed 7 persons, which boards shall be separate boards if such board of education so directs. Members of the board of education shall not be eligible to membership on such boards. Such board or boards shall have control and direction of the public library or libraries and museum or museums in such district subject to the approval of the board of education therein, and shall keep a correct record of its or their proceedings. All moneys for any such libraries, including the fines devoted by law for the maintenance of district or school li-

braries in such district, which when collected shall be paid to the treasurer of the board of education therein, shall be kept by said treasurer and paid out by him on the order of the board of library commissioners approved by the secretary of the board of education.

HISTORY: New 1955, p. 490, Act 269, Eff. Jul. 1.

340.118 Board of education; school census, annual report, business manager.

Sec. 118. The board of any school district of the third class hereunder shall have the powers and duties:

- (a) To provide for the taking of a school census as required by law;
- (b) To make an annual report to the superintendent of public instruction at such time and in such form as he may prescribe;
- (c) To appoint in its discretion, a business manager for the school district and fix his compensation.

HISTORY: New 1955, p. 491, Act 269, Eff. Jul. 1.

340.119 Board of education; superintendent and administrators; term, duties.

Sec. 119. The board of any school district of the third class shall have the powers and duties:

To contract with, appoint and employ a suitable person, not a member of the board, as superintendent of schools, who shall meet the requirements prescribed in section 573, and who shall hold his office for a term fixed by the board and not to exceed 5 years. The board may contract with, appoint an employ suitable persons, not members of the board, as assistant superintendents, principals, assistant principals, guidance directors, and other classified administrators who do not assume tenure in position, for a term fixed by the board not to exceed 3 years and shall define their duties. The employment shall be under written contract. Notification of nonrenewal of contract shall be given in writing at least 90 days prior to the contract termination date or the contract is renewed for an additional 1-year period. The superintendent shall have powers and duties as follows:

- (a) To put into practice the educational policies of the state and of the board in accordance with the method provided by the board.
- (b) To recommend in writing all teachers necessary for the schools and to suspend any teacher for cause until the board may consider such suspension.
- (c) To classify and control the promotion of pupils.
- (d) To recommend to the board the best methods of arranging the course of study and the proper textbooks to be used.
- (e) To make reports in writing to the board and to the state board of education annually or oftener if required, in regard to all matters pertaining to the educational interests of the district.
- (f) To supervise and direct the work of the teachers and other employees of the board.
- (g) To assist the board in all matters pertaining to the general welfare of the school, and to perform such other duties as the board may determine.

HISTORY: New 1955, p. 491, Act 269, Eff. Jul. 1;—Am. 1966, p. 343, Act 254, Imd. Eff. Jul. 11;—Am. 1970, p. 662, Act 247, Imd. Eff. Dec. 30.

340.120 Board of education; school tax levy; apportionment.

Sec. 120. The board of any school district of the third class hereunder shall have the powers and duties:

To make an estimate annually on a day to be determined by the board of the amount of taxes deemed necessary for the ensuing year for the purpose of expenditure within the power of the board, which estimate shall specify the amounts required for the different objects, and to report the same as the regular school tax levy for such district to the proper assessing officer or officers, who shall apportion the school taxes in the district in the same manner as the other taxes of the city, village or township are apportioned, and the amount so apportioned shall be assessed, levied, collected and returned for each portion of the district in the same manner as the taxes of the city, village or township including such portion of the district. The board, if the district is extended beyond the limits of any single municipality, shall, within the time provided by law for certifying taxes by township clerks, certify to the board of supervisors all amounts to be raised therein for school purposes. The board of supervisors shall, in accordance with law, apportion such school taxes to the several municipalities possessing territory in such district in proportion to the assessed valuation of each municipality within such district, and shall certify the same to the proper officer thereof.

HISTORY: New 1955, p. 491, Act 269, Eff. Jul. 1.

340.121 Board of education; duties.

Sec. 121. The board of any school district of the third class shall have the powers and duties:

Payment of school funds.

(a) To certify to the treasurer of the district for payment out of the school funds thereof all claims and demands against the board or district, which shall be allowed by the board under such rules and regulations as it may establish.

Reports of proceedings, receipts and expenditures.

(b) To print and publish immediately after each meeting in such manner as the board shall decide all proceedings of the board at the meeting and to make and publish annually, at the end of the fiscal year, in some daily or weekly newspaper of general circulation in the district, either separately or in connection with the report of the city or village in which the district or the greater part thereof is situated, a complete report of its receipts and expenditures.

Transportation of pupils.

(c) To provide adequate facilities for transportation within the district of pupils from and to their homes when the board deems it advisable.

Tuition payments to other districts.

(d) To use money in the general fund or funds received from state appropriations for aid to school districts for the purpose of paying tuition and transportation to another district of resident pupils, even though the grades in which the pupils may be enrolled are maintained within the district.

Carrying on of public schools.

(e) In general to do anything not inconsistent with this act which is necessary for the proper establishment, maintenance, management and carrying on of the public schools of such district.

HISTORY: New 1955, p. 492, Act 269, Eff. Jul. 1;—Am. 1961, p. 371, Act 219, Eff. Sep. 8.

340.122 Borrowing power.

Sec. 122. School districts operating under this chapter shall be governed by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948, in force or as the same may hereafter be amended.

HISTORY: New 1955, p. 492, Act 269, Eff. Jul. 1.

CHAPTER 5.

SCHOOL DISTRICTS OF THE SECOND CLASS.

340.141 Second class district; continuance.

Sec. 141. Each school district organized as a school district of the second class at the time of the taking effect of this act shall continue to be a school district of the second class and be governed by the provisions of this chapter, and by such provisions of part 2 of this act as are not inconsistent with this chapter.

HISTORY: New 1955, p. 492, Act 269, Eff. Jul. 1;—Am. 1962, p. 378, Act 177, Eff. Mar. 28, 1963.

340.142 Reclassification of third class district as second class district; election.

Sec. 142. The board of any third class school district having a school census of more than 30,000 and less than 120,000 children between the ages of 5 and 20, as certified by the superintendent of public instruction, may by resolution and shall on petition signed by not less than 1,000 school electors of the district submit the question of becoming a district of the second class to a vote of the electors of the district at the next regular or special school election, but no special election shall be called for the sole purpose of submitting to the school electors the question of reclassifying the district. The question of reclassifying the district shall not be voted upon by the school electors of the district more often than once in every 2 years.

HISTORY: New 1955, p. 492, Act 269, Eff. Jul. 1;—Am. 1962, p. 378, Act 177, Eff. Mar. 28, 1963.

340.143 Reclassification of third class district as second class district; ballot, form.

Sec. 143. The vote upon the question of reclassification as a district of the second class shall be by ballot, which shall be in substantially the following form:

“Shall (name of school district) be reclassified and become a district of the second class?”

Yes ()

No ().

If a majority of the school electors voting on the question vote in favor of becoming a district of the second class, the board, at the meeting at which the votes are canvassed and the results declared, by resolution shall determine the effective date of the reclassification, which shall be not less than 3 months nor more than 18 months following the date of the reclassification election.

Each school district reclassified as a school district of the second class shall be governed by the provisions of this chapter and by such provisions of part 2 of this act as are not inconsistent with this chapter.

HISTORY: New 1955, p. 493, Act 269, Eff. Jul. 1;—Am. 1962, p. 378, Act 177, Eff. Mar. 28, 1963.

340.144 Reclassification of third class district as second class district; notice to county superintendent of schools, superintendent of public instruction; continuation as second class district.

Sec. 144. The secretary of the board shall give written notice of the reclassification as a school district of the second class and the effective date thereof to the county superintendent of schools of each county in which the district is situated and to the superintendent of public instruction within 30 days following the date of the reclassification election.

A school district of the second class shall remain such even though the school census thereafter is less than the minimum number prescribed in section 142 of this act.

HISTORY: New 1955, p. 493, Act 269, Eff. Jul. 1;—Am. 1962, p. 378, Act 177, Eff. Mar. 28, 1963.

340.145 Second class district; reclassified district; name, approval; board of education, jurisdiction.

Sec. 145. Each school district organized as a school district of the second class at the time of the taking effect of this act shall continue to be known under its present name as the "school district of the city of", which name may be changed as provided in this section. Each school district hereafter reclassified as a school district of the second class and organized and operating under the provisions of this chapter shall be known by such name as the board may adopt by resolution with the written approval of the superintendent of public instruction. The name of any school district of the second class may be changed by resolution of the board with the written approval of the superintendent of public instruction. The adoption of a name or the change in name of any district of the second class shall have no effect upon existing obligations incurred in the former name of the district or on the ownership of any real or personal property.

Each school district of the second class shall be under the jurisdiction of the board of education.

HISTORY: New 1955, p. 493, Act 269, Eff. Jul. 1;—Am. 1962, p. 379, Act 177, Eff. Mar. 28, 1963.

340.146 Second class district; annexation of whole districts; transfer of territory between districts.

Sec. 146. The provisions of chapter 4, part 2, of this act for the annexation of one district to another and the provisions of chapter 5, part 2, of this act for the transfer of territory between districts shall govern school districts of the second class.

HISTORY: New 1955, p. 493, Act 269, Eff. Jul. 1;—Am. 1962, p. 379, Act 177, Eff. Mar. 28, 1963.

340.147 Second class district; registration districts.

Sec. 147. School districts of the second class shall be registration districts and all school elections therein shall be governed by the provisions of chapter 8, part 2, of this act, except as otherwise provided in this chapter.

Where a portion of or an entire city or township is included within the boundaries of a second class school district, the registration records of the city or township shall be the registration records of the school district for electors residing in the city or township. The registration shall be conducted in the same manner as, and as part of, the registration of the city or township.

HISTORY: New 1955, p. 493, Act 269, Eff. Jul. 1;—Am. 1962, p. 379, Act 177, Eff. Mar. 28, 1963.

340.148 Board of education; membership, term; reclassified districts.

Sec. 148. The board shall consist of 9 members elected from the school district at large who shall serve without compensation. The term of office shall commence on the first day of July following the date set for the regular school election and continue until a successor is elected and qualified. The members of the board of each school district organized as a school district of the second class at the time of taking effect of this act shall continue in office until the expiration of the respective terms for which they were elected and until the thirtieth day of June following the expiration of their term. When any school district is reclassified as a school district of the second class, the members of the board at the time of reclassification shall continue as the members of the board of the district until the expiration of their terms. At the next regular election additional members shall be elected to the board of education as provided in section 334 of this act.

HISTORY: New 1955, p. 493, Act 269, Eff. Jul. 1;—Am. 1962, p. 379, Act 177, Eff. Mar. 28, 1963.

340.149 Board of education elections; frequency, time.

Sec. 149. Each school district organized as a school district of the second class at the time of taking effect of this act shall continue to hold its regular elections at the same

time as the annual city elections or on the first Monday of April in every odd numbered year.

Any school district of the second class hereafter created may hold its regular election at the same time as such election was held before reclassification.

Any school district of the second class which holds annual elections, by resolution of its board of education may determine to hold its regular elections on the first Monday of April in every odd numbered year. No school district in which biennial elections have once been held may thereafter hold annual elections.

At each regular election members of the board shall be chosen to fill the positions of those whose terms are about to expire. In those districts in which annual elections are held, 3 years shall be the term of each member of the board and 3 members shall be elected at each annual election, subject to the provisions of section 148. In those districts in which biennial elections are held, 6 years shall be the term of each member of the board and 3 members shall be elected at each biennial election, subject to the provisions of section 148.

In those districts in which annual elections were once held and biennial elections are to be held in the future, the resolution to hold biennial elections shall be adopted at least 6 months before the annual election, and to the extent necessary, the terms of members shall be extended so as to conform with the requirement for staggered terms of 6 years for members elected at biennial elections.

HISTORY: New 1955, p. 494, Act 269, Eff. Jul. 1;—Am. 1962, p. 390, Act 177, Eff. Mar. 28, 1963;—Am. 1963, 2nd Ex. Ses., p. 48, Act 39, Imd. Eff. Dec. 27.

340.150 Board of education; nomination and election procedures.

Sec. 150. Any registered and qualified school elector of the school district shall be eligible to be chosen as a board member. The provisions of section 538 of this act shall be applicable to second class districts unless otherwise provided for. Nominations for board members shall be by petition signed by not less than 100 registered and qualified school electors of the district, which petition shall be filed with the secretary of the board, except that the petition shall be filed with the city clerk where the boundaries of the school district are coterminous with the city, at least 35 days before election, and no petition which does not have such number of signatures shall constitute a valid nomination. The officer with whom the petitions were filed shall determine if the candidates whose petitions are filed possess the qualifications required by law for membership on the board, and if any candidate does not possess the qualifications for membership on the board, the said officer shall notify the candidate immediately of that fact and the candidate's name shall not be printed on the ballot. The following method of nomination shall be operative if the board by resolution approves the adoption of such plan; nominations for board members shall be by vote of registered and qualified school electors at the primary election held before the regular school election; and in order to obtain the printing of the name of a candidate on the primary election ballot, a petition signed by not less than 100 registered and qualified school electors of the school district shall be filed with the secretary of the board, except that the petition shall be filed with the city clerk where the boundaries of the school district are coterminous with the city, at least 35 days before the primary election. In the primary election, any candidate for office who receives a majority of all the votes cast for candidates for that office shall thereby be elected. Where several candidates are to be elected to identical offices for the same term at the same election, a candidate shall be deemed to have received a majority in the primary if he received more than 1/2 of the average number of votes for each of such offices, said average to be determined by dividing the total number of votes cast for all candidates for such office by the number of offices to be filled; if more candidates have received a majority than the offices to be filled, then the candidates receiving the highest votes, respectively, shall be

deemed elected. In case no candidate, or an insufficient number of candidates, receives a majority at such primary election, then the 2 candidates for each office receiving the highest number of votes shall thereby be nominated, and in connection with elections where more than 1 office is to be filled, then the candidates receiving the highest number of votes, less than a majority, such candidates not to exceed double the number of offices remaining to be filled, shall thereby be nominated. At the final election, the candidates for each office receiving the highest number of votes shall be thereby elected.

HISTORY: New 1955, p. 494, Act 269, Eff. Jul. 1;—Am. 1959, p. 125, Act 124, Eff. Mar. 19, 1960;—Am. 1962, p. 380, Act 177, Eff. Mar. 28, 1963.

340.151 Board of education; referendum, election.

Sec. 151. (a) The board, when authorized by a majority vote of its members, may submit to the registered and qualified voters of the school district any measure, proposition or question within the scope of the powers of the electors and which the board may deem just and proper towards the proper management, conduct of the school system, or the advancement of education in the public schools of the school district. Upon the adoption of any such measure or question by the board by a majority vote of the board, the board shall submit the measure or question to the registered and qualified voters of the school district at the next ensuing regular school election or at any special election, or if the boundaries of a city or township and the school district are coterminous, at any city or township election.

Special elections, notice.

(b) Special elections may be called by the board in any school district of the second class at such times and places in the district as it shall designate. The board shall call an election on receipt of the written request of not less than 10% of the registered voters of the district qualified to vote upon the question by giving the prescribed notice. The special election may be called on any measure, proposition or question which may be voted on and decided by the registered and qualified voters, and all questions to be submitted at such election shall be stated briefly in the notice thereof.

Simultaneous school and municipal election, expenses, notice.

(c) If a portion of or an entire city or township is encompassed within the boundaries of a second class school district and city or township primary or general elections are held on the same day as any election of the school district, the school election shall be conducted by the same inspectors, canvassed, reported, considered and treated as a part of the city or township primary or general election in all particulars not otherwise specified. The proper officials of the city or township shall prepare and have printed an official ballot on which shall be placed the names in rotation of all who are candidates for nomination or who have been nominated for membership on the board, and such measures, propositions or questions as are to be submitted to the registered and qualified school electors of the district at the election. The election shall be by separate ballot in a separate box or where voting machines are used, in the manner prescribed by law for voting machines. The manner of conducting the elections, notices of election and registration, the method of submitting measures or questions and voting upon the same, the registration lists, the keeping of poll lists, the canvassing of votes, the certifying of returns and all other proceedings connected with the submission of measures, propositions or questions including the printing, delivery and distribution of ballots, and submission of ballots and use of voting machines shall be the same as is provided by the laws and charter governing city or township elections. The expense of special elections called by the board shall be paid to the city or township by the board upon presentation of a statement therefor, which shall not include any charge for use of equipment or services of regular personnel of the city or township, except as may be otherwise agreed between the city or township and the board. When

any measure, proposition or question is to be submitted to the registered and qualified electors of the district, the board shall file with the city or township clerk of each city or township whose boundaries are encompassed within the school district of the second class, a notice in writing of the adoption by the majority vote of the board of any measure, proposition or question to be submitted at the election, together with a draft in writing of the form and purpose of any measure, proposition or question. The notice shall be under the seal of the board and shall be filed at least 49 days before any election. Upon receipt of the notice, the proper city or township officials shall publish notice of the election in accordance with the law applicable thereto.

Second class school district election outside of city, registration.

(d) In those portions of any second class school district not encompassed within a city, the provisions of chapter 8 of part 2 of this act shall govern registrations and elections except as otherwise provided in this chapter.

HISTORY: New 1955, p. 496, Act 269, Eff. Jul. 1;—Am. 1962, p. 381, Act 177, Eff. Mar. 28, 1963.

340.152 Board of education; notice of election to member.

Sec. 152. If the boundaries of a second class school district are within the boundaries of a single city or township, the city or township clerk, within the time specified for serving notices upon officials elected at a municipal election, shall serve notice of his election upon each member of said board elected at said election. In all other districts notice of his election shall be served upon each member elected at the election in the manner provided in section 537 of this act.

HISTORY: New 1955, p. 496, Act 269, Eff. Jul. 1;—Am. 1962, p. 382, Act 177, Eff. Mar. 28, 1963.

340.153 Board of education; member, oath, vacancy, removal from office.

Sec. 153. If any person elected fails to take the oath of office within 10 days after service of notice of his election, or if a vacancy occurs as provided in the general school laws, such vacancy shall be filled within 45 days by election of a member from such district by a majority of the remaining members of the board. The person so elected shall hold office until the next regular school election when the vacancy shall be filled by an election for the remainder of the term of the former member. If the remaining members of the board fail to fill the vacancy, it shall be filled at the next regular school election by an election for the remainder of the term of the former member. Until the vacancy is filled, the remaining members of the board shall have all of the powers and duties set forth in this act. If upon specific written charges filed with the secretary of the board, and after proper opportunity to be heard, any member of the board is, by vote of 2/3 of the members thereof, found guilty of wilful acts of misfeasance or nonfeasance in his office, he may be removed from his position by a 2/3 vote, whereupon a vacancy shall exist and be filled as above provided.

HISTORY: New 1955, p. 496, Act 269, Eff. Jul. 1;—Am. 1962, p. 382, Act 177, Eff. Mar. 28, 1963.

340.154 Board of education; body corporate; name, powers, liabilities, tax exemption.

Sec. 154. The board shall be a body corporate under the name and style of "The board of education of", and under that name may sue and be sued, and may take, hold, lease, sell and convey real and personal property, including property received by gift, devise or bequest, as the interest of the schools and the prosperity and welfare of the school district may require. The board may take and hold real and personal property for the use of the public schools within and without its corporate limits and may sell and convey the same. Tax exemption of the property of the board shall be governed by section 354 of this act. The board chosen pursuant to this act shall be the successor of any school corporation or corporations existing within the limits of the district and shall be vested with the title to all property, real and personal, vested in the school corporations of which it is the successor. The board shall be liable

to pay the indebtedness and obligations of the school corporations of which it is the successor, in the manner and to the extent provided in this act. The board shall have power to purchase or lease all property, erect and maintain or lease all buildings, purchase all personal property, employ and pay all persons, and do all other things in its judgment necessary for the proper establishment, maintenance, management and carrying on of the public schools of the district and for the protection of other property of the district, and it shall have authority to adopt bylaws, rules and regulations for its own government and for the control and management of all schools, school property and pupils. It shall also have the power to provide transportation and adequate facilities for transportation of pupils when and to the extent the board deems it advisable. It shall not have power to raise money, borrow money or incur indebtedness, except in the manner herein specified.

HISTORY: New 1955, p. 496, Act 269, Eff. Jul. 1;—Am. 1962, p. 382, Act 177, Eff. Mar. 28, 1963;—Am. 1965, p. 723, Act 367, Imd. Eff. Jul. 23.

340.155 Board of education officers; election, compensation, duties, bonds; disbursements; legal advisor; interest on separate funds.

Sec. 155. The officers of the board shall be president, vice-president, secretary and treasurer and such assistant secretaries and assistant treasurers as the board shall determine from time to time. The officers shall be elected annually at such time as the board shall determine in its bylaws. Where an entire city or township is located within a school district of the second class, the city or township treasurer, upon request of the board, shall be ex officio treasurer of the board. The secretary and treasurer and assistant secretaries and assistant treasurers may be selected from members of the board, and if so selected shall serve without compensation. The president, vice-president, secretary and treasurer and assistant secretaries and assistant treasurers shall perform such duties as shall be prescribed by the bylaws, rules and regulations of the board. The officers and agents of the board who, in the discharge of the duties of their respective positions, handle funds belonging to the public schools, shall be required to give bonds for the faithful performance of their duties, in such manner, form and amount and with such sureties as may be prescribed by the board. The officers and agents of the board shall pay out the funds of the board only upon orders as in this act specified. The board may retain and employ such legal counsel as it deems necessary. If an entire city or township is located within a school district of the second class, the city or township attorney, upon request of the board, shall be the legal advisor of said board and represent it in all litigations. Interest upon the separate funds of the district shall be the property of the school district.

HISTORY: New 1955, p. 496, Act 269, Eff. Jul. 1;—Am. 1962, p. 383, Act 177, Eff. Mar. 28, 1963.

340.156 Board of education meetings; regular, special.

Sec. 156. Regular meetings of the board shall be held at least once in each month, at such time and place as may be fixed by the by-laws. Special meetings may be called and held in such manner and for such purposes as may be specified in the by-laws.

HISTORY: New 1955, p. 497, Act 269, Eff. Jul. 1.

340.157 Fiscal year.

Sec. 157. The fiscal and accounting year shall commence with the first day of July in each year.

HISTORY: New 1955, p. 497, Act 269, Eff. Jul. 1.

340.158 Board of education; borrowing power.

Sec. 158. The board may:

Temporary purposes.

(a) Borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, for temporary school purposes such sums of money and on such terms as it may deem desirable and give notes of the district therefor.

Long-term loans; bonds; purposes; limitations.

(b) Borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, such sums of money as it may deem necessary to purchase sites for buildings, playgrounds, athletic fields or agricultural farms, and to purchase and erect and equip any buildings which it is authorized to purchase and erect, or to make any permanent improvement which it is authorized to make, and to accomplish this by the issue and sale of bonds of the school district in such form or on such terms as the board may deem advisable, or by any other reasonable means. No loan shall be made and no bonds shall be issued for a longer term than 30 years nor for any sum which, together with the total outstanding bonded indebtedness of the district, shall exceed 5% of the state equalized valuation of the taxable property within the district, unless the proposition of making the loans or of issuing bonds has been submitted to a vote of the school tax electors of the district at a general or special school election and approved by the majority of the registered electors actually voting on the same, in which event loans may be made or bonds may be issued for the purposes set forth in an amount equal to that provided by chapter 12 of part 2.

HISTORY: New 1955, p. 497, Act 269, Eff. Jul. 1;—Am. 1962 p. 383, Act 177, Eff. Mar. 28, 1963;—Am. 1968, p. 555, Act 316, Eff. Nov. 15.

340.159 Board of education; estimate of taxes, specification of funds.

Sec. 159. The board shall annually prepare estimates of the amount of taxes deemed necessary for its needs for the ensuing fiscal year. The estimates shall specify the amount required for the "general fund", and shall specify the amount required for the "building and sites fund", and shall specify the amount required for the "debt retirement fund". If the board causes the whole or any part of the appropriation for the "building and sites fund" to be raised by the issue of bonds in lieu of raising the same by taxation, provisions shall be made for the retirement of said bonds in a "debt retirement fund".

Insurance reserve fund.

The board may include in the "building and sites fund" an amount not exceeding in any one year .01% of the assessed valuation to establish and maintain a school district insurance reserve fund from which any school buildings or other school property damaged or destroyed by fire, lightning or otherwise, may be repaired, rebuilt or replaced by other buildings or property to be used in place thereof, but no taxes shall be levied for such purpose while the insurance reserve fund exceeds or equals .1% of such assessed valuation. The board shall carry such insurance reserve forward as an encumbered reserve and may add thereto in the manner above prescribed. Such funds may be invested in the manner provided by law for investment of "building and sites funds" but any income therefrom shall be considered a part of the "general fund". In the event that an emergency shall be declared by a 2/3 vote of the members-elect of the board, such insurance reserve funds may be borrowed for such emergency, but in that event the funds shall be returned to the insurance reserve fund from the collection of taxes in the next ensuing fiscal year.

Budget; apportionment of taxes, assessment, return to district; tax bill.

The board shall thereafter adopt a budget in the same manner and form as required for its estimates and determine the amount of tax levy necessary for such budget, and shall certify, on or before the date as required by law the amount to the city and township. Thereupon, the proper officials of the city and township shall apportion the

school taxes in the district in the same manner as the other taxes of the city or township are apportioned, and the amount so apportioned shall be assessed, levied, collected and returned for each portion of the school district in the same manner as taxes of the city or township included within such portion of the district. The tax levied by the board may in the discretion of the legislative body of the city or township be stated separately on each tax bill.

HISTORY: New 1955, p. 497, Act 269, Eff. Jul. 1;—Am. 1962, p. 384, Act 177, Eff. Mar. 28, 1963.

340.160 Board of education; claims, demands, payments.

Sec. 160. If the city treasurer is made ex-officio treasurer of the board, all demands and claims against the board shall be allowed under such rules and regulations as it may establish, and shall thereupon be certified to the city comptroller, or other auditing department of the city, for payment. Payment of the same shall be made by the city treasurer out of the funds of the board in the same manner, as near as may be, as claims against the city are paid out of the general city treasury. If a member of the board, and not the city treasurer, is treasurer of the board, then payment of claims and demands against the board shall be made under such rules and regulations as the board of education may from time to time establish, and in such case the board of education shall make provisions for and shall require a monthly audit of such treasurer's books, claims and accounts.

HISTORY: New 1955, p. 498, Act 269, Eff. Jul. 1.

340.161 Superintendent and administrators; appointment, compensation, duties, term.

Sec. 161. It shall be mandatory that the board by written contract appoint and employ a suitable person, not a member of the board, as superintendent of schools who shall meet the requirements prescribed in section 573, and who shall hold office for a term established in the contract but not to exceed 5 years. The contract shall provide the salary of the superintendent and may provide for annual revision of salary. During the period of employment, the superintendent shall have the executive management and administrative control of the school system, under the policies adopted by the board. The board may appoint a suitable person, not a member of the board, as fiscal agent, directly responsible to it, for a period not to exceed 3 years and delegate to such fiscal agent rather than to the superintendent such part of the management and control of purchases, contracts, and other business matters as it may from time to time determine in its rules. Subject to the approval of the board, the superintendent may employ and fix the salaries of administrative assistants, including a fiscal agent if not appointed by the board, as the superintendent may determine. Such administrative assistants shall serve under and be responsible to the superintendent. The board may employ assistant superintendents, principals, assistant principals, guidance directors, and other classified administrators who do not assume tenure in position, for a term fixed by the board not to exceed 3 years and shall define their duties. The employment shall be under written contract. Notification of nonrenewal of contract shall be given in writing at least 90 days prior to the contract termination date or the contract is renewed for an additional 1-year period.

HISTORY: New 1955, p. 498, Act 269, Eff. Jul. 1;—Am. 1966, p. 343, Act 254, Imd. Eff. Jul. 11;—Am. 1970, p. 662, Act 247, Imd. Eff. Dec. 30.

340.162 Board of education; proceedings, actions, financial transactions; publication, report.

Sec. 162. All proceedings and official actions of the board may be printed and published immediately after such meeting, in such manner as the board may decide: Provided, however, That any and all financial transactions of said board shall be immediately published after said meetings. It shall cause to be made at the end of each fiscal

year and to be published a complete report of its receipts and expenditures and general school statistics.

HISTORY: New 1955, p. 499, Act 269, Eff. Jul. 1.

340.163 Board of education; school census, library funds, compensation; record vote on pecuniary liabilities, expenditures of money.

Sec. 163. The board shall provide for taking the school census required by law. It shall receive the funds devoted by law to the maintenance of the district or school libraries and shall devote the same to that purpose, and may delegate the expenditure of such library funds to such executive body as may be constituted by law for the management of the public or school libraries within the city. No member of the board shall receive any compensation whatever for services as members nor for any service rendered to the board. Every action of the board involving the incurring of pecuniary liabilities or expenditure of money shall be by ye and nay vote entered at large upon its record.

HISTORY: New 1955, p. 499, Act 269, Eff. Jul. 1.

340.164 Board of education; veto procedure; action, time, effective.

Sec. 164. Within 24 hours after its passage, the president or acting president of the board may veto any action thereof by filing in the office of the secretary of the board his reasons therefor, in writing, and the same thereupon shall not go into effect or have any legal operation until after it shall be repassed at a subsequent meeting of the board by a vote of 2/3 of all the members thereof. No action of the board shall go into operation until the expiration of 24 hours after its passage unless the president or acting president shall sooner file with the secretary his written approval thereof.

HISTORY: New 1955, p. 499, Act 269, Eff. Jul. 1.

340.165 Board of education; authority as to sites for school purposes; agricultural, trade and vocational schools, establishment; acquisition of land outside district.

Sec. 165. The board shall have full power and authority to locate, purchase or lease, in the name of the district, such site or sites for schoolhouses, administration buildings, agricultural sites, athletic fields and playgrounds as may be necessary out of the funds provided for that purpose, and may make sale of any site or other property of the district which is no longer required for school purposes, and may also establish, equip and maintain agricultural, trade and other vocational schools, and if deemed necessary by such board may acquire land for such purpose outside the district limits. Land outside the school district shall not be acquired unless approved by a $\frac{2}{3}$ vote of all members-elect of the board of education.

HISTORY: New 1955, p. 499, Act 269, Eff. Jul. 1;—Am. 1970, p. 164, Act 72, Imd. Eff. Jul. 12.

340.166 Board of education; acceptance of gifts in trust, uses.

Sec. 166. (1) The board may accept gifts, devises, legacies or bequests of personal or real property, or the principal or income of any money or other fund, in trust for the benefit of the school district or any program of education or research connected therewith. Any property accepted by the board shall be held and disposed of in accordance with the directions and conditions attached to the gift, devise, legacy or bequest. In the absence of other specific direction or condition, the board shall be governed as to the investment of the property by the statutes relative to investments by trustees.

(2) If any gift, inter vivos or testamentary, given to the board for specific operating purposes provides that the gift or the proceeds thereof may be used temporarily for any building and site purposes of the district, the board may use the gift or the proceeds thereof for such purposes, and within 5 years from the date the gift is so used or within such period as the donor shall specify, the board shall replace the gift from building and site funds or operating funds, as the board determines. The gift when re-

placed shall be held and used for the purposes and upon the terms and conditions attached to the original gift.

HISTORY: Add. 1958, p. 45, Act 40, Imd. Eff. Apr. 7;—Am. 1969, p. 164, Act 82, Imd. Eff. Jul. 23.

CHAPTER 6.

SCHOOL DISTRICTS OF THE FIRST CLASS.

340.181 First class district; continuance.

Sec. 181. Each school district organized as a school district of the first class at the time of the taking effect of this act shall continue to be a school district of the first class and be governed by the provisions of this chapter. Each school district governed by the provisions of this chapter shall be known as the "School District of the City of" and shall be under the jurisdiction of the board herein provided for.

HISTORY: New 1955, p. 499, Act 269, Eff. Jul. 1.

340.182 First class district; population.

Sec. 182. Each city which hereafter attains a school census of 120,000 or more children between the ages of 5 and 20, as certified by the superintendent of public instruction, shall become a single school district and be governed by the provisions of this chapter.

HISTORY: New 1955, p. 499, Act 269, Eff. Jul. 1;—Am. 1959, p. 452, Act 271, Imd. Eff. Nov. 3.

340.183 First class district; annexed territory.

Sec. 183. Whenever territory shall be annexed to the city comprising a school district of the first class, such territory, by such annexation, shall become and be part of the school district of that city.

HISTORY: New 1955, p. 500, Act 269, Eff. Jul. 1.

340.184 First class district; entire annexed school district, bonds, funds.

Sec. 184. Whenever territory comprising an entire school district is annexed to the city and becomes a part of the city school district, the provisions of chapter 4 of part 2 of this act shall govern where applicable with respect to the bonded indebtedness of either district existing at the time of annexation: Provided, That the board of education of a district of the first class may use any funds legally available to retire the bonded indebtedness of the district so annexed.

HISTORY: New 1955, p. 500, Act 269, Eff. Jul. 1.

340.185 First class district; portion of annexed school district, bonds.

Sec. 185. Whenever territory constituting a portion of another district is annexed to a city and the district from which such territory is taken has outstanding bonded indebtedness, the provisions of chapter 5 of part 2 of this act shall apply relative to such bonded indebtedness.

HISTORY: New 1955, p. 500, Act 269, Eff. Jul. 1.

340.186 First class district; division of annexed property; arbitration; board of education, board of arbitration.

Sec. 186. Whenever school property belonging to another district is taken by annexation by a school district of the first class, a determination shall be made of the equitable amount that shall be paid by the first class school district. Such determination shall be made by the boards of education of the 2 districts affected. In the event the board of education of the first class school district and the board of education of the district from which the property is taken are unable to agree, the matter shall be submitted to a board of arbitration consisting of 1 member appointed by each board of education and a third member to be selected by the 2 members appointed by the boards of education. The arbitrators shall by order fix a day for hearing, and give notice of such hearing as provided in such order; they shall make such rules for the proceedings as

they shall deem proper, and shall make a final order determining the amount to be paid by the school district of the first class to the district whose property was taken by such annexation and file the same with the county clerk. Taxes shall be levied and collected in the manner therein provided and such determination shall be final.

HISTORY: New 1955, p. 500, Act 269, Eff. Jul. 1.

340.187 First class districts; government by general school laws.

Sec. 187. School districts in cities affected by this chapter shall be governed in all respects not herein specially provided for by the general school laws of the state from time to time in force.

HISTORY: New 1955, p. 500, Act 269, Eff. Jul. 1.

340.188 Board of education; membership, term, nomination, election; nomination petition, signatures.

Sec. 188. The board shall consist of 7 members elected from the city at large. The terms of office of all school board members in any city district having 7 members at the time this chapter goes into effect shall not be in any way affected by this chapter. Any school district having attained a population of 500,000 and having been declared a school district of the first class shall, at the next general election, proceed to elect a board as herein provided. Two members shall be elected to serve for 2 years, 2 members shall be elected to serve for 4 years, and 3 members shall be elected to serve for 6 years. Thereafter, at the next general election immediately preceding the expiration of their respective terms of office, their successors shall be elected to serve for 6 years. The term of office of each member shall commence on January 1 after his election. The candidate or candidates for the position or places to be filled having the greatest number of votes shall be declared elected. Any qualified and registered elector of the city shall be eligible to be chosen as a board member. Nominations and elections shall be conducted in the same manner as are nominations and elections of city officers of said city, but no candidate's name shall be placed upon primary election ballots for nomination for the office of member of the board unless there shall be filed with the city clerk nomination petitions containing the signatures of at least 500 and not more than 1,000 qualified and registered electors within said city and which shall be circulated only by registered electors. The city clerk may compare the signatures on said petitions with the signatures appearing on the registration records, or in some other proper manner determine whether the signatures appearing on said petitions are genuine and comply with the requirements hereof. The clerk shall determine if the candidates whose petitions are filed possess the qualifications required by law for membership on the board, and if any candidate does not possess the qualifications for membership on the board, the clerk shall notify the candidate immediately of that fact.

HISTORY: New 1955, p. 500, Act 269, Eff. Jul. 1;—Am. 1958, p. 44, Act 39, Eff. Sep. 13;—Am. 1959, p. 127, Act 124, Eff. Mar. 19, 1960;—Am. 1968, p. 22, Act 12, Imd. Eff. Mar. 29.

340.188a Board of education; election.

Sec. 188a. Effective January 1, 1964 and thereafter, in a school district of the first class, an election shall be held at the general state election in November of the even numbered year preceding the termination of the terms of any board members to elect members to fill the vacancies resulting from such terminations.

HISTORY: Add. 1964, p. 74, Act 70, Imd. Eff. May 12.

340.189 Board of education; notice of election; organization meeting.

Sec. 189. The city clerk within the time specified for serving notices upon officials elected at a city election shall serve notice of his or her election upon each member of said board elected at said election. On the first day of July in each year unless said first day of July is a Sunday or legal holiday, and then on the second day of July in each

year, the board shall organize for the ensuing year by electing its officers as herein provided.

HISTORY: New 1955, p. 501, Act 269, Eff. Jul. 1.

340.190 Board of education; oath of office, vacancy.

Sec. 190. If any person elected fails to take the oath of office within 10 days after service of notice of his or her election or if a vacancy occurs as provided in section 494 of this act, such vacancy shall be filled by an election by a majority of the remaining members of the board until the next school election as herein provided, when the vacancy shall be filled by an election for the remainder of the term of the former member. If the term of the vacancy ends on June 30 following such school election, the vacancy shall be filled by an election by a majority of the remaining members of the board for the balance of the unexpired term.

HISTORY: New 1955, p. 501, Act 269, Eff. Jul. 1;—Am. 1958, p. 44, Act 39, Eff. Sep. 13.

340.191 Board of education; removal from office, reason, procedure.

Sec. 191. The board may, respectively, by a vote of 2/3 of all the members thereof, expel or remove from office any of their own members, for corrupt or wilful malfeasance or misfeasance in office, or for wilful neglect of the duties of his or her office, and in such case the reason for such expulsion or removal shall be entered on the records of said board with the names and votes of the members voting on the question: Provided, however, That no such member shall be expelled or removed unless he or she shall first be furnished with a copy of such charges laid against such member, which shall be in writing, and also be allowed to be heard in his or her defense, with aid of counsel, and for this purpose the said board shall have power to issue subpoenas to compel the attendance of witnesses and the production of papers, and shall proceed within 10 days after service of a copy of the charge to hear and determine upon the merits of the case. If such member shall neglect to appear and answer to such charges, his or her failure so to do may be deemed good cause for his or her removal from office.

HISTORY: New 1955, p. 501, Act 269, Eff. Jul. 1.

340.192 Board of education; body corporate; name, powers, liabilities; right of eminent domain.

Sec. 192. The said board shall be a body corporate under the name and title of "the board of education of the school district of the city of" and under that name may sue and be sued and may take, use, hold, lease, sell and convey real property without restriction as to location and personal property, including property received by gift, devise or bequest, as the interest of said schools and the prosperity and welfare of said school district may require. The said board may take and hold real and personal property for the use of the public schools within and without its corporate limits and may sell and convey the same. The board chosen pursuant to this chapter shall be the successor of any school corporation or corporations existing within the limits of such city or cities and shall be vested with the title to all property, real and personal, vested in the school corporation of which it is the successor. Said board shall be liable to pay the indebtedness and obligations of the school corporations of which it is the successor in the manner and to the extent provided in this chapter. Said board shall have power to purchase, lease, and take by the right of eminent domain all property, erect and maintain or lease all buildings, employ and pay all persons, and do all other things in its judgment necessary for the proper establishment, maintenance, management and carrying on of the public schools and for the protection of other property of the school district, and to do anything whatever that may advance the interests of education, the good government and prosperity of the free schools in said city, and the welfare of the public concerning the same, and it shall have authority to

adopt bylaws, rules and regulations for its own government and for the control and government of all schools, school property and pupils. If property is sought to be taken by eminent domain, such proceedings may be brought under the terms of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate state law.

HISTORY: New 1955, p. 501, Act 289, Eff. Jul. 1;—Am. 1965, p. 723, Act 387, Imd. Eff. Jul. 23.

340.193 Board of education officers; quorum, duties, compensation, bonds, deposit of funds.

Sec. 193. The officers of the board shall be a president, vice-president, secretary and treasurer. The city treasurer shall be ex-officio treasurer and the city controller shall be ex-officio controller of said board with the duties hereinafter set forth, but without power to vote. The board, a majority of which shall constitute a quorum, shall elect its president and vice-president annually from among the members of the board. The secretary shall be elected by the board but shall not be a member thereof and shall receive such salary as may be fixed by the said board. The president, vice-president and secretary shall perform such duties as may be prescribed by the bylaws, rules and regulations of the board. The officers of the board who in the discharge of the duties of their respective positions handle funds belonging to the public schools shall be required to give bonds for the faithful performance of their duties in such manner and form as may be prescribed by the rules and bylaws of the board. The premium of such bonds shall be paid from the funds of the said board. The treasurer shall have the custody of all moneys belonging to the school district and shall pay out the same only upon orders as in this chapter specified. All funds shall be deposited with the same depositories as are selected by the properly constituted authorities for the deposit of city funds and the interest derived therefrom unless otherwise herein appropriated shall be paid into and become a part of the general fund of the board. The board shall require from the city treasurer a separate bond of not less than \$100,000.00 and from the city controller a separate bond of not less than \$25,000.00 to protect the separate funds of the board.

HISTORY: New 1955, p. 502, Act 289, Eff. Jul. 1;—Am. 1966, p. 61, Act 37, Imd. Eff. May 26.

340.194 Board of education meetings; special, regular.

Sec. 194. Regular meetings of the board shall be held at least once in each month, at such time and place as may be fixed by the by-laws. Special meetings may be called and held in such manner as may be specified in the by-laws.

HISTORY: New 1955, p. 502, Act 289, Eff. Jul. 1.

340.195 Fiscal year.

Sec. 195. The fiscal and accounting year shall begin with the first day of July in each year.

HISTORY: New 1955, p. 502, Act 289, Eff. Jul. 1.

340.196 Board of education budget; contents, estimates for specific funds; bonds; levy, assessment and collection.

Sec. 196. The board shall annually prepare estimates of the amount of taxes deemed necessary for its needs for the ensuing fiscal year. The estimates shall specify the amount required for the "general fund", and shall specify the amount required for the "building and sites fund", and shall specify the amount required for the "debt retirement fund". If the board causes the whole or any part of the appropriation for the "building and sites fund" to be raised by the issue of bonds in lieu of raising the same by taxation, provision shall be made for the retirement of the bonds in a debt retirement fund. The board shall thereafter adopt a budget in the same manner and form as required for its estimates and determine the amount of tax levy necessary for such budget and shall certify on or before the date as required by law the amount to the

city. Thereupon, the proper officials of the city shall apportion the school taxes in the same manner as the other taxes of the city are apportioned, and the amount so apportioned shall be assessed, levied, collected and returned for the school district in the same manner as taxes of the city. The tax levied by the board may in the discretion of the legislative body of the city be stated separately on each tax bill.

HISTORY: New 1955, p. 502, Act 269, Eff. Jul. 1;—Am. 1966, p. 95, Act 70, Imd. Eff. Jun. 9.

340.197 Board of education; borrowing power.

Sec. 197. The board may from time to time on such terms as it may deem proper borrow for school purposes not exceeding in all the sum of \$50,000.00 and may give the note of the board therefor: Provided, That such note shall not be for a longer period than to the last day of the second month of the next fiscal year and shall be paid from the corresponding funds on hand at maturity of said note.

HISTORY: New 1955, p. 503, Act 269, Eff. Jul. 1.

340.198 Board of education; payrolls, bills, accounts; secretary's warrant on treasurer; certificate of claimant, certificate on payrolls.

Sec. 198. All payrolls, bills and accounts which become due and payable under any contract or by reason of any previous authorization or action of the board after the same have been registered in a book provided for that purpose and the same are charged to the appropriations from which the same are payable, shall be paid and the secretary of the board shall issue and sign a warrant therefor upon the treasurer, who, upon receipt of warrant, shall issue his check in payment thereof. All other claims and demands against the board shall be made under such rules and regulations as the board from time to time may establish. The board, before paying any bill, account or claim, may require that the same shall be accompanied by a certificate of the person rendering the same that the services or the property therein charged have been actually performed or delivered for said board and that the sums charged therefor are reasonable and just and that to the best of his knowledge and belief no setoff exists nor payment has been made on account thereof except such as are included therein or referred to in such account. A similar certificate shall be required on all payrolls, said certificate to be made by the person under whose supervision the services charged shall have been rendered.

HISTORY: New 1955, p. 503, Act 269, Eff. Jul. 1;—Am. 1966, p. 73, Act 49, Eff. Mar. 10, 1967.

340.199 Board of education contracts; real estate, buildings; anticipatory borrowing power.

Sec. 199. Before any contract entered into by said board for the purchase of any real estate, erection, remodeling or repairing of any building shall be binding or valid upon said board, there shall be endorsed thereon by the secretary of the board a certificate that the money proposed to be expended under said contract is actually in the treasury or that an appropriation has been made therefor: Provided, That no contracts so submitted shall be certified by the secretary of the board until all contracts for the completed work covered by the appropriation shall have been submitted to him, and no warrant shall be drawn on the account of any such contract not containing the certificate herein required: Provided, That the board may authorize a contract before the money is available if an appropriation or an authorization of bonds or notes has been made for it and may borrow on the best terms obtainable on the credit of such appropriation or authorization of bonds or notes any sums necessary to make any payments demanded by said contracts. The treasurer of said board shall not receive any added compensation by reason of any duties imposed by this act.

HISTORY: New 1955, p. 503, Act 269, Eff. Jul. 1.

340.200 Board of education; payment of condemnation awards.

Sec. 200. In addition to its other powers, the board may, with the consent of the legislative body of the city, authorize its financial officers to borrow for a period of 1 year or less, on the best terms obtainable, any sums necessary to pay any awards in condemnation proceedings.

HISTORY: New 1955, p. 503, Act 269, Eff. Jul. 1.

340.201 Superintendent and administrators; appointment, term, qualifications.

Sec. 201. The board shall have the power to appoint a superintendent of schools for such term, not exceeding 6 years, and on such conditions as may be provided for by its bylaws. The person appointed shall meet the qualifications prescribed in section 573. The board may employ assistant superintendents, principals, assistant principals, guidance directors, and other classified administrators who do not assume tenure in position, for a term fixed by the board not to exceed 3 years and shall define their duties. The employment shall be under written contract. Notification of nonrenewal of contract shall be given in writing at least 90 days prior to the contract termination date or the contract is renewed for an additional 1-year period.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1;—Am. 1966, p. 344, Act 254, Imd. Eff. Jul. 11;—Am. 1970, p. 663, Act 247, Imd. Eff. Dec. 30.

340.202 Board of education; sale of meals to pupils.

Sec. 202. The board may sell meals to the pupils, and may accept produce and/or financial reimbursement from the state to supplement the resources of the district. It may make a contract for this privilege for a period of not more than 3 years, or it may engage directly in the business.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1;—Am. 1957, p. 187, Act 165, Eff. Sep. 27.

340.203 Board of education; textbooks and school supplies provided to pupils.

Sec. 203. The board may sell textbooks and other school supplies to the pupils, or it may, in its discretion, furnish free textbooks and school supplies to the pupils.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1.

340.204 Board of education; power over teachers and other employees.

Sec. 204. The board shall have full power over its teachers, except that certification requirements are to be determined by the state board of education, and all other employees, and may specify the duties to be performed by them and fix the qualifications necessary for any position: Provided, That such qualifications shall not conflict with the lawful regulations or license laws of the state, county and municipality governing qualifications of engineers or members of other trades.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1.

340.205 Board of education; truant schools; purpose, religious instruction, admission.

Sec. 205. The board may establish, maintain and conduct a parental or truant school for the purpose of affording a place of confinement, discipline, instruction and maintenance of children of the city of compulsory school age who may be committed thereto by a court of competent jurisdiction, or admitted thereto on the recommendation of such judge with the consent of their parents or guardian. It shall give no religious instructions in said school, and no child shall be committed or admitted thereto who has ever been convicted of any offense, punishable by confinement in any penal institution.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1.

340.206 Board of education; proceedings and actions, publication; audit; general school statistics.

Sec. 206. All proceedings and official actions of the board shall be printed and published in some newspaper of the city or in pamphlet form immediately after such meeting in such manner as the board shall decide. The board shall cause to be made a complete annual audit of its financial transactions. The board may employ a firm of certified public accountants to make the audit or, if the city within which the school district lies has an auditor whose duties are limited to post auditing of finances and investigation of operations, the board may arrange for the city's auditor to make the audit. The audit report shall be made to the board and shall be a public record. The board may publish the audit report adding thereto general school statistics or it may publish general school statistics separately.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1.

340.207 Board of education; school census.

Sec. 207. The board shall provide for taking the school census as required by law.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1.

340.208 Board of education; compensation, interest in contracts.

Sec. 208. No members of the board shall receive any compensation whatever for services as mentioned nor for any services rendered to the board, and no member shall be directly or indirectly interested in any contract with said board.

HISTORY: New 1955, p. 504, Act 269, Eff. Jul. 1.

340.209 Board of education; record vote; pecuniary liabilities, expenditure of money.

Sec. 209. Every action of the board, whereby any liability or debt may be created or every action originating the disposal or expenditure of property or money, shall be by way and may vote entered at large upon its record.

HISTORY: New 1955, p. 505, Act 269, Eff. Jul. 1.

340.210 Board of education; pensions of nonteaching employees; adjustment.

Sec. 210. Said board may provide for the retirement of employees other than public school teachers heretofore referred to, who have been employed by it for 30 years or more, and who, in the opinion of the board because of age or disability, are unable to perform the duties to which they are assigned on a pension not to exceed \$900.00 per year, but not to exceed 1/2 of the salary received at the time of retirement. Said board may also retire and place upon the pension roll employees who have been in the employ of the board for not less than 10 years, provided they have reached the age of 70 years or who have been permanently disabled, the pensions in such cases not to exceed 2/3 of the pensions paid to employees who have served the board 30 years or more: Provided, That the said board may in its discretion adjust such pensions as of the date of retirement to an amount proportionate to \$900.00 per year as the number of years of service is proportionate to 30 years. Payments to said retired employees shall be made from the maintenance fund of the said board in like manner as payments to active employees: Provided, That if any such retired employee is receiving compensation by virtue of the employers' compensation act so-called, the amount received by virtue of the provisions of this section shall be reduced by such an amount as the employee actually received under said compensation act. Provision shall be made by the board and the appropriating bodies for the payment of pensions as above mentioned. It is further provided that if provision is made by general law or the charter of the city for a retirement system for the employees of the city, the employees of said board, except public school teachers, may, by concurrent action of the board and the legislative body of the city, be placed under the provisions of the retirement system provided for

the employees of the city. It is further provided that the powers of the said board, provided herein, may be continued relative to those employees other than public school teachers, retired prior to June 30, 1939, but not as to those employees retired after June 30, 1939.

HISTORY: New 1955, p. 505, Act 269, Eff. Jul. 1.

340.211 Liberal arts and professional colleges; establishment, maintenance, acquisition.

Sec. 211. The board of the said first class school district may establish or acquire and maintain a college of the liberal arts and such professional colleges as it may deem expedient and may operate such professional colleges in connection with said college of liberal arts or separately as it may in its discretion determine.

HISTORY: New 1955, p. 505, Act 269, Eff. Jul. 1.

340.212 Liberal arts and professional colleges; honors, degrees, diplomas.

Sec. 212. The board shall have the right in connection with any college course, any university course, or any course in higher education or in any combination of such courses, to confer honors and degrees and grant diplomas conditioned upon attainments and completion of courses of instruction equivalent in time, application and quality of study and instruction to those commonly required in like institutions in the United States.

HISTORY: New 1955, p. 505, Act 269, Eff. Jul. 1.

340.213 Liberal arts and professional colleges; tuition, charges; maintenance.

Sec. 213. The board shall have power to fix tuition and other charges which in its discretion it may determine advisable to charge in connection with the operation of the colleges provided for in section 211 hereof, and may make the rates of tuition for residents of said city different from those for nonresidents thereof. All funds collected as tuition or other charges shall be credited to and become a part of the funds used for the maintenance of said colleges excepting as provided in section 215 hereof.

HISTORY: New 1955, p. 505, Act 269, Eff. Jul. 1.

340.214 Liberal arts and professional colleges; government; standards of admission, scholarship, student discipline.

Sec. 214. The board shall have power, in connection with any college course or any course in higher education which it is or may be authorized to furnish, to delegate to proper officers the power to issue and enforce orders relative to the good government of said school and the discipline and conduct of students. It shall have power to fix standards of admission and scholarship; to expel students from said colleges or courses in higher education for failure of such students to maintain standards of scholarship as fixed by said college and may suspend or expel students for breaches of discipline. It shall also have power to make rules and regulations relative to the hours of study and the conduct of students both within and without said schools, relative to matriculation, tuition and expense charges, and anything whatever that may advance the interests of education, the good government and prosperity of said institution, and it may exercise the powers as fully and completely as if said institutions were privately owned and controlled.

HISTORY: New 1955, p. 506, Act 269, Eff. Jul. 1.

340.215 Liberal arts and professional colleges; student centers, athletic facilities, auditoriums; student fees; borrowing power.

Sec. 215. The board is authorized in connection with the operation of any college or professional school to acquire, purchase and erect buildings, the sites therefor to be used as student centers, stadiums, athletic fields, gymnasiums and auditoriums, and to

equip, operate and maintain the same; to require each student enrolled in any college or professional school under its jurisdiction to pay such fees or charges for any purpose enumerated in this section as may seem proper and expedient; to borrow money for any such purpose and to obligate itself for the repayment thereof, together with interest at a rate not to exceed 5% per annum, out of the funds derived from the use and operation of such student centers, stadiums, athletic fields, gymnasiums and auditoriums and the fees and charges hereby authorized to be charged, and to pledge all or any part thereof or sum therefrom as security therefor; to pay out of its available funds such additional amounts for the retirement of such obligations as the terms of the obligations may permit and as to it may seem proper and expedient: Provided, however, That money borrowed in pursuance to the terms of this section shall involve no general obligation upon or by said board nor any lien upon any property owned by said board and no provision in its annual budget nor appropriation by the legislative body of the city shall be deemed to have that effect: And provided further, That no power or authority otherwise vested in said board shall be deemed in any way restricted or lessened by reason of the provisions of this section.

HISTORY: New 1955, p. 506, Act 269, Eff. Jul. 1.

340.216 Liberal arts and professional colleges; gifts, devises, legacies, bequests, funds; trustees.

Sec. 216. The board is authorized and empowered to accept gifts, devises, legacies or bequests of personal or real property, or the principal or income of any money or other fund, in trust for the benefit of such colleges or professional schools or the students or faculty thereof, or any program of education or research connected therewith; and any property accepted by the said board pursuant to the terms hereof shall be held and disposed of in accordance with the directions and conditions attached to such gift, devise, legacy or bequest; and, in the absence of other such specific direction or condition, said board shall, as to their investment of such property, be governed by the provisions of the statutes relating to trustees.

HISTORY: New 1955, p. 506, Act 269, Eff. Jul. 1.

340.217 Liberal arts and professional colleges; name.

Sec. 217. It may give to any college it is or may be authorized to establish or maintain, any name it desires or change the name thereof as it may desire, but it shall not adopt the name of any other college in operation in the state of Michigan, or of any living individual.

HISTORY: New 1955, p. 506, Act 269, Eff. Jul. 1.

340.218-340.220 Repealed. 1965, p. 44, Act 28, Imd. Eff. May 11.

Sections related to board of first class school district; purchases of buildings, sites and athletic fields; bonds.

340.220a Board of education; borrowing power.

Sec. 220a. The board may:

Temporary purposes.

(a) Borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, for temporary school purposes such sums of money and on such terms as it may deem desirable and give notes of the district therefor.

Long-term loans; bonds; purposes; limitations.

(b) Borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, such sums of money as it may deem necessary to purchase sites for buildings, playgrounds, athletic fields or agricultural farms, and to purchase and erect and equip any buildings which it is authorized to purchase and erect, or to make any permanent improvement which it is authorized to make, and to accomplish this by the issue and sale of bonds of the school district in such form or on such terms as the board

may deem advisable, or by any other reasonable means. No loan shall be made and no bonds shall be issued for a longer term than 30 years nor for any sum which, together with the total outstanding bonded indebtedness of the district, shall exceed 3% of the state equalized valuation of the taxable property within the district, unless the proposition of making the loans or of issuing bonds has been submitted to a vote of the school tax electors of the district at a general or special school election and approved by the majority of the registered electors actually voting on the same, in which event loans may be made or bonds may be issued for the purposes set forth in an amount equal to that provided by chapter 12 of part 2.

HISTORY: Add. 1965, p. 44, Act 28, Imd. Eff. May 11;—Am. 1968, p. 556, Act 316, Eff. Nov. 15.

340.221-340.223 Repealed. 1965, p. 44, Act 28, Imd. Eff. May 11.

Sections related to proposals for bonds in first class school districts, procedure and taxation.

340.224 Board of education; bonds; construction as supplemental statute.

Sec. 224. The provisions of sections 218 to 223, inclusive, are supplemental to and they are not in any way to affect the provisions of section 196 hereof or any other provisions of law under which bonds of said district or the city are authorized to be issued and sold.

HISTORY: New 1955, p. 506, Act 269, Eff. Jul. 1.

340.225 Board of education; ex-officio officers.

Sec. 225. All officers of the city in which said district is situated herein given participation in matters relating to the issue and sale of bonds hereunder and those upon whom participation herein would devolve under revision or amendment of any special or local act, are for the purposes hereof made ex-officio officers of said district.

HISTORY: New 1955, p. 506, Act 269, Eff. Jul. 1.

340.225a Board of education; bonds for sites, buildings, equipment, permanent improvements; terms, election, qualifications of electors.

Sec. 225a. As an additional and alternative method of issuing bonds for the purpose of purchasing sites for buildings, playgrounds, or athletic fields and purchasing or erecting and equipping any building or buildings or making any permanent improvements which it is authorized to make, the board of education of school districts of the first class by resolution may submit the proposition of issuing bonds to the electors of the school district at any city, state or special election called for such purpose. If a majority of the electors voting thereon approve the issuance of bonds, the board of education may issue the bonds of the district. The board shall determine the form of the bonds, the manner in which they shall be executed by the president and secretary of the district, the sums payable and the times of payment which shall not exceed 30 years from the date of issuance, the interest rate, which shall not exceed 6% per annum, and such other terms and conditions as the board deems necessary. If the board of education determines to issue bonds pursuant to this section, the provisions of sections 196, 218 to 223, and 225, of this act shall not apply to the issuance of such bonds and the bonds may be issued in an amount equal to that provided by chapter 12 of part II of this act. The secretary of the board of education shall file with the city clerk of the city, in which the first class school district is located, a notice in writing of the adoption of the resolution with a draft in writing of the form of the bonding proposition to be so submitted to the voters of the school district for adoption or rejection. The notice shall be under the seal of the board and filed with the city clerk at least 60 days before the date fixed by the board of education for the election. Upon receipt of the notice, the city clerk shall publish the notice in accordance with the laws of this state applicable to and governing elections in the city. The manner of conducting the elections, the registration of electors, the method of submitting the bonding proposition and the voting upon the same, the keeping of poll lists, the canvassing of votes,

the certifying of returns upon the same and all other proceedings connected with the practicable submission of the proposition, including the providing of the printing and delivery of and the distribution of ballots and the use of voting machines, shall be the same as nearly as may be, and as now is and as hereinafter may be provided for, by the laws governing city elections. Electors qualified to vote on the bonding proposition shall be registered electors of the city in which the first class school district is located and otherwise qualified to vote on bonding propositions under the constitution and laws of the state of Michigan.

HISTORY: Add. 1958, p. 50, Act 49, Eff. Sep. 13.

340.226 Powers of school districts.

Sec. 226. School districts of the first class may exercise any of the powers enumerated in this chapter, and shall have such rights as are herein given, and shall be governed hereby in respect to things herein stated.

HISTORY: New 1955, p. 508, Act 269, Eff. Jul. 1.

340.227 Board of education; referendum, conduct of election.

Sec. 227. The board of education of a school district of the first class may, when so authorized by a majority vote of its members, submit to the qualified voters of the school district comprising said city any measure or question not coming under its general power or authority for adoption which said board may deem just and proper towards the prosperity of and the advancement of education in the free schools of said city, including the submission of the question of the use of free textbooks in the free schools of said city. Upon the adoption of any such measure or question by said board, as aforesaid, by the majority vote of said board, said board shall submit said measure or question to the qualified voters of said school district at the next ensuing state or city election or at a special election called for that purpose, and said qualified voters shall be entitled to vote upon any such measures or questions as aforesaid at said election. This section shall not be interpreted to authorize the issue of bonds hereunder. The secretary of said board shall file with the city clerk of said city a notice in writing of the adoption by the majority vote of said board of any such measure or question, together with a draft in writing of the form and purport of said measure or question to be so submitted to said voters for adoption or rejection, said notice to be under the seal of said board and to be so filed with the said city clerk at least 60 days before any such election. Upon the receipt of said notice, said city clerk shall cause the same to be published in accordance with the laws of this state applicable to and governing elections in said city. The manner of conducting said elections, the method of submitting said measures or questions and the voting upon the same, the keeping of the poll lists, the canvassing of votes, the certifying of returns upon the same, and all other proceedings connected with the practicable submission of said measures or questions, including the providing of, the printing and delivery of, and the distribution of ballots, shall be the same as nearly as may be and as now is and as hereafter may be provided for by the laws governing city elections.

HISTORY: New 1955, p. 509, Act 269, Eff. Jul. 1;—Am. 1963, p. 437, Act 248, Imd. Eff. Jun. 13.

340.228 Board of education; library powers, transfer.

Sec. 228. Nothing in this chapter or in any other part of this act shall be construed to repeal or in any way affect any general law or local law governing the management and control of public libraries as now established in school districts that come within the provisions of this chapter, and the powers and duties with reference to such libraries as are now assigned to the boards of education now in existence in such city school districts shall be assigned to and transferred to the board herein created.

HISTORY: New 1955, p. 509, Act 269, Eff. Jul. 1.

340.229 College board of governors; appointment, term, vacancies, offices, powers.

Sec. 229. (a) Whenever the board of any school district of the first class shall have heretofore or shall hereafter establish or acquire and maintain any college, university or other institutions of higher learning granting the degree of bachelor of arts or its equivalent, as herein provided, said board may, by resolution adopted by a majority vote of its members-elect, provide that said college, university or other institution or institutions shall be administered and governed by a body corporate to be designated as the board of governors of university. Such resolution shall also provide for the transfer of all moneys and properties allocated by the board for the operation of the college or university. Said board of governors shall consist of 9 members to be appointed by said board for a term of 9 years each, excepting that in the first selection the board of education shall designate the number of years for which each regent is appointed, and thereafter 1 regent shall be appointed annually for the full term. Any resident of said school district and any resident of the county paying taxes in said school district shall be eligible for such appointment, but at no time shall more than 2 members of the board be members of the board of governors, nor shall any regent serving 9 years be reappointed until the expiration of 1 year. Vacancies in said board of governors shall be filled in the same manner for the unexpired term. The officers of the board of governors shall be a chairman, vice-chairman, secretary and treasurer. The city treasurer shall be ex-officio treasurer, and the city controller shall be ex-officio controller of said board of governors with such duties hereinafter or heretofore set forth, but without power to vote. The attorney or corporation counsel of the city shall be attorney for said board of governors.

Transfer of property, by-laws, administration, compensation, meetings, quorum, reports.

(b) Said board of governors shall be subject to and governed by all provisions of this chapter pertaining to the board of education, and shall possess and succeed to all the powers and duties of the board of education in connection with said college, university or institution except as otherwise provided by law. The said board of education may transfer to said board of governors all or any part of the real estate or personal property heretofore used by said institutions, or permit the use of same by said board of governors upon such terms as may seem desirable.

The board of governors shall have power by majority vote of the regents to enact rules, by-laws and regulations for the government of the institution; to appoint or remove such personnel as the interests of the institution may, in their judgment, require and to fix such compensation as it may prescribe; to acquire, maintain and operate all buildings incidental to the operation of a university, including a student center, hospital and out-patient clinic: Provided, however, That services in the hospital and in the out-patient clinic shall be limited to indigents.

Regents shall serve without compensation but shall receive pay for the actual and necessary expenses incurred by them in the performance of their duties. Meetings of the board of governors shall be called in such manner and at such times as shall be prescribed by by-law. Five regents shall constitute a quorum for the transaction of business and a less number may adjourn from time to time. All acts shall be by a majority vote of the members of the board of governors voting thereon, unless otherwise specified herein. The regents shall make an annual report to the mayor and the board of education setting forth all receipts and expenditures, and a report of their activities and recommendations.

Property; contracts; exemption from taxation, attachment and execution; condemnation; gifts in trust.

(c) Said board of governors is hereby empowered to take and hold by purchase, condemnation, gift, devise, bequest or otherwise, such real and personal property as may be needful or convenient for carrying out the intents and purposes of this act, to make contracts and to establish all reasonable rules and regulations to protect the rights of property vested in the board, and to aid in the performance of the duties imposed upon it. Such property shall be exempt from taxation and no writ of attachment or writ of execution shall be levied upon the property thereof. No real estate of the corporation shall be sold or leased without the express consent of the legislative body of the city. The board of governors may, with the consent of the legislative body of the city, acquire by condemnation real estate for the use or ownership of said corporation in the same manner as is provided for the board of education in this chapter. Said board of governors may accept any gift, devise or bequest and hold in perpetuity or otherwise any land or other property in trust for any purpose not inconsistent with the objects and purposes of the institution or university.

Budget, contents; appropriations; grants, fees, gifts; taxation; separation of funds.

(d) The said board of governors shall by majority vote annually prepare its budget and transmit the same to the same appropriating officer and bodies as the said board of education. The budget shall specify the sums requested under the following categories: Administrative personnel, instructional personnel, maintenance personnel, clerical and miscellaneous employees, instructional equipment and supplies, maintenance equipment and supplies, fuel, acquisition of sites, buildings and furnishings, rental of sites, buildings and furnishings, repairs and improvements, research, publications, library, fixed charges, contingent reserve and miscellaneous, and shall be accompanied by itemized supporting schedules. The appropriating bodies may allow said budget or may reduce same in gross or in the amounts specified in any of the categories herein designated, and no transfers of funds from 1 category to another shall be made thereafter by said board of governors without the express approval of the chief executive officer of the city. Grants from state, county or other governmental units, excepting where otherwise indicated in the grants, and anticipated tuition receipts, shall be included within this limitation. Other special fees shall be applied only to the special purposes or activities for which assessed, and other grants, gifts and donations and the income therefrom shall be within the control of the said board of governors for the purposes indicated by the donors: Provided, however, That the appropriating officials and bodies may cause the whole or any part of the appropriations to be made by the issue of bonds in lieu of raising the same by taxation in the same manner as is provided by law for the board of education under this chapter.

It shall be mandatory for the appropriating bodies to annually levy and collect taxes in a minimum amount of \$100.00 for each equated full time student enrolled in the university during the previous fiscal year of the city.

The funds of the board of governors shall be kept separate from all other funds but shall in all other ways be subject to the same provisions of law as other funds of the board of education, except as otherwise provided by law.

Retirement of employees.

(e) For all purposes connected with the deductions and contributions to be made and payment of annuities, refunds and benefits to be paid, every employee of said board of governors shall be considered an employee of the board of education of said school district.

Limitation as to revocation of resolution of incorporation.

(f) Said board of education shall not have power to rescind or revoke the resolution of incorporation provided for herein without an act of the legislature.

HISTORY: New 1955, p. 509, Act 269, Eff. Jul. 1.

340.230 Borrowing power.

Sec. 230. School districts operating under this chapter shall be governed by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948, in force or as the same may hereafter be amended.

HISTORY: New 1955, p. 511, Act 269, Eff. Jul. 1.

CHAPTER 7.

THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

340.251 Superintendent of public instruction; jurisdiction, office, qualifications.

Sec. 251. The superintendent of public instruction shall have general supervision of general instruction in all public schools and in all state institutions that are educational in their character, as follows: The university of Michigan, the Michigan state college of agriculture and applied science, the Michigan school for the deaf, the Michigan school for the blind, the boys' vocational school, the girls' training school, the several Michigan home and training schools, and any similar institution that may hereafter be created. He shall maintain his office at the seat of the state government. He shall be a graduate of a university, college or state normal school of good standing, and shall have had at least 5 years' experience as a teacher or superintendent of schools.

HISTORY: New 1955, p. 511, Act 269, Eff. Jul. 1.

340.252 Superintendent of public instruction; duties.

Sec. 252. It shall be the duty of the superintendent of public instruction:

State educational institutions and governing boards.

(a) To visit the state institutions mentioned above and meet with the governing boards thereof from time to time;

School law observance, accounting by boards of education.

(c) To require each board of education or the officers thereof to observe the laws relating to schools, to account for and pay over to the credit of the school district all moneys illegally expended or otherwise disposed of, and he shall have authority to compel such observance and accounting by appropriate legal proceedings instituted in courts of competent jurisdiction by direction of the attorney general;

Audit of school district official records and accounts.

(d) To examine and audit the official records and accounts of any school district and require corrections thereof when necessary, and to require an accounting from the treasurer of any school district when deemed necessary;

Maintenance of educational facilities by school districts, safety, health.

(e) To require all school districts to maintain school or provide educational facilities for all children resident in such district for at least the statutory period, and to require school boards to carry out his recommendations relative to the safety of school buildings, equipment and appurtenances, including all conditions that may endanger the health or life of the school children;

Report to governor and legislature, contents.

(f) To prepare biennially and transmit to the governor, to be by him transmitted to the legislature at each biennial session thereof, a report containing a statement of the general educational conditions of the state; a general statement regarding the operation of the several state educational institutions and all incorporated institutions of

learning; and to present plans for the improvement of the general educational system if in his judgment it is deemed necessary. The report shall also contain the annual reports and accompanying documents of all state educational institutions so far as the same may be of public interest, and tabulated statements of the annual reports of the several school officers of the school districts of the state, and any other matter relating to his office which he may deem expedient to communicate to the legislature;

Welfare of public schools and educational institutions.

(h) To do all things necessary to promote the welfare of the public schools and public educational institutions and provide proper educational facilities for the youth of the state;

Promotion of temperance.

(i) To promote in the public schools of this state, in the normal colleges and universities of this state and among adult groups, scientific instructions as to the physical, psychological and sociological effects of alcohol and the benefits of temperance; to prepare and publish instructional and informational materials; and to promote temperance by such other means as may seem desirable; and

Uniform child and finance accounting records.

(j) To prescribe appropriate uniform child and finance accounting records for use in the school districts of this state, and to make such rules and regulations for their adoption as he may deem necessary.

HISTORY: New 1955, p. 511, Act 269, Eff. Jul. 1;—Am. 1965, p. 227, Act 140, Eff. Mar. 31, 1966.

340.252a Superintendent of public instruction; teachers' institutes; appointment of instructors, rules, regulations.

Sec. 252a. The superintendent of public instruction may set a time and appoint proper instructors for a state teachers' institute and for institutes in the several counties of the state, and make such rules and regulations for their management as he deems necessary.

HISTORY: Add. 1965, p. 228, Act 140, Eff. Mar. 31, 1966.

340.253 Superintendent of public instruction; removal of board members, cause, notice, record, setting aside order.

Sec. 253. The superintendent of public instruction may remove from office, upon satisfactory proof and after at least 10 days' notice to the party implicated, any member of any board who shall have illegally used or caused to be used or disposed of in any manner whatever any of the public moneys entrusted to his charge, or who shall persistently and without sufficient cause refuse or neglect to discharge any of the duties of his office, and, in case of such removal, it shall be the duty of the said superintendent to have recorded in the office of the county superintendent of schools the order for such removal, and such record of such order so entered or a certified copy thereof shall be prima facie evidence in all courts and places of jurisdiction of the regularity of such proceedings for removal, and said superintendent shall file a similar copy of the proceedings in the records of his office. The party so removed may, within 30 days after such removal, institute proceedings before a court of competent jurisdiction for the setting aside of such order for removal from office. If no such proceedings are instituted within said 30 days, or, if such proceedings to set aside such order for removal shall be discontinued or dismissed, the said order for removal from office shall stand and shall not be subject to attack by any legal proceedings thereafter.

HISTORY: New 1955, p. 512, Act 269, Eff. Jul. 1.

340.254 Ineligibility of removed board member; reinstatement.

Sec. 254. Whenever any officer is removed for cause, he shall not again be elected or appointed to any school office for a period of at least 5 years thereafter, nor shall he exercise the duties of his office until reinstated by the court as herein provided.

HISTORY: New 1955, p. 513, Act 269, Eff. Jul. 1.

340.255 Superintendent of public instruction; salary.

Sec. 255. The total compensation of the superintendent of public instruction for all services performed and expenses incurred during term of office shall be \$17,500.00 per annum beginning July 1, 1957, which shall be paid monthly out of the general fund in the state treasury in the same manner as the salaries of other state officers are paid.

HISTORY: New 1955, p. 513, Act 269, Eff. Jun. 30;—Am. 1957, p. 19, Act 14, Imd. Eff. Mar. 28.

340.256 Superintendent of public instruction; deputies; appointment, qualifications, duties; revocation of appointment.

Sec. 256. The superintendent of public instruction may appoint 2 deputy superintendents of public instruction, whose educational qualifications shall be the same as those required of the superintendent of public instruction, who shall take the constitutional oath of office which shall be filed with the secretary of state. Said deputies shall assist the superintendent in the performance of his duties. Either of said deputies may perform any duty or act devolving upon the superintendent of public instruction during his absence from the department, and the superintendent of public instruction may assign either of said deputies to take charge of said department during such absence. The superintendent of public instruction may, in his discretion, revoke such appointments.

HISTORY: New 1955, p. 513, Act 269, Eff. Jul. 1.

340.257 Superintendent of public instruction; assistants; appointment, revocation.

Sec. 257. The superintendent of public instruction may also appoint such assistants as he may deem necessary, who shall perform such duties as the superintendent of public instruction shall prescribe. Notwithstanding the provisions of any other law, the superintendent of public instruction may designate his deputies or any assistant superintendent of public instruction to attend, represent and act for him at the meetings of any board or commission of which the superintendent of public instruction is a member or member ex-officio, except boards or commissions established by the constitution. The superintendent of public instruction may revoke any of said appointments or designations in his discretion.

HISTORY: New 1955, p. 513, Act 269, Eff. Jul. 1.

340.258 Primary school interest fund; report, apportionment.

Sec. 258. The auditor general shall, on or before the thirtieth day of April and on or before the first day of November, make a report to the superintendent of public instruction of the amount in the primary school interest fund. Within 5 days after receiving such report, the superintendent of public instruction shall apportion the primary school interest fund among the several school districts of the state in proportion to the number of children in each between the ages of 5 and 20 years as the same shall appear by the reports of the several school districts made to him for the school year closing in June of the second preceding school year.

HISTORY: New 1955, p. 513, Act 269, Eff. Jul. 1;—Am. 1957, p. 91, Act 88, Imd. Eff. May 23;—Am. 1959, p. 376, Act 246, Imd. Eff. Aug. 13.

340.259 Valuation of whole district; assessment, board of equalization.

Sec. 259. The valuation of any whole school district shall be the total assessed value of the property contained therein as fixed by the township or city board of review,

which in turn shall be proportionately increased or decreased to the basis of the valuation of the township or city containing said district as fixed by the county board of equalization, and the result in turn proportionately increased or decreased to the basis of the valuation of the county containing said district as last fixed by the state board of equalization.

HISTORY: New 1955, p. 513, Act 269, Eff. Jul. 1.

340.260 Valuation of fractional district.

Sec. 260. The valuation of a fractional school district shall be the sum of the valuations of the fractions thereof, each of which shall be computed the same as a whole school district.

HISTORY: New 1955, p. 514, Act 269, Eff. Jul. 1.

340.261 Valuation of state.

Sec. 261. The valuation of the state, for the purposes of this chapter, shall be the equalized value as determined by the state board of equalization.

HISTORY: New 1955, p. 514, Act 269, Eff. Jul. 1.

340.262 Assessed valuation statement.

Sec. 262. The county treasurer of each county shall furnish the superintendent of public instruction, on or before May first following the receipt of the assessment rolls, a statement of the assessed valuation of each school district and fraction of a school district within his county, upon forms furnished by the superintendent of public instruction.

HISTORY: New 1955, p. 514, Act 269, Eff. Jul. 1.

340.263 Superintendent of public instruction; primary school interest fund, statement, apportionment, payment.

Sec. 263. The superintendent of public instruction upon the completion of the apportionment shall prepare a statement of the amount in the aggregate of the primary school interest fund payable to each county, and shall deliver the same to the state officer charged by law with the duty of drawing warrants upon the state treasurer in accordance with the accounting procedures of the state. Within 10 days of delivery of such statement a warrant shall be drawn upon the state treasurer in favor of the treasurer of each county for the amount payable to each county. Said superintendent of public instruction shall also send written notices to the clerks and treasurers of the several counties of the amount in the aggregate to be disbursed in their respective counties and the amount payable to the school districts therein, respectively. Upon receipt of said moneys, each county treasurer shall immediately give notice to the secretary of each school district in his county of the amount of school moneys apportioned to his school district respectively, and shall forthwith pay said moneys to each school district treasurer respectively.

HISTORY: New 1955, p. 514, Act 269, Eff. Jul. 1;—Am. 1959, p. 376, Act 246, Imd. Eff. Aug. 13.

340.264 Defective statement of valuation; apportionment.

Sec. 264. Whenever the returns from any county, township, city or district upon which a statement of the amount to be disbursed or paid to any school district shall be so far defective as to render it impracticable to ascertain the share of the primary school interest fund which ought to be disbursed or paid to the district, he shall ascertain by the best evidence in his power the facts upon which the ratio of such apportionment shall depend, and shall make the apportionment accordingly.

HISTORY: New 1955, p. 514, Act 269, Eff. Jul. 1.

340.265 Primary school interest fund; apportionment of deficiency; failure to keep full time school.

Sec. 265. Whenever any school district through failure or error in the making of any report shall fail to receive its share of the primary school interest fund, the superintendent of public instruction, upon satisfactory proof that said district was justly entitled to the same, shall apportion such deficiency in the next apportionment; and whenever it shall appear to the satisfaction of said superintendent that any district has failed to have the full time of school required by law, through no fault or negligence of the district or its officers, he may, in his discretion, include such district in his apportionment of the primary school interest fund.

HISTORY: New 1955, p. 514, Act 269, Eff. Jul. 1.

340.265a Borrowing power; condition, application.

Sec. 265a. Subject to the restrictions herein prescribed, the board of education of any school district in this state is authorized to borrow money for school operations, to issue its note or notes therefor, in anticipation of receipt of its share of the primary school interest fund available to the school district. Notes issued under the provisions of this section shall become due and payable on or before June 30, 1960. The notes shall bear interest at not to exceed 4% per annum and may be made redeemable prior to maturity on such terms and conditions as shall be provided by the resolution of the board of education of the school district. No school district shall issue its notes in anticipation of receipt of its share of the primary school interest fund in an aggregate amount exceeding 75% of the undistributed balance of its share of the primary school interest fund for the school year ending June 30, 1960. Application for the issuance of such notes shall be accompanied by a certificate from the superintendent of public instruction, which certificate shall show the amount as near as possible of the primary school interest fund to be allocated to the school district for the school year ending June 30, 1960 and any payments distributed to the school district prior to the date of the certificate. No school district shall contest the validity of any note issued by it under this act if it has issued the same and has received the principal amount of the note.

HISTORY: Add. 1959, p. 376, Act 246, Imd. Eff. Aug. 13.

340.266 Superintendent of public instruction; duties; delivery of property, books and records to successor.

Sec. 266. The superintendent of public instruction shall perform such other duties as are or shall be required of him by law, and at the expiration of his term of office deliver to his successor all property, books, documents, maps, records, reports and all other papers belonging to his office, or which may have been received by him for the use of his office.

HISTORY: New 1955, p. 514, Act 269, Eff. Jul. 1.

340.267 Superintendent of public instruction; records of educational institutes ceasing to function, preservation as central depository.

Sec. 267. The trustees or officers of any college or other institution of learning, whether incorporated or not, upon going out of existence or ceasing to function as an educational institution, shall turn over its records of all grades attained by its students to the superintendent of public instruction to be preserved by him as a central depository of this material.

HISTORY: New 1955, p. 515, Act 269, Eff. Jul. 1.

340.268 Superintendent of public instruction; records from extinct educational institutes; supervision, custody; transcripts.

Sec. 268. The office of the superintendent of public instruction is hereby designated the central depository for the records of such educational institutions in this state as have ceased to exist or may cease to exist in the future. The superintendent of public

instruction shall, where possible, collect the records of such educational institution extinct, or hereafter becoming extinct, and have the supervision, care, custody and control of said records. He shall, when requested, prepare transcripts of such grade records, which may at any time become necessary to the former student for further scholastic work at other institutions, for certification for teaching or for other professional positions. Whenever such transcript is made and after it has been compared with the original, it shall be certified by the superintendent of public instruction and shall thereafter be considered and accepted as evidence for all purposes, the same as the original could be.

HISTORY: New 1955, p. 515, Act 269, Eff. Jul. 1.

340.269 New educational institutes.

Sec. 269. The provisions of this chapter shall be mandatory in the case of all educational corporations chartered after May 24, 1933.

HISTORY: New 1955, p. 515, Act 269, Eff. Jul. 1.

340.270 National defense education act; compliance.

Sec. 270. The superintendent of public instruction is hereby authorized to take such steps as may be necessary to comply with the provisions of titles 3 and 5 of Public Law 864 of the 85th Congress, known as the national defense education act of 1958, and to expend federal funds available under such act for the extension and improvement of the state's educational program, as outlined in state plans approved by the United States commissioner of education. This act shall not be construed as authorizing the superintendent of public instruction to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature.

HISTORY: Add. 1959, p. 452, Act 271, Imd. Eff. Nov. 3;—Am. 1980, p. 36, Act 45, Imd. Eff. Apr. 19.

340.270a State board of education; personality test, rules and regulations.

Sec. 270a. The state board of education shall promulgate rules and regulations concerning personality tests, both projective and nonprojective types, administered to any pupils within school districts of Michigan as a school project or as part of the school program. These said rules and regulations shall include such factors as the circumstances under which these tests may be administered, the responsibility for the selection of these tests, the qualifications of those administering and interpreting these test results, and the maintenance of the confidentiality of these test results.

HISTORY: Add. 1967, p. 661, Act 305, Imd. Eff. Aug. 17.

340.271 Superintendent of public instruction; appropriation of available federal funds.

Sec. 271. The amount of federal funds available to Michigan under the provisions of Public Law 864 of the 85th Congress is hereby appropriated to the superintendent of public instruction to carry out the purposes of this act.

HISTORY: Add. 1959, p. 453, Act 271, Imd. Eff. Nov. 3.

340.272 Superintendent of public instruction; national defense education act, payment, distribution of appropriation.

Sec. 272. The amount hereby appropriated shall be paid out of the state treasury in accordance with such fiscal control and fund accounting procedures as may be necessary to assure proper distribution of and accounting for federal funds paid to the state under the provisions of Act No. 133 of the Public Acts of 1959.

HISTORY: Add. 1959, p. 453, Act 271, Imd. Eff. Nov. 3;—Am. 1980, p. 36, Act 45, Imd. Eff. Apr. 19.

CHAPTER 8.
INTERMEDIATE SCHOOL DISTRICTS.

340.291 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to definitions for intermediate school districts.

340.291a Intermediate school districts; definitions.

Sec. 291a. As used in this chapter:

(a) "Intermediate school district" means the corporate body established in accordance with the provisions of this chapter.

(b) "Local school district" means a primary school district, a school district of the fourth class, a school district of the third class, a school district of the second class, a school district of the first class, or a special act school district.

(c) "Constituent school district" means a local school district whose territory is entirely within and is an integral part of an intermediate school district.

(d) "Board" means the board of education of the intermediate school district.

(e) "Superintendent" means the superintendent of the intermediate school district.

(f) "Special education" means education of a type designed especially for deaf, hard of hearing, blind, partially seeing, speech defective, homebound, mentally handicapped, crippled or otherwise physically handicapped, children having behavior problems, as are defined by the superintendent of public instruction.

(g) "Special education center" means a constituent school district which, by action of its board, contracts with the board of the intermediate district to provide special education to nonresident pupils.

(h) "Special education facility" means any program of special education instruction which is approved by the superintendent of public instruction.

(i) "Special education buildings and equipment" means any school housing and equipment acquired or prepared for, or used in, operating a special education facility approved by the superintendent of public instruction.

(j) "Special education supplies" means any consumable school supplies employed in special education.

(k) "Reorganized intermediate district" means an intermediate district formed by the consolidation or annexation of 2 or more intermediate school districts as provided in section 302a.

(l) "Area vocational-technical education program" means a program of organized systematic instruction designed to prepare the following individuals for useful employment in recognized occupations:

(1) Persons enrolled in high school.

(2) Persons who have completed or left high school and who are available for full-time study in preparation for entering the labor market.

(3) Persons who have already entered the labor market and who need training or retraining to achieve stability or advancement in employment.

(m) "Area" as used in the phrase "area vocational-technical education program" means the geographical territory, both within and without the boundaries of either a k-12 school district, or a community college district which is designated as the service area for the operation of vocational-technical education programs by the state board of education.

(n) "Vocational education" means vocational or technical training or retraining which is given in schools or classes, including field or laboratory work incidental thereto, under public supervision and control, and is conducted as part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations, but excluding any program to fit individuals for

employment in occupations which the superintendent of public instruction determines, and specifies to be generally considered professional or as requiring a baccalaureate or higher degree. The term includes vocational guidance and counseling in connection with the training, instruction related to the occupation for which the student is being trained or necessary for him to benefit from the training, and the acquisition and maintenance and repair of instructional supplies, teaching aids and equipment, and the construction or initial equipment of buildings and the acquisition or rental of land.

HISTORY: Add. 1962, p. 406, Act 190, Imd. Eff. Mar. 28, 1963;—Am. 1964, p. 346, Act 246, Eff. Aug. 25.

340.291b Educational media center; definition.

Sec. 291b. As used in this chapter "educational media center" means a program approved by the superintendent of public instruction which provides basic educational services to local or constituent school districts which may include, but is not limited to:

- (1) A materials lending library containing 16mm and 8mm motion pictures or improvements thereof with provision for processing and servicing, 35mm slides or improvements thereof, filmstrips, remedial and enrichment programmed instructional materials, disc recordings, and other items.
- (2) Duplication service to reproduce transparencies, slides, filmstrips and charts or improvements thereof.
- (3) Magnetic type duplicating service for audio and video tape.
- (4) A delivery and dissemination system for materials and services.
- (5) Professional leadership training services to districts for coordination and assistance with proper utilization of materials and services.
- (6) Acquisition and use of materials that will be coordinated with the curriculum of local school districts.
- (7) Technical and maintenance service for cooperating districts.
- (8) Professional library materials and services, including reference and informational.
- (9) Central purchasing of equipment related to media center activities and use in the school.
- (10) A graphics staff to produce transparency masters and charts and to render other production services to teachers.

HISTORY: Add. 1970, p. 146, Act 55, Imd. Eff. Jul. 10.

340.291c Educational media centers; criteria for approval for funding.

Sec. 291c. The state board of education and the state superintendent of public instruction shall establish criteria, based on state and national guidelines, for approving regional educational media centers for initial and continued funding. Among the criteria shall be:

- (1) To assure effective and economical operation, a minimum size, based on pupil enrollment, for the service area shall be established.
- (2) Provision shall be made for 2 or more intermediate districts or parts of intermediate districts to combine to operate an instructional materials center. The constituent intermediate districts may contract with one district to administer the center or a co-operative board may be organized.
- (3) In sparsely settled areas of the state where a minimum enrollment requirement would necessitate districts of unwieldy geographical size, the service area shall be designed so as to provide for reasonable and efficient lines of communication between the center and the farthest constituent district. In some cases, satellite or subcenters may be established.

(4) The center shall be staffed and administered by qualified personnel having a substantial background of training and experience in the selection, use, evaluation and application of media materials to education.

HISTORY: Add. 1970, p. 146, Act 55, Imd. Eff. Jul. 10.

340.291d Educational media centers; operation by intermediate school districts.

Sec. 291d. An intermediate school district board may operate, or in cooperation with other intermediate districts may operate, educational media centers to serve the public and nonpublic schools in their respective areas.

HISTORY: Add. 1970, p. 147, Act 55, Imd. Eff. Jul. 10.

340.292 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section provided for county board of education, specified its membership and described its territory.

340.292a Intermediate district; conversion of county school districts, annexation.

Sec. 292a. As of the effective date of this chapter, those local school districts constituting a county school district, as determined by the filing of the most recent annual and statistical report required by the superintendent of public instruction, shall constitute the intermediate school district of that county. The intermediate school district shall possess all the rights and privileges of the county school district which it has succeeded except as provided in this chapter. When constituent school districts of more than 1 intermediate school district are reorganized into a single school district, the reorganized school district shall be constituent to the intermediate district designated by the board of education of the reorganized school district. If a decision has not been reached within 30 days after the effective date of the reorganization of the constituent districts, determination shall be made by the state board of education. Any constituent school district, by resolution of its board of education, may become constituent to another intermediate district to which it is contiguous if approval is given by the board of each intermediate district affected. If the intermediate district to which annexation is proposed has adopted the provisions of sections 307a to 324a of this chapter, the registered electors of the district to be annexed must vote to accept those provisions.

HISTORY: Add. 1962, p. 407, Act 190, Eff. Mar. 28, 1963.

340.293 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to eligibility to office on intermediate school board.

340.293a Intermediate district; board of education; members, number.

Sec. 293a. Each intermediate school district shall be under the supervision and control of a board composed of 5 members elected as provided in this chapter, except that in reorganized intermediate districts the number of board members shall be 7 instead of 5, in accordance with the provisions of section 302a.

HISTORY: Add. 1962, p. 407, Act 190, Eff. Mar. 28, 1963.

340.294 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to election, term, vacancies and removals from county board of education.

340.294a Board of education; election, notice; vacancy; nomination.

Sec. 294a. The members of the board shall be elected biennially on the first Monday in June by a body composed of 1 member of the board of education of each constituent school district, who shall be designated by the board of education of the constituent school district of which he is a member. The secretary shall send a notice by certified mail of the hour and place of meeting to the secretary of the board of education of each constituent school district at least 10 days prior to the meeting. The president and secretary of the board shall act as chairman and secretary, respectively, of the meeting. The term of office of each member elected to the board shall be for 6 years

and shall begin on July 1 following his election, except as hereinafter provided. Not more than 2 members of the board shall be from the same school district unless there are fewer districts than there are positions to be filled. Any vacancy shall be filled by the remaining members of the board until the next biennial election. Notice of the vacancy shall be filed with the state board of education within 5 days after its occurrence. If the vacancy is not filled within 30 days after it has occurred, it shall be filled by the state board of education. Candidates for election to the board shall be nominated by petitions which shall be signed by not less than 50 school electors of the district who are registered to vote in the city or township where they reside. Any qualified elector shall be eligible to sign as many petitions as there are vacancies to be filled. Nominating petitions shall be filed with the secretary of the board not later than 30 days prior to the date of the biennial election. The secretary shall determine the sufficiency of said petitions, and the eligibility of the candidates therein nominated. The secretary shall cause to be prepared, printed or duplicated ballots for the biennial election, listing on said ballots the names of all candidates properly nominated. If no nominating petitions have been filed for a candidate to fill a vacancy then, in this event and only in this event, the chairman of the biennial election may accept nominations for that vacancy from the floor.

The provisions of section 538 of this act shall apply to petitions for candidates for board members of intermediate districts unless herein otherwise provided.

HISTORY: Add. 1962, p. 407, Act 190, Eff. Mar. 28, 1963.

340.294b Board of education; popular election.

Sec. 294b. Members of the board shall be chosen at popular elections in any intermediate school district adopting the provisions of sections 294b to 294h of this act.

HISTORY: Add. 1962, p. 408, Act 190, Eff. Mar. 28, 1963.

340.294c Board of education; members; referendum on popular election.

Sec. 294c. Any board may submit to the electors of the constituent school districts comprising such intermediate school district the question of adoption of sections 294b to 294h of this act. The question shall be in substantially the following form:

“Shall the provisions of sections 294b to 294h of Act No. 269 of the Public Acts of 1955, as amended, providing for popular election of members of the intermediate school district board of education be effective within the constituent school districts of county?

Yes ()

No ()”

The board shall submit the question upon receipt of resolutions adopted by a majority of the boards of education of constituent school districts and representing more than 50% of the children on the last school census in the intermediate district. The resolutions of the constituent boards of education shall all be adopted within a period of 3 months.

HISTORY: Add. 1962, p. 408, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 589, Act 290, Eff. Aug. 28;—Am. 1965, p. 83, Act 52, Imd. Eff. Jun. 16.

340.294d Board of education; submission of question, canvass of returns.

Sec. 294d. The question shall be voted upon by school electors residing within the constituent school districts of said intermediate school district who are registered to vote in the city or township where they reside. It shall be submitted at the first general November election held more than 90 days after the secretary of the board shall file his certificate of such question with the county clerk of each county in which the constituent school districts comprising said intermediate school district is situate. The secretary of the board shall file such certificate with the county clerk of such county

within 10 days following the action of the board or the local boards of education submitting the question.

The board of election inspectors of each precinct located in the intermediate school district and voting on the question shall deliver to the secretary of the intermediate school district a copy of the statement of returns showing the results of the vote on the question in such precinct. The board of canvassers of the intermediate school district shall, within 14 days after the date of election, canvass the results of the election from each of the precincts in the intermediate district and shall determine and declare the result of the vote for and against the question. The secretary of the intermediate school board of canvassers shall cause notification of the results of the vote on the question to be communicated by letter to the secretary of the school board of each constituent district comprising the intermediate district.

HISTORY: Add. 1962, p. 408, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 589, Act 290, Eff. Aug. 28.

340.294e Board of education; election, approval, date; popular election system, termination.

Sec. 294e. If a majority of the electors voting on the question shall vote in favor thereof, members of the board chosen thereafter shall be elected at annual school elections. If a constituent district holds its annual election on a date other than the first Monday in April or the second Monday in June, then an election for the purpose of choosing members of the intermediate board shall be held in such district on the second Monday in June. Any intermediate school district having adopted the provisions of sections 294b to 294h of this act may in the same manner terminate the effect thereof within the intermediate district.

HISTORY: Add. 1962, p. 408, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 590, Act 290, Eff. Aug. 28.

340.294f Board of education; nomination, ballots, canvass, certificate of election, notice of meeting.

Sec. 294f. In any intermediate school district in which sections 294b to 294h of this act are effective, candidates for the office of member of the board shall be nominated by filing nominating petitions with the secretary of the board of the intermediate school district on or before 4 p.m., eastern standard time, of the 49th day preceding the election.

The nominating petitions shall be subject to the provisions of section 538 of this act, except as herein otherwise provided. The nominating petitions shall contain signatures of school electors who are registered to vote in the city or township in which they reside equal in number to not less than 1% of the number of children in said district as determined by the last preceding school census, except that no candidate shall be required to file signatures of more than 5,000 voters. Each sheet of the petition shall be circulated in only 1 city or township and the name of the city or township shall be stated in the affidavit of the circulator.

Within 14 days after the last date for filing, the secretary of the board of the intermediate school district shall certify the names and addresses of those candidates whose petitions have been found sufficient to the secretaries of the school boards of the constituent school districts. The secretary of the board of the intermediate school district at the time of transmitting the names and addresses of the candidates shall certify the number to be elected. The intermediate board of education shall prepare ballots for the election of members of the intermediate school district board and distribute them to the secretaries of each of the constituent school districts at least 20 days before the election is to be held. At least 10 days prior to the election the secretary of the intermediate board shall furnish such applicable supplies as are required to be furnished by county clerks in general elections. All other necessary supplies shall be furnished by the school board of the constituent districts.

The board of election inspectors of each precinct in the intermediate school district shall deliver to the secretary of the intermediate school district 1 poll book, 1 tally sheet and 1 copy of the statement of returns of the election in such precinct. The board of canvassers of the intermediate school district, within 14 days after the latest election date in any of the constituent school districts within the intermediate school district, shall canvass the results of the election from each of the precincts in the intermediate district and shall determine and declare which candidates were elected. The secretary of the board of canvassers shall deliver a certificate of election to those candidates declared to have been elected and at the same time notify them of the time and place of the next meeting of the intermediate district board.

HISTORY: Add. 1962, p. 409, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 590, Act 290, Eff. Aug. 28.

340.294g Board of education; electors, eligibility.

Sec. 294g. In registration districts, all registered electors and in nonregistration districts all qualified school electors residing in a constituent school district of the intermediate school district shall be eligible to vote for members of the board regardless of other geographic boundaries.

HISTORY: Add. 1962, p. 409, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 591, Act 290, Eff. Aug. 28.

340.294h Board of education; vacancy.

Sec. 294h. In intermediate school districts adopting the provisions of sections 294b to 294h of this act, the board shall fill any vacancy in its membership with an appointment to expire at the next annual election at which time a member shall be elected for the balance of the term.

HISTORY: Add. 1962, p. 409, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 591, Act 290, Eff. Aug. 28.

340.295 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to organization and meetings of intermediate school district board.

340.295a Board of education; membership, eligibility; vacancies; petition to attach or detach territory; voting, eligibility.

Sec. 295a. Any school tax elector in a constituent school district shall be eligible to election or appointment to membership on the board of an intermediate school district. Members of boards of education of constituent school districts shall be eligible to election or appointment to membership on the board of an intermediate school district. Any other provision of law to the contrary notwithstanding, where a member of the board of education of a constituent school district who has heretofore been elected or appointed to the office of member of the intermediate board of education, has qualified for that office and continues to occupy that office and exercise the powers and duties thereof and where such member also holds the office of member of the board of education of the constituent school district, either by election, re-election or appointment, has qualified for such office and continues to occupy that office and exercise the powers and duties thereof, the said member is a valid and lawful member of the board of education of the intermediate school district and a valid and lawful member of the board of education of the constituent school district. Any action taken by him as a member of either the board of education of the intermediate school district or as a member of the board of education of the constituent school district is hereby validated. He shall continue to hold both offices until either becomes vacant under law. Where the same person occupies both offices and there is pending a petition before the intermediate board of education to detach territory from or attach territory to the constituent school district of which he is a board member under sections 461 through 467 of this act, he shall be ineligible to participate in such proceedings.

HISTORY: Add. 1962, p. 410, Act 190, Eff. Mar. 28, 1963;—Am. 1965, p. 83, Act 52, Imd. Eff. Jun. 16.

340.296 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to compensation and expenses of county board members.

340.296a Board of education; body corporate; name, officers, meeting, duties.

Sec. 296a. The board shall be a body corporate under the style, "the board of education of the intermediate school district of the county (or counties) of, " and under that name may sue and be sued. The board may choose any distinctive name for the intermediate district if prior approval has been given by the state board of education. The members of the board shall meet annually on or before the fourth Monday of July and shall organize by electing a president, a vice-president, a secretary and a treasurer. The president and vice-president shall be members of the board, but the secretary and treasurer need not be. They shall perform such duties as may be provided by law and prescribed by the policies, rules and regulations of the board not inconsistent with the provisions of this chapter or any other laws of this state. The treasurer shall post with the secretary of the board a bond in the amount approved by the board, conditioned upon the faithful performance of his duties.

Depository; accounts; funds.

The board shall select a depository for its school funds and may elect to invest school funds in those securities authorized for investment by local school districts. It shall keep a set of coded accounts to be approved by the superintendent of public instruction and shall have its books audited at least annually by a certified public accountant. The general fund of the board, the cooperative education fund of the board and the special education fund of the board shall be maintained separately and no commingling of funds shall be made.

HISTORY: Add. 1962, p. 410, Act 190, Eff. Mar. 28, 1963.

340.297 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to powers and duties of county board of education.

340.297a Board of education; compensation, expenses; audit.

Sec. 297a. Each member of the board shall receive such compensation as is approved by the county board of supervisors and the same rate for actual and necessary travel expenses as is allowed to members of the board of supervisors. The compensation and expenses shall be audited, allowed and paid from funds of the intermediate district.

HISTORY: Add. 1962, p. 410, Act 190, Eff. Mar. 28, 1963.

340.298 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to county superintendent of schools and his qualifications.

340.298a Board of education; powers, duties.

Sec. 298a. (1) The board shall:

Statutes; superintendent of public instruction; constituent districts.

(a) Perform such duties as required by law and by the superintendent of public instruction, but shall not supersede nor replace the board of education of any constituent school district, nor shall it control or otherwise interfere with the rights of constituent districts except as provided in this chapter.

Superintendent and other personnel; compensation, expenses, supplies, equipment, service.

(b) Employ a superintendent and such assistants, including, in its discretion, a deputy, as it deems necessary for the best interest of the district and fix the compensation for the same. The compensation of the superintendent and his deputy and assistants, which shall include salaries and travel expenses incurred in the discharge of their offi-

cial duties and the necessary contingent expenses of the office of the board and the superintendent for printing, postage, stationery, record books, equipment, office and telephone rental, rental of rooms for teachers' or school officers' meetings, pupils' mental and achievement tests, expenses incurred in the health and social service program of the office, elections conducted by the board, expenses incurred by the board in the legal performance of its duties, expenses incurred for heat, light, electricity, insurance, buildings and grounds maintenance, per diem of board members, and their expenses incurred in traveling in the discharge of their official duties, reference books, professional journals, instructional supplies and equipment, legal fees, janitorial supplies and equipment, shall be paid by the treasurer, after the same have been authorized by the board, from such amounts as have been levied and collected therefor by the county board of supervisors and from any other available funds. The board shall employ and contract for a term of not to exceed 4 years, a superintendent who shall have the qualifications and perform the duties as provided in this chapter. On or before the close of each term, or sooner if there is a vacancy, the superintendent's successor shall be employed as herein provided.

Budget, preparation, filing.

(c) Prepare an annual general budget which shall be in the same form as that provided for other school districts. On or before March 1 of each year the board shall submit such budget to a meeting of 1 school board member named from each constituent school district to represent such a district. At such meeting the president of the intermediate district board shall preside, the secretary shall keep the minutes and the representatives of constituent district boards shall by majority vote determine the maximum amount of the intermediate district general budget but shall not make final determinations as to line items in such a budget. Following such meeting the intermediate district board shall file its budget, the maximum amount of which shall not exceed that approved by the school board representatives of constituent districts, with the county clerks of the counties in which it has territory. Each county clerk receiving the budget shall deliver it to the tax allocation board in the same manner as other school district budgets are handled.

Tax allocation board, certification of rate.

The tax allocation board shall receive the budgets from its county clerk, shall treat them as other school district budgets are treated and shall allocate tax rates to intermediate school districts for the purposes set forth in this act. When the intermediate district board has received an allocation on the basis of its budget, it shall certify for collection to the city and township officials concerned a statement of the amount of taxes to be levied, which certification shall be made at the same time and in the same manner as that of other school districts. The rate certified for levy shall not exceed the amount allocated.

Levy and collection of taxes.

On receipt of the statement from such board, the city and township officials responsible for the levying and collection of taxes shall spread on the tax roll an intermediate school district tax equal to the amount ordered spread, and shall collect such taxes in the same manner as other taxes are collected.

Payments to treasurer of the board.

Taxes collected under the provisions of this chapter shall be paid over to the county treasurer in the same manner as other county taxes are paid over, and similar accounts and records shall be kept. The county treasurer shall pay over all funds received under this act to the treasurer of the board. County treasurers of counties in which fractions of the intermediate school districts operating under this act are situated shall pay over those funds collected under the act to the treasurer of the board.

Taxes, assessment, levy, collection; budgets.

Intermediate school district taxes shall be assessed, levied and collected as provided in Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948. Budgets shall be submitted and intermediate school districts shall be governed by the provisions of Act No. 62 of the Public Acts of 1933, as amended, being sections 211.201 to 211.217a of the Compiled Laws of 1948.

Delinquent taxes, report.

(d) Receive from the county treasurer such reports of delinquent taxes due school districts as he is required by law to file with township and city clerks and compute from such report the amount of delinquent school taxes due each school district in the county. The county treasurer of each county, at the time of making monthly settlements with the several township and city treasurers of the county, shall file with the secretary of the board a statement of all delinquent school taxes which are included in the amounts sent by the county treasurer to the several township and city treasurers of the county, together with the descriptions upon which the delinquent school taxes have been paid. The board, upon receipt of such statements, shall compute the amount of delinquent school taxes and interest thereon included in the statement which are due each school district of the county and, within 30 days from receiving the statement from the county treasurer, shall give notice to the secretary of the board of education of each school district of the amount of delinquent school tax and interest thereon that belongs to his district and which was included in the amount sent by the county treasurer to the treasurer of the township or city in which his district is located.

Maps, filing.

(e) Prepare a map of the intermediate district annually as of July 1, showing by distinct lines thereon the boundaries of each constituent school district. One copy of such map shall be filed in the office of the superintendent, 1 copy shall be filed with each of the supervisors of the respective townships, and 1 copy shall be filed in the office of the superintendent of public instruction, and 1 copy shall be filed in the office of the secretary of state.

School census.

(f) Cause an annual school census to be taken by the agency and in the manner provided in sections 941 to 948 of this act, in each and every school district within the provision of this chapter.

Consultant or supervisory services.

(g) Furnish services on a consultant or supervisory basis to any constituent school district upon request of that district.

Employment of teachers for special education programs, reimbursement.

(h) Employ teachers meeting the qualifications as set up by the state board of education and the superintendent of public instruction for serving speech defective children, hard of hearing children who need lip reading training, mentally retarded, physically handicapped, emotionally distressed, homebound children of normal mentality and any other atypical children if the programs are previously approved by the superintendent of public instruction, and if no school district other than the intermediate district is able and willing to provide such services. The district, when the programs have been approved by the superintendent of public instruction, may be reimbursed in accordance with the provisions of sections 771 to 780. The district may expend up to 10% of the annual budget but not to exceed \$12,500.00 for special education projects approved by the board without having to secure the approval of the superintendent of public instruction.

Cooperative educational programs; funds.

(i) Direct, supervise and conduct cooperative educational programs in behalf of the constituent school districts which request such services. The board may utilize any available funds not otherwise obligated by law, and accept contributions from other sources, for the purpose of financing the programs. The funds shall be deposited with the treasurer in a special fund and shall be disbursed as the board of education shall direct. Notwithstanding any other provision of law, the board of supervisors may appropriate, and the boards of education of the constituent school districts may allocate available funds not otherwise obligated by law, for such educational programs. The board may employ teachers and take any other action necessary to direct, supervise and conduct such educational programs.

Same; conduct with other intermediate districts.

(j) Conduct cooperative programs mutually agreed upon by the boards of 2 or more intermediate school districts.

Schools for juvenile court wards.

(k) When directed by the board of supervisors, establish, if the board deems necessary, a school for those persons of school age who are housed in children's homes operated by the juvenile court or who are living at home but assigned to such school by a juvenile court. The board of education may lease or purchase sites for such schools, build, lease or rent housing facilities for such schools, may employ such teaching and supervisory staff as is necessary to operate such schools, is authorized to make rules and regulations covering the operation of such schools, may exclude students for reason of persistent misbehavior, or bodily conditions and habits disturbing to the orderly conduct of the school, is authorized to classify and promote students for instructional purposes, and otherwise do all those things necessary to the proper conduct of such a school.

Sites and building facilities.

(1) The board of education may lease or purchase sites, build, lease or rent such facilities as may be necessary for its staff.

Administration of oaths.

(2) Any member of the board may administer oaths for the qualifying of board members and oaths required in any other transaction connected with, or related to, the educational program of the intermediate school district.

Board of canvassers, appointment.

(3) The intermediate school district board shall appoint a board of canvassers in accordance with the provisions of section 514a.

HISTORY: Add. 1962, p. 410, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 591, Act 290, Eff. Aug. 28;—Am. 1965, p. 84, Act 52, Imd. Eff. Jun. 16.

340.298b Board of education; borrowing of funds; temporary school loans, limitation; bonds, issuance, limitations; referendum.

Sec. 298b. The board of education of an intermediate school district may borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, such sums of money and on such terms as it deems necessary:

(a) For temporary school purposes and the board may give notes of the district therefor. No loan shall be made for any sum which exceeds the amount which has been voted by the board or the qualified electors of the district.

(b) To purchase sites for buildings, and to purchase or erect and equip any building or other facilities which it is authorized to purchase and erect, or to make any permanent improvement which it is authorized to make and to issue and sell bonds of the district in such form or on such terms as the board may deem advisable, or to borrow

by any other reasonable means. No loan shall be made and no bonds shall be issued for a longer term than 30 years nor for any sum which, together with the total outstanding indebtedness of the district, exceeds 1/10 of 1% on the state equalized valuation of the taxable property within the district, unless the proposition of making such loans or of issuing bonds is submitted first to a vote of the school tax electors of the district at a general or special school election and approved by the majority of the electors voting thereon, in which event loans may be made or bonds may be issued for the purposes hereinbefore set forth in an equal amount to that provided by chapter 12 of part 2 of this act.

HISTORY: Add. 1966, p. 39, Act 21, Imd. Eff. Apr. 13.

340.299 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to bond of county superintendent of schools.

340.299a Board of education; superintendent, deputy; qualifications.

Sec. 299a. Persons eligible to hold the office of superintendent or deputy superintendent shall possess the following minimum qualifications:

- (a) Forty-five months' experience as a teacher or administrator in public schools.
- (b) Possess a teacher's certificate issued by the state board of education of this state and a master's degree in education from a college or university approved by a recognized accrediting agency. For any person holding the office of superintendent on the effective date of this chapter, the requirements of this section may be waived while he continues in such capacity in the same district or a reorganized district which includes this district.

HISTORY: Add. 1962, p. 413, Act 190, Eff. Mar. 28, 1963.

340.300 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to salary of county superintendent of schools.

340.300a Board of education; superintendent, deputy; surety bond.

Sec. 300a. The superintendent within 10 days from his appointment shall execute a surety bond approved and paid for by the board and filed with the president of the board in the penal sum of \$1,000.00 conditioned that he shall faithfully account for and pay over to the proper persons all moneys which may come into his hands by reason of his holding such office.

HISTORY: Add. 1962, p. 413, Act 190, Eff. Mar. 28, 1963.

340.301 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section made county superintendent of schools successor to county commissioner of schools.

340.301a Board of education; superintendent, deputy; powers, duties, responsibilities.

Sec. 301a. The superintendent and board in all respects shall be the legal successor to the powers, duties and responsibilities of the county superintendent and county board of education. The terms "county commissioner of schools" and "county superintendent of schools" when used in other acts shall be construed as "superintendent" as defined in this chapter. The superintendent shall have all powers and duties granted to the county commissioner of schools and county superintendent of schools by any and all other acts unless such powers and duties are inconsistent with this chapter. The superintendent shall be the executive officer of the board and shall:

- (a) Put into practice the educational policies of the state and of the board.
- (b) Recommend in writing all employees and suspend any employee for cause until the board considers the suspension.
- (c) Supervise and direct the work of assistants and other employees of the board.
- (d) Recommend in writing all teachers to the boards of education in constituent districts not employing local superintendents.

(e) In constituent districts not employing local superintendents, suspend any teacher for cause until the board of education of the district employing the teacher considers the suspension.

(f) Classify and control the promotion of pupils in constituent districts not employing local superintendents.

(g) Supervise and direct the work of the teachers in constituent districts not employing local superintendents.

(h) Receive the institute fee provided by law, if approved by the board, and pay the same to the treasurer.

(i) Examine and audit the books and records of any constituent school district when directed to do so by the superintendent of public instruction.

(j) Act as assistant conductor of institutes appointed by the superintendent of public instruction, and perform such other duties pertaining thereto as said superintendent shall require.

(k) Perform such duties as the superintendent of public instruction or the board prescribes, receive all forms and communications which may be sent to him by the superintendent of public instruction, dispose of the same as directed by the superintendent of public instruction, make reports as may be required by the superintendent of public instruction and at the close of his term of office deliver all records, books and papers belonging to the office to his successor.

(l) Examine the certified copy of statement of moneys proposed to be raised by the constituent districts required by law to be filed with the township clerk and the board of supervisors at the October session of the board, and notify the secretary of the board of education of any local district that fails to file such statements as are required by law or that has failed to qualify for aid under the general appropriating act made for the purpose of aiding in the support of the public school districts of the state of such failure.

(m) To make reports in writing to the boards of education of local districts in regard to all matters pertaining to the educational interests of the local districts.

HISTORY: Add. 1962, p. 413, Act 190, Eff. Mar. 28, 1963.

340.302 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to consolidation of school districts.

340.302a Intermediate school districts; consolidation, election, procedure; accounts, contracts.

Sec. 302a. Two or more adjoining intermediate school districts may combine to form a single intermediate school district when the reorganization has been approved by a majority of the electors voting on the question of the constituent districts of each intermediate district voting on the question in the annual elections of their constituent districts. The question of combining intermediate districts may be submitted by a resolution of the boards of the intermediate districts meeting in joint session, if approval of the election has been given by the state board of education. The question shall be submitted when petitions signed by a number of qualified electors of the constituent school districts of each intermediate school district, who are registered to vote in the city or township where they reside, equal in number to not less than 5% of the number of school memberships of the constituent districts of that intermediate district have been filed with the secretary of the board of any one of the intermediate school districts. On receipt of sufficient petitions the secretary shall apply for approval to the state board of education within 30 days and he shall cause the question to appear on the ballot of the next annual school election after such approval has issued. The ballots shall be furnished by the board of each intermediate school district for its constituent districts and shall be in substantially the following form:

“Shall the intermediate school districts of and counties be organized as a single intermediate district?

Yes ()

No ()”

The provisions of this chapter shall become effective in the combined intermediate districts 30 days after the date of the last election in a constituent school district provided that the consolidation has been approved by a majority of the electors voting on the question in each of the participating intermediate school districts, and thereafter the intermediate district shall be considered a single intermediate district subject to the provisions of this chapter. The members of the boards of the original intermediate districts shall act as an interim board until a board of the combined intermediate district has been chosen, and shall possess all the powers and duties of a board as provided in this chapter. The person chosen by the interim board as superintendent shall serve only until his successor has been chosen by the elected board. The secretary of the board of the intermediate district having the largest number of children in membership in its constituent districts at the time of reorganization shall call the members of the interim board into session for the purpose of organization, on the day the reorganization becomes effective, unless that day is a Sunday or holiday, in which case it shall be the next succeeding day not a Sunday or a holiday. The secretary of the interim board shall take all necessary steps to provide for the election of a board of the reorganized intermediate district in accordance with the provisions of sections 294b to 294h of this act. At the first election there shall be elected 3 members of a board for 6 years, 2 for 4 years and 2 for 2 years. At least 3 members shall be from 1 district if there are 2 intermediate districts that have joined together, at least 2 from each district if 3 districts joined and at least 1 member from each district if there are 4 or more intermediate districts joined together. Thereafter their successors shall be elected biennially for a term of 6 years. The time from the date of election to the next July 1 shall be considered 1 year. The combined intermediate district shall operate as a single intermediate district from the effective date of the reorganization. Within 10 days following the reorganization, all accounts of each intermediate school district becoming a part of the reorganized district shall be audited in accordance with provisions established by the interim board. The provisions of the contracts of the superintendents in force as of the effective date of reorganization shall continue in effect to time of termination except as to positions as superintendents.

HISTORY: Add. 1962, p. 414, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 594, Act 290, Eff. Aug. 26.

340.303 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to intermediate school districts treasurer.

340.303a Intermediate school district; annexation; property, funds; members.

Sec. 303a. Any intermediate school district may be annexed to another intermediate school district whenever the board of the annexing district by resolution has determined, and a majority of the registered and qualified school electors of the intermediate district becoming annexed, voting on the question at an annual or special election in the constituent districts, has approved the annexation. If the annexing intermediate district has adopted the provisions of sections 307a to 324a of this act, the electors of the constituent districts of the intermediate district to be annexed must vote to accept those provisions. The vote on the question shall be by printed or duplicated ballot furnished by the board of the district to be annexed. Before the election is held, the board of the annexing district shall obtain the approval of the state board of education of the proposed annexation. Within 10 days of the holding of such an election, each constituent district shall file the result with the secretaries of his respective intermediate dis-

trict, and 5 days thereafter such secretaries shall file the result with the secretaries of the boards of the annexing district. Within 15 days after the election approving the annexation, the members of the board of the annexed district shall account to the board of the annexing district for the funds and property in their hands and shall turn over the same to the board of the annexing district. All property and moneys belonging to the annexed district shall become the property of the annexing district and all outstanding indebtedness of the annexed district shall become the liability of the annexing district. Upon receipt of the funds and property by the board of the annexing district, the members of the board of the annexed district shall be released from liability therefor and their offices terminated. The effective date of the annexation shall be the latest date on which an election was held in a constituent district of the annexed intermediate district. The secretary of the board of the annexing district shall give written notice of the annexation to the state board of education within 15 days of the annexation. Within 30 days after the effective date of annexation, the board of the annexing district shall appoint 2 tax electors of the constituent districts of the annexed district to membership on the board of the reorganized district, who shall serve until July 1 following the next biennial election, and notification of the appointments shall be filed with the state board of education. If the appointments are not made within the 30 days, the state board of education shall make the appointments. At the next biennial election, members of the board shall be elected to the number and for the terms as required in section 302a of this chapter. The terms of the members of the board whose terms have not expired shall determine the terms of the additional members to be elected.

HISTORY: Add. 1962, p. 415, Act 190, Eff. Mar. 28, 1963.

340.304 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section provided for intermediate school districts joint budget meetings.

340.304a Area study committee; plan, approval; membership.

Sec. 304a. Area studies based on a portion or all of an intermediate district or on not more than 3 intermediate districts or on such fractions of contiguous intermediate districts as may be involved shall be authorized by the superintendent of public instruction upon the receipt of a petition and plan for the proposed study. A petition and plan for an area study may be made by the board or the superintendent of any intermediate district to be included within the study or the petition accompanied by a plan may be signed by registered and qualified electors numbering at least 5% of the total vote cast within the cities, townships and counties lying within the area for the office of secretary of state in the last preceding general election at which a secretary of state was elected. The plan for the area study, which shall be subject to the approval of the superintendent of public instruction, shall prescribe the membership of the area study committee, hereafter referred to as the "committee". The membership of the committee selected shall be proportionately representative of urban and rural areas as nearly as practicable. The superintendent of public instruction shall prescribe the procedures for the establishing and terminating of area studies.

HISTORY: Add. 1962, p. 415, Act 190, Eff. Mar. 28, 1963.

340.305 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to transmittal of funds of intermediate school districts.

340.305a Area study committee; study; report, contents.

Sec. 305a. The area committee shall:

(a) Make comprehensive study of the educational conditions and needs of the area and recommend changes in local school district organization which will afford better educational opportunities, more efficient and economical administration of the public schools, and a more equitable sharing of public school support.

(b) Confer with school authorities and residents of the school districts of the area, hold public hearings, and furnish to school officials and to the public information concerning educational conditions and needs of school districts in the area.

(c) Make a report to the superintendent of public instruction within 2 years after the date of its appointment. The report shall deal with the educational conditions and needs of the local school districts of the area and shall include maps showing boundaries of existing school districts, the location of school lands and buildings, school transportation routes and the boundaries of recommended school districts.

HISTORY: Add. 1962, p. 416, Act 190, Eff. Mar. 28, 1963.

340.306 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to intermediate school district area studies.

340.306a Area study committee; contributions toward cost.

Sec. 306a. An area study committee may accept contributions toward the cost of making the area study. Contributions may be in money, services or materials.

HISTORY: Add. 1962, p. 416, Act 190, Eff. Mar. 28, 1963.

340.307 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to intermediate school district area studies.

340.307a Special education program; adoption, rescission.

Sec. 307a. Sections 307a to 324a of this act shall become effective whenever a majority of the school electors of an intermediate school district, present and voting, in any one year at the several annual and special school elections in the constituent school districts, vote as provided in sections 308b and 308c to come under the provisions. The effect of the provisions of these sections may be rescinded by the same process.

HISTORY: Add. 1962, p. 416, Act 190, Eff. Mar. 28, 1963;—Am. 1969, p. 32, Act 19, Imd. Eff. Jun. 5.

340.308 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to contributions to area study committee.

340.308a Repealed. 1969, p. 33, Act 19, Imd. Eff. Jun. 5.

Section related to intermediate school district referendum procedure.

340.308b Intermediate districts; election, date, determination, notice; special election.

Sec. 308b. The question of adopting the provisions of sections 307a to 324a may be submitted to the school electors of an intermediate district at the annual election or at a special election held in each of the constituent districts, except that in intermediate districts having a population over 1,000,000 no intermediate wide special election on such question shall be held except at a state primary or general election. The intermediate district board shall determine the date of the election and upon the approval by the county screening committee, pursuant to the provisions of section 639 of Act No. 116 of the Public Acts of 1954, being section 168.639 of the Compiled Laws of 1948, shall give notice to the boards of constituent districts at least 60 days in advance of the election that the question of adoption of these sections shall be submitted to the electors of the district on the date specified. When the question is presented at the annual school elections of constituent districts and any 1 or more constituent districts do not hold annual school elections, the intermediate district board shall call a special election in such districts to be held on the same date as that of the annual school elections. When the intermediate district board determines that the question of adopting sections 307a to 324a shall be submitted to the electors of the intermediate district at a special election in all constituent districts, the election shall be held and conducted by the same election officials and in the same manner as special elections of the constitu-

ent districts are conducted, except that all districts shall vote in the manner of registration districts.

HISTORY: Add. 1969, p. 32, Act 19, Imd. Eff. Jun. 5.

340.308c Intermediate districts; ballots, preparation, distribution; costs, expenses.

Sec. 308c. The secretary of the intermediate district board shall print and distribute sufficient ballots and applications for ballots so that the electors of each constituent district may vote on the question or questions submitted. The board of the intermediate district shall pay the cost of the printing of the ballots and the furnishing of election supplies used in all of the participating constituent districts. All other expenses incurred for the election in any election unit shall be paid by the board of education of such local election unit. This section shall apply to elections called under the provisions of sections 307a to 324a.

HISTORY: Add. 1969, p. 32, Act 19, Imd. Eff. Jun. 5.

340.309 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section contained intermediate school district definitions.

340.309a Repealed. 1969, p. 33, Act 19, Imd. Eff. Jun. 5.

Section required board of education of each school district to appoint board of election inspectors to conduct balloting, and also required board of education to canvass vote as taken and report results to secretary of board of intermediate district within 10 days of election.

340.310 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to referendum on handicapped children education program.

340.310a Repealed. 1969, p. 33, Act 19, Imd. Eff. Jun. 5.

Section related to intermediate school district canvass of election reports, record.

340.310b Intermediate district; election returns, filing, canvass, notice of determination.

Sec. 310b. The election returns shall be filed with the secretary of the board of each constituent school district. Before 11:00 a.m. on the following day the secretary of each district shall deliver said election returns to the county clerk. The canvass shall be made in accordance with the applicable provisions of the general election law. A notice of the determination of such canvass shall be filed with the secretary of the board of the intermediate school district, who shall in turn send copies to the boards of education of the constituent school districts and the superintendent of public instruction.

HISTORY: Add. 1969, p. 32, Act 19, Imd. Eff. Jun. 5.

340.311 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to intermediate school district election procedure.

340.311a Board of education; special education budget, preparation.

Sec. 311a. Each board of an intermediate school district coming under the provisions of sections 307a to 324a shall prepare annually a special education budget which shall be in the same form as that provided for other school districts, and shall be delivered to the county clerks of the counties in which the district is located. Each county clerk receiving the budget shall deliver it into the hands of the tax allocation board in the same manner as other school district budgets are handled.

HISTORY: Add. 1962, p. 417, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 347, Act 246, Eff. Aug. 28;—Am. 1968, p. 564, Act 320, Imd. Eff. Jul. 3.

340.312 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to conduct of intermediate school district elections.

340.312a Intermediate district; tax rate, allocation by county tax allocation board.

Sec. 312a. County tax allocation boards shall receive special education budgets from their respective county clerks; shall treat them as other school district budgets are

treated; and shall allocate tax rates to intermediate school districts for the purposes set forth in sections 307a to 324a. The allocations shall be handled in the same manner as other allocations for school districts. The allocations shall not be made within the 15-mill limitation and may not exceed the limit authorized by the election at which these sections are placed in effect.

HISTORY: Add. 1962, p. 417, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 347, Act 246, Eff. Aug. 28;—Am. 1968, p. 564, Act 320, Imd. Eff. Jul. 3.

340.313 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to canvass of intermediate school district election returns.

340.313a Board of education; certification of taxes.

Sec. 313a. When the board has received an allocation on the basis of its special education budget, it shall certify for collection to the several municipal and township officials concerned, a statement of the amount of taxes to be levied. The certification shall be made at the same time and in the same manner as other school districts but the rate certified for levy shall not exceed the amount allocated.

HISTORY: Add. 1962, p. 417, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 347, Act 246, Eff. Aug. 28;—Am. 1968, p. 564, Act 320, Imd. Eff. Jul. 3.

340.314 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to intermediate school district special education budget.

340.314a Board of education; special education tax spread on tax roll.

Sec. 314a. On receipt of the statement from the board, the municipal and township officials responsible for the levying and collection of taxes shall spread on the tax roll a special education tax equal to the amount ordered spread, and shall collect the taxes in the same manner as other taxes are collected.

HISTORY: Add. 1962, p. 417, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 348, Act 246, Eff. Aug. 28;—Am. 1968, p. 564, Act 320, Imd. Eff. Jul. 3.

340.315 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to allocation of taxes for special education and area vocational-technical education budgets.

340.315a Board of education; special education tax, payment to treasurer of board.

Sec. 315a. Taxes collected under the provisions of section 314a shall be paid over to the county treasurers in the same manner as other county taxes are paid over, and similar accounts and records shall be kept; and the county treasurers shall pay all funds received under section 314a to the treasurer of the board.

HISTORY: Add. 1962, p. 417, Act 190, Eff. Mar. 28, 1963.

340.316 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to certification of special education tax.

340.316a Adoption election; ballot, form.

Sec. 316a. The ballot to be used in referring the question of the adoption of sections 307a to 324a to the school electors of an intermediate school district shall be set forth in the following form:

“Shall the intermediate school district of county, state of Michigan, come under the provisions of sections 307a to 324a of the school code of 1955, which are designed to encourage the education of handicapped children if any annual property tax levied for administration is limited to mills?

Yes ()

No ()”

HISTORY: Add. 1962, p. 417, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 348, Act 246, Eff. Aug. 28;—Am. 1966, p. 133, Act 114, Imd. Eff. Jun. 22.—Am. 1968, p. 564, Act 320, Imd. Eff. Jul. 3.

340.316b Board of education; increase of millage; ballot, form.

Sec. 316b. An intermediate board of education operating under sections 307a to 324a may direct that the question of increasing the millage limit on the annual property tax levied for special education be submitted to the school electors of the constituent school districts. The election shall be called and held at the same time and in the same manner as provided in sections 308b and 308c for the original election held for the adoption of the special education program. The ballot shall be substantially in the following form:

"Shall the mill limitation on the annual property tax heretofore approved by the school electors of the intermediate school district, state of Michigan, for the education of handicapped children be increased by mills?"

Yes ()

No ()"

HISTORY: Add. 1963, p. 280, Act 191, Imd. Eff. May 15;—Am. 1964, p. 348, Act 246, Eff. Aug. 28;—Am. 1966, p. 133, Act 114, Imd. Eff. Jun. 22;—Am. 1968, p. 564, Act 320, Imd. Eff. Jul. 3;—Am. 1969, p. 32, Act 19, Imd. Eff. Jun. 5.

340.317 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to collection of taxes for special education or area vocational-technical education.

340.317a Board of education; special education programs, operation; funds, use, restrictions.

Sec. 317a. Boards coming under the provisions of sections 307a to 324a shall operate special education programs in those instances where the service is not available in special education centers. The boards may employ teachers and other personnel, and provide for their transportation, purchase and maintain special education supplies and equipment, and secure proper office space and supplies. Boards shall not appropriate funds to maintain or construct buildings to house special education classes unless the buildings are owned by constituent school districts and are under the administration of the board of education of a special education center. Boards shall not expend special education funds for purposes other than those set forth in sections 307a to 324a.

HISTORY: Add. 1962, p. 418, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 348, Act 246, Eff. Aug. 28;—Am. 1966, p. 134, Act 114, Imd. Eff. Jun. 22;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

340.318 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to transmittal of collected taxes.

340.318a Board of education; special education, availability of subsidy.

Sec. 318a. Boards maintaining special education programs may carry children in membership in the same manner as local school districts and shall be entitled to their proportionate share of any state funds available under the law in subsidy for such programs.

HISTORY: Add. 1962, p. 418, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 349, Act 246, Eff. Aug. 28;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

340.319 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to form of ballot on special education or vocational-technical education.

340.319a Board of education; payments to special education centers.

Sec. 319a. Boards operating under sections 307a to 324a shall make payments from special education funds to those constituent districts maintaining special education centers. The payments shall be computed in the following manner: The per capita cost of each type of special education in each constituent facility shall be computed. From this amount shall be deducted the current per capita state subsidy, including membership as well as special education grants, for each type of special education. All or part of the difference resulting, multiplied by the number of pupils educated, shall be reimbursable by the board. If the funds are not sufficient to make up all this difference, a

like percent of the difference shall be paid to all constituent centers in the intermediate school district.

HISTORY: Add. 1962, p. 418, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 349, Act 246, Eff. Aug. 28;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

Former section 340.319a (Sec. 319a added by Act 146, 1962, p. 139, Eff. Mar. 28, 1963) was repealed by Act 190, 1962, p. 419, Eff. Mar. 28, 1963. It provided for submission to school electors question of increase of millage on annual property tax for special education and form of ballot.

340.320 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to special education programs.

340.320a Board of education; grants; buildings, sites; equipment; conditions.

Sec. 320a. The board may make grants of moneys to constituent districts operating special education centers, or county trainable programs or a combination thereof for the purpose of building special education or county trainable program buildings or purchasing land or special education or county trainable program equipment, if prior to the granting of the funds the board of education of the constituent district wherein the center is located has contracted to receive nonresident children into the facility for a period of at least 15 years after the date of contract.

HISTORY: Add. 1962, p. 418, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 349, Act 246, Eff. Aug. 28;—Am. 1967, p. 619, Act 292, Imd. Eff. Aug. 1;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

340.320b Repealed. 1968, p. 570, Act 320, Imd. Eff. Jul. 3.

Section related to vocational-technical buildings; election, bond issuance; approval by board of school district; limitations on bonds.

340.320c Repealed. 1968, p. 570, Act 320, Imd. Eff. Jul. 3.

Section related to vocational-technical building bonds, form of ballot.

340.321 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to availability of state subsidy for children in certain programs.

340.321a Board of education; contracts with districts; nonresident pupils.

Sec. 321a. The board may enter into long term contracts with constituent districts. The contracts shall provide that the constituent districts are bound to accept nonresident pupils into specified special education or county trainable program facilities in return for and in consideration of grants in aid for the construction of special education or county trainable buildings and the purchase of special education or county trainable equipment or land.

HISTORY: Add. 1962, p. 418, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 349, Act 246, Eff. Aug. 28;—Am. 1967, p. 620, Act 292, Imd. Eff. Aug. 1;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

340.322 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to subsidies for special education centers.

340.322a Board of education; special education center; constituent districts, contracts.

Sec. 322a. Any constituent district maintaining a special education facility approved by the superintendent of public instruction may enter into contracts with the board and shall become a special education center by contracting with the board to accept those nonresident pupils assigned into its facility by the board.

HISTORY: Add. 1962, p. 418, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 349, Act 246, Eff. Aug. 28;—Am. 1968, p. 135, Act 114, Imd. Eff. Jun. 22;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

340.323 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to grants to build educational centers.

340.323a Board of education; funds, payment.

Sec. 323a. Special education funds held by the treasurer for the board shall be paid out by him on order of the board.

HISTORY: Add. 1962, p. 418, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 350, Act 246, Eff. Aug. 28;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

340.324 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to long term contracts for nonresident students in special education or vocational-technical education.

340.324a Board of education; visitation committee, members, duties.

Sec. 324a. The board, each year, shall appoint a committee of at least 5 persons, to consist of at least 2 school superintendents and 3 board members of constituent districts, who, along with the superintendent of public instruction or his agent, shall visit special education facilities in the intermediate district and advise the board relative to the administration of sections 307a to 324a.

HISTORY: Add. 1962, p. 419, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 350, Act 246, Eff. Aug. 28;—Am. 1968, p. 565, Act 320, Imd. Eff. Jul. 3.

340.325 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to school district contracts with county board to become special education center or area vocational-technical education center.

340.325a Intermediate district; reorganization; formation; state aid.

Sec. 325a. On and after July 1, 1964 any intermediate district, the constituent school districts of which had a school membership of less than 5,000 as of the fourth Friday after Labor day of the preceding school year, shall be subject to sections 325a to 326a. Such intermediate district before July 1, 1965 shall combine with 1 or 2 adjoining intermediate districts, as provided in section 303a, resulting in a reorganized intermediate district, the constituent districts of which had a membership of 5,000 or more on the fourth Friday after Labor day of that school year. If 3 adjoining intermediate districts reorganize and if the combined membership of the constituent districts thereof is less than 5,000, then such a reorganized intermediate district shall have met the requirements of this section by such reorganization. Any intermediate district which has voted a millage for special education or area vocational-technical education and is providing special education or area vocational-technical education services shall not be subject to the provisions of sections 325a and 326a, and shall be entitled to state aid on the same basis as intermediate school districts having a combined membership of the constituent districts of 5,000 or more.

HISTORY: Add. 1962, p. 419, Act 190, Eff. Mar. 28, 1963;—Am. 1963, p. 91, Act 77, Imd. Eff. May 8;—Am. 1964, p. 350, Act 246, Eff. Aug. 28.

340.326 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to payments from special education funds.

340.326a Intermediate district; forfeiture of state aid for school.

Sec. 326a. Any intermediate school district which fails to comply with the provisions of section 325a shall forfeit all financial benefits to which it might be entitled as the result of legislative appropriations for school aid purposes.

HISTORY: Add. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

340.327 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section provided for visitation committee for special education and area vocational-technical facilities in county.

340.327a Board of education; special education, area vocational-technical education; funds, investment.

Sec. 327a. The treasurer of any county, when authorized by resolution of the board of an intermediate school district, shall invest special education or area vocational-technical education funds of such district. Investments shall be restricted to the following:

- (a) Bonds, bills or notes of the United States, or obligations, the principal and interest of which are fully guaranteed by the United States, or obligations of the state.
- (b) Certificates of deposit issued by any state or national bank organized and authorized to operate a bank in this state.

HISTORY: Add. 1962, p. 419, Act 190, Eff. Mar. 28, 1963;—Am. 1964, p. 350, Act 246, Eff. Aug. 28.

340.328 Repealed. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

Section related to investment of funds for special education or area vocational-technical education.

340.328a Intermediate district; state aid, minimums.

Sec. 328a. Notwithstanding the provisions of any other act, no intermediate school district established under this act shall receive less state aid than the corresponding county school district, as established under sections 291 to 308 of this act, received during the fiscal year ending June 30, 1962 under the provisions of Act No. 312 of the Public Acts of 1957, as amended, and no such district shall receive a greater percentage increase in state aid than the percentage increase in the per pupil allowance granted to all other school districts under the provisions of Act No. 312 of the Public Acts of 1957 for the fiscal year ending June 30, 1963 as compared to the fiscal year ending June 30, 1962.

HISTORY: Add. 1962, p. 419, Act 190, Eff. Mar. 28, 1963.

340.329 Intermediate district; special education program, election not to adopt.

Sec. 329. Any of the provisions of sections 307a to 324a to the contrary notwithstanding, any school district having a school census of not less than 45,000 students between the ages of 5 to 19 as certified by the state superintendent of public instruction, offering not less than 5 special education programs, as defined in paragraph (f) of section 291a, may elect not to come under the provisions of sections 307a to 324a insofar as special education programs are concerned, by resolution adopted by its board of education not later than 30 days after receipt of notice that the question of coming under these sections will be submitted to the electors of the district or within 30 days after the effective date of this act, whichever is later. Any school district electing not to come under the provisions of sections 307a to 324a may thereafter elect to come under the provisions of such sections if at special or annual election a majority of the school electors present and voting approve an increase in the constitutional limitation on taxes in the school district for these purposes in the same amount and for the same years as are still in effect in the constituent districts.

HISTORY: Add. 1963, p. 168, Act 120, Imd. Eff. May 10;—Am. 1964, p. 350, Act 246, Eff. Aug. 28;—Am. 1964, p. 595, Act 290, Eff. Aug. 28;—Am. 1966, p. 135, Act 114, Imd. Eff. Jun. 22;—Am. 1968, p. 566, Act 320, Imd. Eff. Jul. 3.

340.329a Board of education; special education program; acceptance of nonresident pupils, contract.

Sec. 329a. The intermediate board of education and any school district which elects not to come under the provisions of sections 307a to 324a may nevertheless contract to accept nonresident pupils into special education facilities wherever situated within the intermediate school district upon such terms and conditions as the boards of education shall agree.

HISTORY: Add. 1963, p. 169, Act 120, Imd. Eff. May 10.

340.329b Board of education; special education program; grants for building, equipment.

Sec. 329b. The intermediate board of education may make grants of money to districts electing not to come under the provisions of sections 307a to 324a which operate special education centers for the purpose of building special education buildings or purchasing land or special education equipment. Prior to the granting of such funds, the school board of the district electing not to come under the provisions of these sections and in which the center is located shall have contracted with the intermediate board to receive nonresident children into the facility for a period of at least 15 years after the date of the contract upon such other terms and conditions as the boards of education shall agree.

HISTORY: Add. 1963, p. 169, Act 120, Imd. Eff. May 10.

340.330 Intermediate district; area vocational-technical education programs, adoption, rescission.

Sec. 330. Sections 330 to 330u shall become effective whenever a majority of the registered electors of an intermediate district, present and voting in any one year, at the several annual or special school elections in the constituent districts, vote as provided in section 330a to adopt the provisions of these sections. The effect of the provisions of these sections may be rescinded by the same process.

HISTORY: Add. 1968, p. 566, Act 320, Imd. Eff. Jul. 3.

340.330a Area vocational-technical programs; submission to electors; date of election, notice.

Sec. 330a. The question of adopting the provisions of sections 330d to 330u may be submitted to the school electors of an intermediate district at the annual election or at a special election held in each of the constituent districts. The intermediate district board shall determine the date of such election and shall give notice to the boards of constituent districts at least 60 days in advance of the election that the question of adoption of these sections shall be submitted to the electors of the district on the date specified. When the question is presented at the annual school elections of constituent districts and any one or more constituent districts do not hold annual school elections, the intermediate district board shall call a special election in such districts to be held on the same date as that of the annual school elections. When the intermediate district board determines that the question of adopting sections 330d to 330u shall be submitted to the electors of the intermediate district at a special election in all constituent districts, the election shall be held and conducted by the same election officials and in the same manner as special elections of the constituent districts are conducted, except that all districts shall vote in the manner of registration districts.

HISTORY: Add. 1968, p. 566, Act 320, Imd. Eff. Jul. 3.

340.330b Area vocational-technical programs; ballots, preparation, distribution, expense; application of section.

Sec. 330b. The secretary of the intermediate district board shall print and distribute sufficient ballots and applications for ballots so that the electors of each constituent district may vote on the question or questions submitted. The board of the intermediate district shall pay the cost of the printing of the ballots and the furnishing of election supplies used in all of the participating constituent districts. All other expenses incurred for the election in any election unit shall be paid by the board of education of such local election unit. This section shall apply to elections called under the provisions of sections 330a, 330d and 330n.

HISTORY: Add. 1968, p. 566, Act 320, Imd. Eff. Jul. 3.

340.330c Area vocational-technical programs; ballot; adoption, election, form.

Sec. 330c. The ballot to be used in referring the question of the adoption of sections 330d to 330u to the school electors of an intermediate district shall be set forth in the following form:

“Shall the intermediate school district of county, state of Michigan, adopt the provisions of sections 330d to 330u of the school code of 1955, which are designed to encourage the establishment and contracting for the operation of area vocational-technical education programs if any annual property tax levied for this purpose is limited to mills?

Yes ()

No ()”

HISTORY: Add. 1968, p. 566, Act 320, Imd. Eff. Jul. 3.

340.330d Area vocational-technical programs; ballot; millage increase.

Sec. 330d. An intermediate board of education operating under sections 330 to 330u may direct that the question of increasing the millage limit on the annual property tax levied for area vocational-technical education be submitted to the school electors of the constituent districts. The election shall be called and held at the same time and in the same manner as provided in section 330a for the original election held for the adoption of the area vocational-technical education program. The ballot shall be substantially in the following form:

“Shall the mill limitation on the annual property tax heretofore approved by the school electors of the intermediate school district, state of Michigan, for the establishment and contracting for the operation of area vocational-technical education programs be increased by mills?

Yes ()

No ()”

HISTORY: Add. 1968, p. 567, Act 320, Imd. Eff. Jul. 3.

340.330e Area vocational-technical programs; canvass of election; board, report, findings.

Sec. 330e. The election returns shall be canvassed by the board of canvassers of each constituent district. The board of canvassers shall report the results of the canvass to the secretary of the board of the intermediate district by certified mail within 10 days of the election. Within 15 days of the election, the board of canvassers of the intermediate district shall meet and canvass the election returns of the constituent districts. The findings of the board shall be a matter of record in its minutes and shall be distributed by the secretary to the boards of education of the constituent districts and to the superintendent of public instruction.

HISTORY: Add. 1968, p. 567, Act 320, Imd. Eff. Jul. 3.

340.330f Area vocational-technical budget; preparation, delivery.

Sec. 330f. Each board of an intermediate school district coming under the provisions of sections 330 to 330u shall prepare annually an area vocational-technical education budget which shall be in the same form as that provided for other school districts, and shall be delivered to the county clerks of the counties in which the district is located. Each county clerk receiving the budget shall deliver it into the hands of the tax allocation board in the same manner as other school district budgets are handled.

HISTORY: Add. 1968, p. 567, Act 320, Imd. Eff. Jul. 3.

340.330g Area vocational-technical budget; tax rate, allocation, limitation.

Sec. 330g. County tax allocation boards shall receive area vocational-technical education budgets from their respective county clerks; shall treat them as other school district budgets are treated; and shall allocate tax rates to intermediate school districts for the purposes set forth in sections 330 to 330u. The allocations shall be handled in the same manner as other allocations for school districts. The allocations shall not be made within the 15-mill limitation and may not exceed the limit authorized by the election at which these sections are placed in effect.

HISTORY: Add. 1968, p. 567, Act 320, Imd. Eff. Jul. 3.

340.330h Area vocational-technical budget; certification of taxes, rate limitation.

Sec. 330h. When the board has received an allocation on the basis of its area vocational-technical education budget, it shall certify for collection to the several munici-

pal and township officials concerned, a statement of the amount of taxes to be levied. The certification shall be made at the same time and in the same manner as other school districts but the rate certified for levy shall not exceed the amount allocated.

HISTORY: Add. 1968, p. 567, Act 320, Imd. Eff. Jul. 3.

340.330i Area vocational-technical tax; roll; collection.

Sec. 330i. On receipt of the statement from the board, the municipal and township officials responsible for the levying and collection of taxes shall spread on the tax roll an area vocational-technical education tax equal to the amount ordered spread, and shall collect the taxes in the same manner as other taxes are collected.

HISTORY: Add. 1968, p. 568, Act 320, Imd. Eff. Jul. 3.

340.330j Area vocational-technical tax; payment to board treasurer and county treasurers.

Sec. 330j. Taxes collected under the provisions of section 330i shall be paid over to the county treasurers in the same manner as other county taxes are paid over, and similar accounts and records shall be kept. The county treasurers shall pay all funds received under section 330i to the treasurer of the board.

HISTORY: Add. 1968, p. 568, Act 320, Imd. Eff. Jul. 3.

340.330k Area vocational-technical program; operation; approval; funds, use, limitation.

Sec. 330k. Boards coming under the provisions of sections 330 to 330u may operate area vocational-technical education programs. Such programs shall be approved by majority vote of the representatives of the constituent school districts of the intermediate district at the annual budget meeting held on or before March 1 as provided in section 298a. They shall not expend area vocational-technical education funds for purposes other than those set forth in sections 330 to 330u.

HISTORY: Add. 1968, p. 568, Act 320, Imd. Eff. Jul. 3;—Am. 1969, p. 534, Act 291, Imd. Eff. Aug. 11.

340.330l Intermediate districts; boards; payment of funds, computation.

Sec. 330l. Boards operating under sections 330 to 330u shall make payments from area vocational-technical education funds to those constituent districts and community colleges under contract, serving the intermediate district, which operate area vocational-technical education centers. The payment shall be computed as follows: the total cost of an area vocational-technical education center shall be computed. From this amount shall be deducted the current state-federal vocational education reimbursement for the area vocational-technical education center. All or part of the difference resulting shall be reimbursable by the board. If the funds are not sufficient to make up this difference, a like percent of the difference shall be paid to all area vocational-technical education centers in the intermediate school districts.

HISTORY: Add. 1968, p. 568, Act 320, Imd. Eff. Jul. 3.

340.330m Intermediate districts; boards; area vocational-technical program; grants for buildings, sites; contracts, conditions.

Sec. 330m. (1) Boards may make grants of moneys to constituent districts operating area vocational-technical education centers, or to community colleges serving the intermediate district with area vocational-technical education programs, for the purpose of constructing area vocational-technical education buildings, or for site acquisition, or area vocational-technical education equipment, if prior to the granting of the funds the board of education of the constituent district wherein the center is located has contracted to receive nonresident children into the facility for a period of at least 15 years after the date of contract and in the case of a community college, if the board of trustees has contracted to receive nonresident persons on a tuition basis into the facility for a period of at least 15 years after the date of contract.

(2) The contracts shall provide that the constituent districts or community colleges are bound to accept nonpublic school pupils and nonresident pupils into specified area vocational-technical education facilities in return for and in consideration of grants-in-aid for the construction of area vocational-technical education buildings, and for the purchase of area vocational-technical education buildings, sites and area vocational-technical education equipment.

HISTORY: Add. 1968, p. 568, Act 320, Imd. Eff. Jul. 3.

340.330n Intermediate districts; boards; area vocational-technical program; bonds, issuance, amount, refunding, submission to electors.

Sec. 330n. (1) Boards coming under the provisions of sections 330 to 330u, by a majority vote of the registered school tax electors voting on the question at an annual or special election called for that purpose, may borrow money and issue bonds of the intermediate district subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, to defray all or any part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping or reequipping area vocational-technical buildings and other facilities, or any parts thereof or additions thereto; acquiring, preparing, developing or improving sites, or any parts thereof or additions thereto, for area vocational-technical buildings and other facilities; refunding all or any part of existing bonded indebtedness; or the accomplishing of any combination of the foregoing purposes. No intermediate district shall issue bonds under this chapter for an amount greater than 1.5% of the total assessed valuation of the intermediate district, nor shall the bonded indebtedness of an intermediate district extend beyond a period of 30 years for money borrowed.

(2) Refunding bonds or the refunding part of any such bond issue shall not be deemed to be within the 1.5% limitation but shall be deemed to be authorized in addition thereto. Any bond qualified under section 16 of article 9 of the state constitution and any implementing legislation shall not be included for purposes of calculating the foregoing 1.5% limitation.

(3) The intermediate district board may direct that the proposal to issue bonds of the intermediate district, authorized under this section, be submitted to the school tax electors of the intermediate district at the same election at which the school electors of the district vote on the establishment of area vocational-technical education programs through the adoption of the provisions of sections 330 to 330u. In the event these questions are presented to the electors at the same election, the board shall include the bond proposal in the 60-day notice given the constituent district boards. The establishment of the area vocational-technical education program shall become effective if a majority of the school electors, voting thereon, approve adopting sections 330 to 330u. The authority to issue bonds shall be effective only if a majority of the school electors approve the establishment of the area vocational-technical education program and a majority of the school tax electors, voting thereon, approve the issuance of bonds.

HISTORY: Add. 1968, p. 568, Act 320, Imd. Eff. Jul. 3;—Am. 1969, p. 534, Act 291, Eff. Aug. 11.

340.330p Intermediate districts; boards; area vocational-technical program; bond election, ballot.

Sec. 330p. The ballot to be used in referring the question of borrowing money for the purpose of issuing bonds under the provisions of section 330n shall be in substantially the following form:

“Shall, (here state the legal name of the intermediate district with the name of any district of not less than 29,000 students or first or second class district which has elected not to come under the provisions of this act as far as an area voca-

tional-technical education program is concerned) state of Michigan, borrow the sum of not to exceed \$..... and issue its bonds therefor, for the purpose of

Yes ()

No ()"

HISTORY: Add. 1968, p. 569, Act 320, Imd. Eff. Jul. 3.

340.330q Intermediate districts; area vocational-technical program; constituent districts, community colleges; contracts.

Sec. 330q. Any constituent district or community college maintaining an area vocational-technical education facility approved by the superintendent of public instruction may enter into contracts with the board and shall become an area vocational-technical education center by contracting with the board to accept those nonresident pupils assigned into its facility by the board.

HISTORY: Add. 1968, p. 569, Act 320, Imd. Eff. Jul. 3.

340.330r Intermediate districts; area vocational-technical funds, payment.

Sec. 330r. Area vocational-technical education funds held by the treasurer for the board shall be paid out by him on order of the board.

HISTORY: Add. 1968, p. 569, Act 320, Imd. Eff. Jul. 3.

340.330s Intermediate districts; boards; area vocational program; advisory committee, appointment.

Sec. 330s. The board, each year, shall appoint a committee of at least 5 persons, to consist of at least 2 school superintendents and 3 board members of constituent districts, who, along with the superintendent of public instruction or his agent, shall visit area vocational-technical education facilities in the intermediate district and advise the board relative to the administration of sections 330 to 330u.

HISTORY: Add. 1968, p. 569, Act 320, Imd. Eff. Jul. 3.

340.330t Area vocational program; election not to participate.

Sec. 330t. Any school district of not less than 29,000 students or districts of the first or second class may elect not to come under the provisions of sections 330 to 330u as far as an area vocational-technical education program is concerned as defined in section 291a by resolution adopted by its board of education not later than 30 days after receipt of notice that the question of coming under these sections will be submitted to the electors of the district. Any school district electing not to come under the provisions of sections 330 to 330u may thereafter elect to come under the provisions of such sections if at a special or annual election a majority of the school electors present and voting approve an increase in the constitutional limitation on taxes in the school district for these purposes in the same amount and for the same years as are still in effect in the other constituent districts of the intermediate district.

HISTORY: Add. 1968, p. 570, Act 320, Imd. Eff. Jul. 3.

340.330u Area vocational program; existing programs.

Sec. 330u. Area vocational education programs established by referendums held prior to the effective date of this amendatory act shall continue to operate under sections 330 to 330u.

HISTORY: Add. 1968, p. 570, Act 320, Imd. Eff. Jul. 3.

340.330v Intermediate district; disorganization, procedure.

Sec. 330v. An intermediate school district comprised of less than 5 constituent districts and having no bonded indebtedness may be disorganized and its constituent school districts attached to contiguous intermediate school districts as provided in this and the following sections. The board of education of each constituent school district in an intermediate district may request the board of education of the intermediate

school district to prescribe a plan for disorganization of the intermediate district. Each request shall prescribe another intermediate school district to which the constituent school district desires to be attached. When so requested by the boards of education of all the constituent school districts, the board of education of the intermediate school district shall prescribe by resolution a plan whereby each of the constituent school districts will be attached in whole to contiguous intermediate school districts prescribed in the requests but if the desired intermediate school district would not be contiguous under the plan then the plan may prescribe attachment to any contiguous district. The superintendent of the intermediate school district which is to be disorganized shall give at least 30 days' notice of the time and place of the meeting of the board of education and of the proposed plan for disorganization to be considered at the meeting by publication of such notice in a newspaper of general circulation in the intermediate school district. The board shall present the adopted plan for dissolution to the board of each of its constituent school districts and the board of each intermediate school district whose boundaries would be enlarged by such proposal.

HISTORY: Add. 1989, p. 476, Act 245, Imd. Eff. Aug. 11.

340.330w Intermediate district; receiving districts; notice, approval of plan, effective date.

Sec. 330w. The superintendent of each intermediate school district whose boundaries would be enlarged by the dissolution shall give at least 30 days' notice of the time and place of the meeting of the board of education of the intermediate school district and of the recommended plan for enlargement of such district which is to be considered at the meeting by publication of such notice in a newspaper of general circulation in the intermediate school district. When the boards of each affected intermediate school district have approved the plan for disorganization, the board of the intermediate school district to be dissolved shall refer the matter to the state board of education for approval. The action of the state board of education declaring such district dissolved shall be final. The disorganization of the intermediate school district and the attachment of its constituent school districts to contiguous intermediate school districts shall become effective on July 1 next succeeding the date of the approval of the state board of education.

HISTORY: Add. 1989, p. 477, Act 245, Imd. Eff. Aug. 11.

340.330x Intermediate district; distribution of assets; taxes.

Sec. 330x. The boards of education of the intermediate school districts to which territory is attached by such dissolution shall meet jointly, sitting as a single board, and make an equitable distribution of the money, property and other assets belonging to the disorganized district among the intermediate school districts affected. The territory of constituent school districts transferred to other intermediate school districts by the disorganization of an intermediate school district shall be subject to all taxes levied for purposes of the intermediate school district to which transferred, including taxes for the retirement of bonded indebtedness, special education programs and vocational education programs.

HISTORY: Add. 1989, p. 477, Act 245, Imd. Eff. Aug. 11.

PART 2.

CHAPTER 1.

RECLASSIFICATION OF DISTRICTS.

340.331 Reclassification of district; board of education; officers, continuance of term.

Sec. 331. Upon the effective date of this act, every board of education and the district board of any primary district shall become, respectively, the board of education

of each such district and shall function as such. The terms "graded", "township", or "rural agricultural school district", if used in part 2 of this act, shall mean "fourth class school district". Except as otherwise provided in this section, all persons lawfully elected or serving at the effective date of this act as members of boards of education or as president, secretary or treasurer, shall be deemed to have been elected as members of the board of education or as president, secretary or treasurer, respectively, under the terms of this act and shall continue in office as such for the remainder of the term for which elected or appointed.

HISTORY: New 1955, p. 526, Act 269, Eff. Jul. 1.

340.332 Board of education; continuance.

Sec. 332. The board of any district at the time of reclassification shall continue to be the board for such district until the next annual election. After the first annual election following reclassification, the board in each district shall be composed of the requisite number of members whose terms of office shall expire as required by this act.

HISTORY: New 1955, p. 526, Act 269, Eff. Jul. 1.

340.333 Board of education; membership, reduction.

Sec. 333. In districts in which the board, when reclassification takes effect, is composed of more members than are authorized by this act for districts of the class to which reclassified, the said boards shall determine the manner in which the personnel thereof shall be reduced to the proper number, which shall be in the order in which their respective terms of office would expire under the laws under which they were elected or appointed.

HISTORY: New 1955, p. 526, Act 269, Eff. Jul. 1.

340.334 Board of education; membership, increase.

Sec. 334. In districts in which the board, when reclassification takes effect, is composed of fewer members than are authorized by this act for the class to which reclassified, a sufficient number of members shall be elected at the next annual election in such districts to increase the personnel thereof to the number and for the terms required by this act for such districts, the terms of the members of the board whose terms have not expired to determine the terms of the additional members to be elected.

HISTORY: New 1955, p. 526, Act 269, Eff. Jul. 1.

340.335 Reclassified districts; classification; determination of population.

Sec. 335. In districts the classification of which depends upon the school census thereof, such school census shall be determined by the superintendent of public instruction based on the official school census as required under sections 941 to 947 of this act.

HISTORY: New 1955, p. 526, Act 269, Eff. Jul. 1;—Am. 1959, p. 453, Act 271, Eff. Nov. 3.

340.336 Reclassified districts; taxes, proceedings.

Sec. 336. No tax ordered assessed or levied for school purposes in any district, or other proceedings taken or had therein or thereby, or obligation incurred, shall be invalidated or affected by reason of this act, or by reason of any subsequent change in classification of any district.

HISTORY: New 1955, p. 526, Act 269, Eff. Jul. 1.

340.337 Reclassified districts; special or local act repeal; continuance of district without formal organization.

Sec. 337. Any school district operating under a special or local act or a chapter of such act shall, upon repeal of said local act, be considered organized as a district of the class to which its population or status entitles it under the provisions of part 1 of this act, without formal reorganization, and it shall function and be governed accordingly.

HISTORY: New 1955, p. 526, Act 269, Eff. Jul. 1.

CHAPTER 2.

GENERAL POWERS AND DUTIES OF DISTRICTS.

340.351 Provisions governing districts.

Sec. 351. Each school district except a county school district shall be subject to and governed by the provisions of part 2 of this act except as to those matters which are specifically or by necessary implication provided for in the particular chapter of part 1 hereof relative to the class or kind of school districts to which such district properly belongs, or in any special or local act governing a school district: Provided, That any district governed by any special or local act or chapter of such act shall be subject to the provisions of chapter 12 of part 2 of this act.

HISTORY: New 1955, p. 527, Act 269, Eff. Jul. 1.

340.352 Body corporate; powers, rights, liabilities; presumption.

Sec. 352. Every school district shall be a body corporate under the name provided in this act, and may sue and be sued in its name, may acquire and take property, both real and personal, for educational purposes within or without its corporate limits, by purchase, gift, grant, devise or bequest, and hold and use the same for such purposes, and may sell and convey the same as the interests of such district may require, subject to the conditions of this act contained. As such body corporate, every school district shall be the successor of any school district previously existing within the same territorial limits and shall be vested with all rights of action, with the title of all property, real and personal, of the district of which it is the successor, and the indebtedness and obligations of the district superseded shall become and be the indebtedness and obligations of the succeeding district, except as otherwise provided in chapters 3, 4 and 5, part 2 of this act. Every school district shall in all cases be presumed to have been legally organized when it shall have exercised the franchises and privileges of a district for the term of 2 years; and such school district and its officers shall be entitled to all the rights, privileges and immunities, and be subject to all the duties and liabilities conferred upon school districts by law.

HISTORY: New 1955, p. 527, Act 269, Eff. Jul. 1.

340.352a Adoption of reorganization plan; establishment of districts, boundaries; effective dates; validation.

Sec. 352a. When as the result of actions taken under the authority or purported authority of Act No. 289 of the Public Acts of 1964, being sections 388.681 to 388.693 of the Compiled Laws of 1948, the electors have voted in favor of the adoption of a school district reorganization plan by the terms of which 1 or more new school districts would be established or the boundaries of 1 or more existing school districts would be changed, the new school district or districts are established and the boundaries of the existing school districts are changed as provided by the terms of the plan. The establishment of any new school district and the changes in boundaries of any existing school district, as herein provided, shall be deemed to be effective in each case as of the date of such election or, if such election was held after August 31 but before May 1 in any year, then as of July 1 next following. All actions taken by or on behalf of, any new school district or any existing school district since such applicable effec-

tive date, are validated for all purposes to the same extent as if this act had been in effect since such effective date. This section shall be given effect independently of the provisions of Act No. 289 of the Public Acts of 1964.

HISTORY: Add. 1969, p. 445, Act 233, Imd. Eff. Aug. 11.

340.353 School month, year.

Sec. 353. A school month shall consist of 4 weeks of 5 days each, unless otherwise specified in the teacher's contract, and the school year of all districts shall commence on the first day of July.

HISTORY: New 1955, p. 527, Act 269, Eff. Jul. 1.

340.354 School property; exemption from taxation, special assessments, contracts.

Sec. 354. The property of all school districts shall be exempt from all taxation, provisions of any other acts to the contrary notwithstanding, but property owned by the school district that is used for private purposes for more than 2 years shall not be exempt from taxation as long as the private use continues beyond the 2-year period provided for herein. Any school property not being utilized primarily for public school purposes and from which income is being derived or which is being held out for income purposes at the time of final confirmation of special assessment rolls by the governing body of any city, village or township, shall be liable to the city, village or township for the special assessment attributable to the property, and the property shall continue to be liable for the special assessment, but not longer than 2 years after such property is subsequently put to a public school use. The board of any school district may enter into an agreement with any county or county agency, city, village or township, whereby the school district agrees to pay special assessments for local improvements levied against any school property irrespective of the use to which such property is put.

HISTORY: New 1955, p. 527, Act 269, Eff. Jul. 1;—Am. 1959, p. 48, Act 45, Eff. Mar. 19, 1960.

340.355 School discrimination; race, color, intellectual progress.

Sec. 355. No separate school or department shall be kept for any person or persons on account of race or color. This section shall not be construed to prevent the grading of schools according to the intellectual progress of the pupil, to be taught in separate places as may be deemed expedient.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.

340.356 School enrollment; minimum legal age.

Sec. 356. All persons, residents of a school district not maintaining a kindergarten, and at least 5 years of age on the first day of enrollment of the school year, shall have an equal right to attend school therein.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.

340.357 School enrollment; semi-annual promotion.

Sec. 357. In districts where provision is made for kindergarten work, all children, residents of the district, shall be entitled to enroll in the kindergarten if they are at least 5 years of age on December first of the school year of enrollment: Provided, That in those districts having semi-annual promotions, all children, residents of the district, shall be entitled to enroll in kindergarten for the second semester if they are at least 5 years of age on March first of the year of enrollment.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.

340.358 Legal residence of children; licensed homes, relative's homes; school districts.

Sec. 358. Children placed under the order or direction of courts or child-placing agencies in licensed homes, and children whose parents or legal guardians are unable

to provide a home for them and who are placed in licensed homes or in homes of relatives in the school district for the purpose of securing a suitable home for said children and not for an educational purpose, shall be considered residents for educational purposes of the school district where the homes in which they are living are located, and as such shall be admitted to the school in such district, except as provided in section 945 of this act.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.;—Am. 1956, p. 463, Act 215, Imd. Eff. May 1.

340.359 Nonresident pupils; tuition, transportation.

Sec. 359. When nonresident pupils, their parents or guardians, pay school taxes in said district and such pupils are admitted to schools in the district, the amount of such total current school taxes shall be credited on their tuition and transportation in a sum not to exceed the amount of such tuition and transportation and they shall be required to pay tuition and transportation for only the difference therein.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.

340.360 Schools instruction in English language; exception.

Sec. 360. All instruction from the first to the eighth grade, inclusive, of those subjects required for an eighth-grade diploma, in all the schools of this state, public, private, parochial, or in connection with any state institution, shall be conducted in the English language; but this provision shall not be construed as applying to the high school course of any school district of this state maintaining a legal high school as defined in chapter 16 of part 2 of this act, nor to the high school course of any institution or corporation which maintains the same grades in its high school as are maintained in the legal high schools of this state; nor shall this provision be construed as prohibiting religious instruction in private or parochial schools given in any language in addition to the regular course of study.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.

340.361 Instruction in constitution; civil government.

Sec. 361. In all public, private, parochial and denominational schools within the state of Michigan, there shall be given regular courses of instruction in the constitution of the United States, in the constitution of the state of Michigan, and in the history and present form of civil government of the United States, the state of Michigan, and the political subdivisions and municipalities of the state of Michigan.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.

340.362 Instruction in constitution; civil government; time of commencement.

Sec. 362. Such instruction in the constitution of the United States, the constitution of the state of Michigan, and in civil government, shall begin not later than the opening of the eighth grade, except in schools maintaining a junior high school, in which case it may begin in the ninth grade and continue in the high school course to an extent to be determined by the superintendent of public instruction.

HISTORY: New 1955, p. 528, Act 269, Eff. Jul. 1.

340.363 Instruction in communicable diseases.

Sec. 363. There shall be taught in every public school within this state the principal modes by which each of the dangerous communicable diseases are spread and the best methods for the restriction and prevention of each such disease. Such instruction shall be given by the aid of textbooks on physiology, supplemented by oral and blackboard instruction. No textbook on physiology shall be adopted for use in the public schools of this state unless it shall give at least 1/8 of its space to the causes and prevention of dangerous communicable diseases and the requirements for maintaining good health.

HISTORY: New 1955, p. 529, Act 269, Eff. Jul. 1.

340.364 Instruction in physiology, hygiene; tobacco, alcohol, narcotics.

Sec. 364. In addition to the branches in which instruction is now required by law to be given in the public schools of the state, instruction shall be given in physiology and hygiene, with a special reference to the nature of tobacco, alcohol and narcotics and their effect upon the human system. Such instruction shall be given by the aid of text-books in the case of pupils who are able to read, and as thoroughly as in other studies pursued in the same school.

HISTORY: New 1955, p. 529, Act 269, Eff. Jul. 1;—Am. 1965, p. 112, Act 80, Eff. Mar. 31.

340.365 Instruction in animals, birds; humane treatment, protection; economy of nature.

Sec. 365. In every public school within this state, a portion of the time shall be devoted to teaching the pupils thereof kindness and justice to, and humane treatment and protection of, animals and birds, and the important part they fulfill in the economy of nature. It shall be optional with each teacher whether such teaching shall be through reading, stories, narratives of daily incidents or illustrations taken from personal experience. This instruction shall be a part of the curriculum of study in all the public schools of the state of Michigan.

HISTORY: New 1955, p. 529, Act 269, Eff. Jul. 1.

340.365a Social studies textbooks; selection, approval; recognition of ethnic, racial groups; annual survey, report.

Sec. 365a. Whenever the appropriate authorities of any private, parochial or public schools of the state are selecting or approving textbooks which cover the social studies, such authorities shall give special attention and consideration to the degree to which the textbook fairly includes recognition of the achievements and accomplishments of the ethnic and racial groups and shall, consistently with acceptable academic standards and with due consideration to all required ingredients of acceptable textbooks, select those textbooks which fairly include such achievements and accomplishments. The superintendent of public instruction shall cause to be made an annual random survey of textbooks in use in the state and submit a report to the legislature prior to January 15 of each year as to the progress made, as determined by such random survey, in the attainment of the foregoing objective.

HISTORY: Add. 1966, p. 154, Act 127, Eff. Mar. 10, 1967.

340.366 School interest fund; use in nonsectarian schools, exception for transportation.

Sec. 366. No school district shall apply any of the moneys received by it from the primary school interest fund or from any and all other sources for the support and maintenance of any school of sectarian character, whether the same be under the control of any religious society or made sectarian by the board. The provisions of this section shall not be construed to prohibit the transportation to and from school of pupils attending private or parochial schools as provided in sections 591 and 592 of this act.

HISTORY: New 1955, p. 529, Act 269, Eff. Jul. 1.

340.367 United States flag; purchase, display.

Sec. 367. Each district shall purchase a United States flag of a size of not less than 4 feet, 2 inches by 8 feet, and made of good flag bunting, flag staff and the necessary appliances therefor, and shall display said flag upon the staff which shall be erected on all public school buildings or on a conspicuous place upon the school grounds thereof, at all times during school hours, inclement weather excepted, in which case the flag

shall be prominently displayed within said school building, and the said board may cause the same to be displayed either on the staff or within the school building at such other times as they may deem proper.

HISTORY: New 1955, p. 529, Act 269, Eff. Jul. 1.

340.368 Public holidays for schools; designation; commemorative exercises, observation on other days.

Sec. 368. The following days, namely: The first day of January, commonly called New Year's day; the last Monday of May, Memorial or Decoration day; the fourth day of July, commonly called Independence day; the first Monday in September, commonly called Labor day; and the twenty-fifth day of December, commonly called Christmas day; and all days appointed or recommended by the governor of this state or the president of the United States as days of fasting and prayer or thanksgiving shall, in all the public schools of this state, be treated and considered as public holidays: Provided, That whenever any legally designated public holiday shall fall on Sunday the Monday following shall be deemed to be a public holiday in all public schools; and on such above specified days there shall be no school sessions in any of such public schools of this state. The salary of school officers and teachers shall in no way be affected by reason of the dismissal of school on any of the above mentioned days. On the following days, namely: The twelfth day of February, commonly called Lincoln's birthday; the third Monday of February, Washington's birthday; the seventeenth day of September, being the date of the adoption of the federal constitution; the second Monday in October, Columbus day; the twenty-first day of October, commonly called Carleton's birthday; the twenty-seventh day of October, to be known as Roosevelt's birthday; and the fourth Monday of October, Veterans' day, it shall be the duty of all school officers and teachers to have the schools under their respective charge observe such mentioned days by proper and appropriate commemorative exercises, or by arranging the school work to teach the significance of these days, and such days shall not be considered as legal holidays for schools.

This amendatory section, with the exception of the amendatory language relative to Saturdays, shall not commence until January 1, 1971.

HISTORY: New 1955, p. 529, Act 269, Eff. Jul. 1;—Am. 1956, p. 463, Act 215, Imd. Eff. May 1;—Am. 1970, p. 164, Act 72, Imd. Eff. Jul. 12.

340.369 Annual school meeting; election falling on holidays; terms of officers.

Sec. 369. In case the day set for the holding of the annual school meetings or election of any district under the provisions of any other act, general, special or local, falls upon a public holiday, said election shall be held upon the day prescribed by this act for the holding of the annual school meetings, or election of districts of its class. The term of office of officers elected at the first election so held shall commence upon the expiration of the term of their respective predecessors and shall expire on the day upon which the annual school election of such district is held in the particular year provided for such expiration. Their respective successors shall hold office for the full term provided therefor.

HISTORY: New 1955, p. 530, Act 269, Eff. Jul. 1.

340.370 Construction; new buildings, additions; competitive bids for construction.

Sec. 370. The board of any school district, except a school district of the first or second class, which desires to commence the construction of any new school building or

addition to any existing school building, shall obtain competitive bids before such construction be commenced on all the material and labor required for the complete construction of the proposed new building or addition to any existing school building.

HISTORY: New 1955, p. 530, Act 269, Eff. Jul. 1.

340.371 Construction bids; advertisement.

Sec. 371. Such board shall advertise for the bids required in section 370 hereof once each week for 2 successive weeks in a newspaper of general circulation in the county where the building is to be constructed or the addition is to be made, and, if no newspaper is published in such county, then such advertisement shall be printed in a newspaper of general circulation published in an adjacent county: Provided, however, That the provisions of this section and of section 370 of this act shall not apply to buildings and repairs of less than \$2,000.00.

HISTORY: New 1955, p. 530, Act 269, Eff. Jul. 1.

340.372 Construction bid; bidder's bond, amount, conditions.

Sec. 372. Such board shall require every person bidding for any contract to file with the board good and sufficient security in an amount not less than 1/20 of the amount of the bid conditioned to secure the school district from loss or damage by reason of the withdrawal of the bid or by the failure of such bidder to enter a contract for performance, if the bid is accepted by the board.

HISTORY: New 1955, p. 530, Act 269, Eff. Jul. 1.

340.373 Construction bids; examination, rejection.

Sec. 373. Such board shall open and examine all bids at a public meeting of the board and shall have the right to reject any or all bids, and shall re-advertise, in the event of rejection of all bids, as required in sections 371 and 372 of this chapter.

HISTORY: New 1955, p. 530, Act 269, Eff. Jul. 1.

340.374 District election; adoption of portion of act; referendum, form of ballot, conduct.

Sec. 374. Any school district not operating under this act may, by a majority vote of the school electors voting thereon at any annual election or meeting of said district, adopt any chapter or section or sections of any chapter or chapters of this act applicable to the class within which its population brings it. The board of any such district shall submit the question of adoption of any such section or sections or chapter or chapters to the school electors of the district at the next annual school meeting or election, whenever a petition asking for such submission at the next annual election or meeting of said district, signed by not less than 100 of the school electors thereof, shall be filed with the board of such district at least 30 days before such meeting or election. The vote upon such question shall be by ballot, which shall be substantially in the following form:

"Vote on the proposition to adopt the provisions of section, chapter, part, of Act No., Public Acts of, relative to the classification, regulation and maintenance of school districts.

Shall section, chapter, part, of Act No., Public Acts of, be adopted?

Yes () No ()."

Such ballot shall be furnished by the board of any district in which the vote is taken, and shall be deposited in a ballot box provided for that purpose in each voting precinct of the district. Such ballot shall be cast and canvassed and the results of the election certified in each school district in the same manner as are ballots on any school question submitted to the school electors of such district. If the majority of the school electors voting thereon vote in favor of adoption of said section, sections, chapter or

chapters, then the provisions thereof shall be in full force and effect in such district, and not otherwise. Any district adopting any chapter, chapters, section or sections of this act shall thereafter be governed by the provisions of said chapter, chapters, section or sections so adopted, and in all other respects shall continue to operate under the provisions of law in force in such district prior to said election, and shall in no way be affected by the other provisions of this act not so adopted.

HISTORY: New 1955, p. 531, Act 269, Eff. Jul. 1.

340.375 Saving clause.

Sec. 375. Any school district operating under local or special act which adopted a section, sections, chapter or chapters of Act No. 319 of the Public Acts of 1927, as amended, being sections 341.1 to 386.12, inclusive, of the Compiled Laws of 1948, prior to the effective date of this act, shall continue to be governed by the comparable provisions of the section or sections, chapter or chapters of this act, and in all other respects such district shall continue to operate under the provisions of law affecting such district and shall be in no way affected by the other provisions of this act not so applicable.

HISTORY: New 1955, p. 531, Act 269, Eff. Jul. 1.

340.376 School children; immunization requirement.

Sec. 376. All children enrolling in any public, private, parochial or denominational school in Michigan for the first time shall submit either a statement signed by a physician that they have been immunized or protected against small pox, diphtheria, tetanus, pertussis, rubella, measles and poliomyelitis and tuberculin tested to determine the presence of infection from tuberculosis; a statement signed by a parent or guardian to the effect that the child has not been immunized and tuberculin tested because of religious convictions or other objection to immunization; or a request signed by a parent or guardian that the local health department give the needed protective injections and diagnostic test.

Preschool vision screening test; rules.

In addition, the parent or guardian of each enrolling child shall submit a statement (1) signed by a district, county, or city health department director stating that the child has passed the department of public health preschool vision screening test, or (2) signed by a licensed medical or osteopathic physician or a licensed optometrist indicating that the child has had his eyes examined during the preschool years after age 3 and prior to initial entrance. Neither vision test enumerated in (1) or (2) above is required if there is a statement signed by a parent or guardian to the effect that the child cannot be submitted to such test because of religious convictions. The Michigan department of public health shall promulgate rules for the implementation of this section.

Advisory board.

The state public health director shall appoint an advisory board consisting of equal numbers of ophthalmologists and optometrists. The board shall advise and assist the state public health director with vision programs.

Report.

Prior to November 1 of each year, the administrator of each school shall provide the state director of public health with the immunization and tuberculin status as well as a vision report of each entering child. This information shall be transmitted through the approved local full-time health department wherever the same exists and shall be on forms provided by the state director of public health or otherwise reported in a manner approved by it.

HISTORY: Add. 1960, p. 11, Act 12, Imd. Eff. Apr. 12;—Am. 1965, p. 45, Act 29, Imd. Eff. May 11;—Am. 1966, p. 224, Act 199, Eff. Jan. 1, 1967;—Am. 1968, p. 484, Act 282, Eff. Nov. 15;—Am. 1970, p. 68, Act 22, Imd. Eff. May 20.

340.377 Neighborhood facilities projects; use of federal funds.

Sec. 377. In addition to any other powers or duties granted to school districts under the provisions of any other law, any school district, by action of its board, may apply for, accept and use federal funds for neighborhood facilities projects or for the inclusion of neighborhood facilities in school buildings, and pay the school district's share of construction, movable furnishings, equipment and operation expenses out of funds of the school district.

HISTORY: Add. 1969, p. 768, Act 340, Imd. Eff. Dec. 17;—Am. 1970, p. 165, Act 72, Imd. Eff. Jul. 12.

CHAPTER 3.

CONSOLIDATION OF DISTRICTS.

340.401 Consolidation of districts; quota of school age children, classification.

Sec. 401. Any 2 or more school districts, except districts of the first and second class, in which the total number of children between the ages of 5 and 20 years, is 75 or more, may consolidate to form a single school district as hereinafter provided. The consolidated district so formed shall be a district of the fourth class or third class, depending upon the classification its population entitles it to under the provision of part 1 of this act.

HISTORY: New 1955, p. 531, Act 269, Eff. Jul. 1.

340.402 Consolidation of districts; request, approval, modification of proposal; location in more than one county.

Sec. 402. Whenever the county superintendent of schools shall be requested in writing by not less than 10 school electors of each of 2 or more districts to initiate proceedings for the consolidation of the said 2 or more districts, he shall refer the question of consolidating the said districts to the superintendent of public instruction for his approval: Provided, That a resolution of the board requesting such action by the county superintendent shall have the same effect as such written request by the electors of any district. The superintendent of public instruction shall have authority to approve or deny the proposal to initiate proceedings to effectuate the proposed consolidation, or he may require that 1 or more of such districts be not included in the proposed consolidation. His action in the matter shall be final. If the school districts proposed to be consolidated are located in more than 1 county, the request to initiate consolidation proceedings shall be addressed to the superintendent of the county containing the largest portion of the assessed valuation of the proposed consolidated district, and it then shall become his duty to carry out the proceedings hereinafter assigned to the county superintendent.

HISTORY: New 1955, p. 532, Act 269, Eff. Jul. 1.

340.403 Consolidation of districts; petitions, form, circulation, time, return.

Sec. 403. Within 30 days of the receipt of the approval of the superintendent of public instruction to the consolidation of 2 or more districts, the county superintendent of schools shall have petitions prepared for circulation within the affected school districts. Said petitions shall be printed or duplicated and the first page of any petition shall be in the following form:

Official Petition No. consisting of pages.

Expiration date

(Signed)

County Superintendent of Schools of County, Michigan.

To the County Superintendent of Schools of County, Michigan.

We, the undersigned, qualified (here insert "registered" in the case of a registration district) electors of

(Name of School District)

hereby petition that you cause the question of consolidating the following school districts to be submitted to the school electors of said districts:

Names of school districts to be consolidated to be listed here

Signatures of Petitioners

Name

Address

Date of Signing

Each additional page of any such petition shall have at or near the top of the page the following:

Official Petition

No.

Page No.

Expiration date of Petition

Signature of County Superintendent of Schools

Each page shall have printed or duplicated the following statement below the space for signature for petitioners:

The undersigned hereby certifies that he is a qualified (here insert "registered" in the case of a registration district) elector of

(Name of School District)

and that each signature appearing on this page is the genuine signature of the person signing the same and that to his best knowledge and belief each such person was at the time of signing a qualified (here insert "registered" in the case of a registration district) elector of said school district.

Dated this day of 19.....

Each petition shall be signed by the county superintendent of schools as indicated in the foregoing form before being issued to any person for circulation.

Official petitions in the form as above provided shall be given by the county superintendent of schools to any interested elector of any of the districts proposed to be consolidated. Only qualified school electors of the districts in which signatures to the petitions are being sought shall circulate such petitions and the statement appearing below the signatures of petitioners shall be dated or signed on each page before returning such petition to the county superintendent of schools.

Official petitions as above provided shall be returned to the county superintendent of schools on or before the expiration date stated on the petition. The expiration date for filing of petitions shall be the sixtieth day after the receipt by the county superintendent of schools of the last certification by a city or township clerk as to the number of registered general electors residing in each of the affected school districts as hereinafter provided, but in no event shall such expiration date be later than 180 days after the date of approval by the superintendent of public instruction.

HISTORY: New 1955, p. 532, Act 269, Eff. Jul. 1.

340.404 Consolidation of districts; registration of electors.

Sec. 404. Immediately upon receipt of the approval of the superintendent of public instruction to the consolidation of 2 or more districts the county superintendent of schools shall request each appropriate city or township clerk to certify to him the number of registered general electors residing in each of the affected school districts and it shall be the duty of any such city or township clerk to make such certification without delay. The number of registered general electors so certified shall be the basis

for determining the required number of signatures for calling an election on the question of consolidation as hereinafter provided. In registration districts, signatures of persons registering after the date of certification by the appropriate city or township clerk shall be valid signatures if such persons are registered at the time of signing a petition: Provided, That such additional registrations shall not affect the number of registered general electors originally certified to by the respective city or township clerks. It is the intent that in registration districts electors in order to be eligible to sign petitions and vote on the question of consolidation shall be registered electors, while in non-registration districts registration shall not be a required qualification for signing petitions or for voting on consolidation.

HISTORY: New 1955, p. 533, Act 269, Eff. Jul. 1.

340.405 Consolidation of districts; determination of number of qualified electors; superintendent of schools.

Sec. 405. Upon the filing of such petitions with the county superintendent of schools, said county superintendent shall canvass the same to ascertain the number of qualified electors who have signed the same, and, for the purpose of determining the validity of any doubtful signatures, may cause them to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated or may use any other method he deems proper for determining the validity of such doubtful signatures. In the absence of fraud on the part of the county superintendent in the determination of the validity of the signatures to any petition or error in the determination of the number of qualified signatures, his determination of the number of qualified electors signing each petition shall be final.

HISTORY: New 1955, p. 533, Act 269, Eff. Jul. 1.

340.406 Consolidation of districts; calling of elections, prerequisites.

Sec. 406. Whenever the county superintendent of schools is presented with petitions signed by qualified school electors in each district to the number of not less than 50% of the number of registered general electors, as of the date the county superintendent of schools releases petitions, residing in each district in the case of primary districts, and by school electors of not less than 5% of the number of registered general electors residing in each district in the case of all other districts, he shall cause the question of consolidating the school districts to form a single school district to be submitted to the vote of the electors of the school districts at an election called to be held within 45 days after the receipt of such petitions. No petitions shall be required in the case of any district operating 12 grades when a resolution adopted by the board of the district requesting consolidation of districts has been filed with the county superintendent of schools. It shall be the duty of any city or township clerk to certify to the county superintendent of schools the number of registered general electors residing in a school district when so requested by the county superintendent.

HISTORY: New 1955, p. 533, Act 269, Eff. Jul. 1;—Am. 1958, p. 234, Act 195, Eff. Sep. 13.

340.407 Consolidation of districts; special election, place.

Sec. 407. The question of establishing a consolidated school district shall be submitted to the school electors at a special election held for such purpose. In voting to form such consolidated school district, each district operating 12 grades shall vote separately as a unit and all other school districts to be included in the consolidation shall vote together as a unit. The board shall conduct the election in each school district operating 12 grades, and the county board of education of the county, the county superintendent of which is required to call the election as herein provided, shall conduct the election for the other districts voting together as a unit: Provided, however, That such elections shall be held on the same day and during the same hours and that whenever any registration district votes separately as herein provided the provisions of

chapter 8 of part 2 of this act shall apply, but not when such district votes together with 1 or more other districts.

HISTORY: New 1955, p. 534, Act 269, Eff. Jul. 1.

340.408 Consolidation of districts; notice of special election, contents, posting, publication.

Sec. 408. The county superintendent shall give notice of the date, place or places, the proposition or propositions to be submitted, and the hours the polls will be open for the special election to the electors of the districts operating less than 12 grades, by causing notice thereof to be posted in 3 or more places in such affected districts not less than 10 days prior to such election and by publication at least once in a newspaper of general circulation in the territory of such districts 10 days or more before the election. The county superintendent shall in writing notify the secretary of each board of each affected district operating 12 grades of the day and hours for holding such special election. Upon receipt of such notice, it shall be the duty of each such secretary to give the statutory notice of the day, place or places, and the hours for holding such election and of the last day of registration in the case of a registration district. Each such secretary shall furnish timely proof of giving such notice to the county superintendent in the form of affidavits of posting notice or publication, as the case may be. In the event that a registration district which is required to vote separately is included in the proposed consolidation, the polls in each election unit shall be open from 7:00 o'clock in the forenoon until 8:00 o'clock in the afternoon, and the county superintendent shall give the required notice of the day of the election to the secretary of the board of such registration district at least 35 days prior to the election.

HISTORY: New 1955, p. 534, Act 269, Eff. Jul. 1;—Am. 1959, p. 252, Act 177, Eff. Mar. 19, 1960.

340.409 Consolidation of districts; form of ballot; conduct of election.

Sec. 409. The vote on the question of consolidating shall be by printed ballot and shall be in substantially the following form:

“Shall all of the territory of the following districts be united to form 1 school district?”

(Names of school districts to be consolidated to be listed here)

Yes ()

No ()”

The intermediate school district superintendent shall supply printed ballots, poll books and other necessary election supplies to the board or boards of election inspectors of the election unit of the districts operating less than 12 grades. The secretary of the board of each school district operating 12 grades shall have printed ballots prepared for the election and supply all election materials necessary for said election. The board of each such district shall appoint the necessary school electors to the board or boards of election inspectors. The members of the intermediate board of education shall act as the board or boards of election inspectors for the election held in the districts operating less than 12 grades. The intermediate board of education may appoint additional persons to the board or boards of election inspectors, and, if more than 1 place for holding such election is designated by the intermediate school district superintendent, the members of the intermediate board of education shall be apportioned by the intermediate school district superintendent to the boards of election inspectors. In the event that a member of the intermediate board of education or such other person appointed to a board of election inspectors is unable to be present at the election or is required to leave during the hours the polls are open, the remaining members of such board of election inspectors may appoint another person to fill such vacancy. Each member of a board of election inspectors shall take the constitutional oath of office before entering on his duties. Elections shall be canvassed by the board of canvas-

sers established by section 514a, this being section 340.514a of the Compiled Laws of 1948, and the result shall be certified by the secretary of the board to the intermediate school district superintendent of schools. In the case of a registration district voting separately and in more than 1 precinct, the secretary of the board of canvassers shall file a certified copy of the canvass of the election by the board with the intermediate school district superintendent. The affirmative vote of a majority of the school electors voting on the question in each of the election units, as hereinbefore defined, shall be necessary to effect the consolidation of the districts, and such consolidation shall become effective as of the day of the election on which the votes were cast.

Compensation of election inspectors, payment of expenses.

The members of the intermediate board of education and such other inspectors of election acting in the election unit of the district or districts operating less than 12 grades shall receive the same compensation for conducting such election as is authorized for election inspectors in a general state election. In the event the consolidation becomes effective, all expenses incurred for the election in all election units shall be certified to the board of the consolidated district and it shall be the duty of said board to pay the same out of the funds of the consolidated district. If the proposition to consolidate fails to be approved, as hereinbefore provided, the intermediate board shall determine the expenses of the election held in the election unit operating less than 12 grades and apportion such expenses equally among the several districts of such election unit. It shall be the duty of each such board of education to pay such apportionment to the intermediate board of education without delay.

HISTORY: New 1955, p. 534, Act 269, Eff. Jul. 1;—Am. 1963, 2nd Ex. Sess., p. 49, Act 39, Imd. Eff. Dec. 27.

340.410 Consolidated district; first board, appointment, acceptance, term, meeting.

Sec. 410. Within 10 days after the effective date of the consolidation of 2 or more school districts, the county board of education of the county containing the territory of the consolidated district shall appoint qualified electors of the district in the number required by the classification of the district to act as a board for said district. When the territory of a consolidated district extends into more than 1 county, such appointment shall be made by the county board of education of each county acting jointly as a single board. Within 7 days after his appointment, each member shall file with the county superintendent an acceptance of the office, accompanied by a written affidavit setting forth the fact of eligibility as provided in section 493 of this act. Except as hereinafter provided, each member so appointed to the board shall hold office until the next annual election, at which time there shall be elected by ballot a new board in accordance with the provisions of chapter 3 or chapter 4 of part 1 of this act for the election of a first board. Within 15 days after the effective date of the consolidation, the county superintendent shall call a meeting of the board appointed by the county board of education, at which meeting the board shall elect a president, a secretary and a treasurer.

District election; salaries of board members.

If the effective date of the consolidation is between the thirtieth day prior to the annual election and December 31, the board appointed by the county board shall at its first meeting call a district election to be held within 45 days from the day of the meeting. At the election, a board of the requisite number of members shall be elected for such terms as are required for the election of a first board in section 55 or section 107 of this act. The salaries of the members of the board shall be determined by the electors of the district at such election in accordance with section 71 or section 112. The election shall be in lieu of the first annual election and the first year of each term of office shall extend until the date of taking office following the next succeeding annual

election. The board shall hold its first meeting and elect officers as provided in section 57 or section 111 of this act.

HISTORY: New 1955, p. 535, Act 269, Eff. Jul. 1;—Am. 1963, p. 438, Act 248, Imd. Eff. Jun. 13.

340.411 Consolidated district; transfer of records, funds, property of original districts.

Sec. 411. Within 20 days after the effective date of the consolidation of 2 or more districts, the board of each of the original districts shall account to the board of the consolidated district for all records, funds and property belonging to said original district and shall turn over the same to the board of the consolidated district. Upon receipt of such records, funds and property by the board of the consolidated district, the officers of the original district or districts shall be released from liability therefor and their offices terminated.

HISTORY: New 1955, p. 535, Act 269, Eff. Jul. 1.

340.412 Consolidated district; indebtedness of original district, retirement.

Sec. 412. If any district becoming part of the consolidated district has a bonded indebtedness incurred after December 8, 1932, or has outstanding tax anticipation notes at the time of consolidation, the identity of such district shall not be lost by virtue of such consolidation and its territory shall remain as an assessing unit for purposes of such bonded indebtedness and such tax anticipation notes until such indebtedness has been retired or the outstanding bonds refunded by the consolidated district. The board of the consolidated district shall constitute the board of trustees for such original district having such bonded indebtedness or tax anticipation notes and the officers of the consolidated district shall be the officers for said original district. The board of the consolidated district shall certify and order the levy of taxes for such bonded indebtedness and tax anticipation notes in the name of the original district, shall not commingle the debt retirement funds of the original district with funds of the consolidated district, and shall do all things relative to such bonded indebtedness and tax anticipation notes required by law and by the terms under which the issue and sale of the bonds and tax anticipation notes were originally authorized. All other tax levies for the purposes of the consolidated school district shall be spread over the entire area of the consolidated district.

HISTORY: New 1955, p. 536, Act 269, Eff. Jul. 1;—Am. 1969, p. 296, Act 146, Imd. Eff. Jul. 31.

340.413 Consolidated district; assumption of indebtedness.

Sec. 413. Any time after 3 years following the consolidation, any consolidated district may assume the obligation of the bonded indebtedness incurred after December 8, 1932, of any original district becoming a part of the consolidation and pay the same from the proceeds of a debt retirement tax levy spread uniformly over the territory of the consolidated district whenever the electors of the consolidated district shall have approved an increase in the limitation on taxes for that purpose and the school tax electors of the district have approved the assumption of such bonded indebtedness. Assumption of such bonded indebtedness of an original school district shall not operate to release the territory of the original district for the final responsibility of paying the obligation or to rescind the increase in the limitation on taxes pledged to the bond issue or available for it in the original district, nor be construed as so doing. When the bonded indebtedness of an original district has been so assumed, it shall be the duty of the board of the consolidated district to certify and order the levy of taxes for such bonded indebtedness equivalent in terms of money to those required by the terms un-

der which such indebtedness was originally incurred, and carry out all provisions of the original bond contract. The election may be held at any time following the effective date of consolidation whenever a proposal is made to increase the bonded indebtedness of the combined district.

HISTORY: New 1955, p. 536, Act 260, Eff. Jul. 1;—Am. 1957, p. 154, Act 135, Eff. Sep. 27;—Am. 1959, p. 252, Act 177, Eff. Mar. 19, 1960.

340.414 Consolidated district; simultaneous election on consolidation, increase of constitutional debt limits, assumption of outstanding bonded indebtedness; petition, procedure.

Sec. 414. Whenever the petitions filed with the county superintendent of schools as set forth in section 403 of this act include a request that the questions of increasing the constitutional limitation on taxes of the consolidated school district for the purpose of providing a debt levy for the bonded indebtedness incurred after December 8, 1932, of 1 or more of the districts to become part of the consolidation and of assuming such bonded indebtedness and the question of increasing the constitutional limitation on taxes of the consolidated school district for operating purposes be submitted to the electors at the time of voting to form the consolidation, it shall be the duty of the county superintendent to include such question for the vote of the electors at each of the election units provided in section 407 of this act. The statement of votes cast on these questions shall be certified to the county superintendent by each board of election inspectors, including those of a district voting in more than 1 precinct: Provided, That only school tax electors shall be permitted to vote on the question of assuming such bonded indebtedness. The county board of education shall meet within 3 days after the day of the election and canvass the statements filed by the various election boards. The county board shall by resolution declare the result of the election on these questions and this resolution shall be the official declaration of the result thereof. The propositions shall be declared to have been adopted if the canvass of the votes cast shows that a majority of all electors voting on each proposition voted in the affirmative: Provided, That the proposition of forming the consolidation was adopted at said election as hereinbefore set forth. The proposition to form a consolidated district shall be declared to have failed regardless of the vote thereon if the proposition to increase the limitation on taxes for the debt levy, the proposition to assume such bonded indebtedness or the proposition to increase the limitation on taxes of the consolidated school district for operating purposes was not approved at said election.

Approval of municipal finance commission; form of request for increase of debt limits and consolidation.

The approval of the municipal finance commission to the sufficiency of the proposed increase in the limitation on taxes shall first be secured before the petitions are circulated within the districts to be consolidated. Whenever the electors approve a consolidation and an increase in the limitation of taxes and the assumption of the bonded indebtedness of 1 or more of the original districts as herein provided, the consolidated district shall assume the obligation of such bonded indebtedness and shall pay the same by spreading a debt retirement tax uniformly over the territory of the consolidated district, and the provisions of section 413 of this act shall apply relative to such levy, the continuing obligations of such original district or districts, and the rights and remedies of any bondholder. The request for including the question of increasing the constitutional limitation on taxes of the consolidated school district for the purpose of providing a debt levy for the bonded indebtedness incurred after December 8, 1932, of 1 or more of the districts to become part of the consolidation and for assuming such bonded indebtedness by the consolidated district shall be stated on the petition after the names of the school districts to be consolidated, as set forth in section 403 of this act, in substantially the following form:

"We petition that the question of increasing the constitutional limitation on taxes which may be assessed against all property in the consolidated school district to be formed as herein petitioned be increased by mills for a period of years, 19.... to 19...., inclusive, for the purpose of paying the bonded indebtedness of

(Name of School District or Districts)

and the question of assuming and paying such bonded indebtedness by the proposed consolidated district, and

We further petition that the question of increasing the constitutional limitation on taxes which may be assessed against all property in the consolidated school district to be formed as herein petitioned be increased by mills for a period of years, 19.... to 19...., inclusive, for operating purposes, be submitted to the electors at the same election in which the question of consolidating the above districts is submitted."

HISTORY: New 1955, p. 536, Act 269, Eff. Jul. 1;—Am. 1963, p. 438, Act 248, Imd. Eff. Jun. 13.

340.414b Consolidated district; increase of constitutional debt limits, assumption of outstanding bonded indebtedness; petition.

Sec. 414b. When the county superintendent of schools shall find that all the requests in writing or the resolutions of the board or boards which he has received under the provisions of section 402 of this act request that the provisions of section 414 be included with the question of consolidation, then the county superintendent of schools shall cause to have the petitions provided in section 403 include these provisions.

HISTORY: Add. 1956, p. 463, Act 215, Imd. Eff. May 1.

340.415 Consolidated districts; bonded debt of original district not subject to tax limitation, approval by school tax elector.

Sec. 415. The authority and procedures prescribed in this chapter for the assumption of bonded indebtedness of districts proposing consolidation shall apply to the assumption by the consolidated district of any bonded debt of the original districts which is not subject to the constitutional limitation on taxes: Provided, however, That the question of increasing the tax limitation in respect to such unlimited tax bonded debt shall not be included in the petitions for consolidation, nor shall the school electors be required to approve an increase in the tax limitation in respect to such debt. The assumption of such unlimited tax bonded debt shall be approved by the school tax electors at the time of the consolidation election or at any time after 3 years following the consolidation.

HISTORY: Add. 1956, p. 463, Act 215, Imd. Eff. May 1.

CHAPTER 4.

ANNEXATION OF ONE DISTRICT TO ANOTHER.

340.431 Annexation of school district; procedure.

Sec. 431. Any school district shall become annexed to another school district whenever the board of the annexing district shall have by resolution so determined and a majority of the qualified school electors of the district becoming annexed, voting on the question at an annual or special election, shall have approved such annexation. The vote on the question shall be by printed or duplicated ballot. Before such election shall be held, the board of the annexing district shall obtain the approval of the superintendent of public instruction of the proposed annexation. The election shall be held within 120 days after passage of the resolution by the board of the annexing district.

Transfer of funds and property; effective date.

The secretary of the board of the district in which the election was held shall file within 10 days after such election a certified statement of the vote for annexation with

the secretary of the board of the annexing district. Within 15 days after an election approving the annexation, the members of the board of the annexed district shall account to the board of the annexing district for funds and property in their hands as such officers, and shall turn over the same to the board of the annexing district. All property and moneys belonging to the annexed district shall become property of the annexing district and, except as hereinafter provided, all outstanding indebtedness of the annexed school district shall become the liability of the annexing district. Upon receipt of such funds and property by the board of the annexing school district, the officers of the annexed district shall be released from liability therefor and their offices terminated. The effective date of annexation shall be the date of the annexation election, but if an election is required in the annexing district under section 437, the effective date of annexation shall be the date of the election in the annexing district.

Annexation of 2 or more districts; bonded districts; validation of completed annexations.

Except as herein provided, the annexation of 2 or more districts may be by concurrent proceedings and the elections in the annexed districts may be held on the same or different days. When the annexing district and any of the districts to be annexed have bonded indebtedness, which is to be mutually assumed at the time of annexation as provided in sections 437 and 444 of this act, the annexation of each such district having bonded debt shall be by separate proceedings which shall not be concurrent with the proceedings for annexation of any other district. When a district to be annexed has bonded debt which is to be assumed by the annexing district, annexation of such district shall also be by separate proceedings which shall not be concurrent with proceedings by which any other district is annexed. Annexation proceedings for the annexation of 2 or more districts which have been heretofore completed or annexation elections which have been heretofore held concurrently or as part of a single annexation proceeding are hereby validated, ratified and confirmed with like force and effect as though such elections and proceedings had been fully authorized by statutes existing at the time.

HISTORY: New 1955, p. 537, Act 269, Eff. Jul. 1;—Am. 1957, p. 14, Act 9, Imd. Eff. Mar. 25;—Am. 1982, p. 85, Act 97, Eff. Mar. 28, 1983.

340.432 District annexation; retirement of bond of annexed district.

Sec. 432. If any district which becomes annexed to another district has at the time of annexation a bonded indebtedness incurred after December 8, 1932, the identity of such district shall not be lost by virtue of such annexation and its territory shall remain as an assessing unit for purposes of such bonded indebtedness until such indebtedness has been retired or the outstanding bonds refunded by the annexing district. The board of the annexing district shall constitute the board of trustees for the annexed district having such bonded indebtedness and the officers of the annexing district shall be the officers for said annexed district. The board of the annexing district shall certify and order the levy of taxes for such bonded indebtedness in the name of the annexed district, shall not commingle the debt retirement funds of the annexed district with those of the annexing district and shall do all things relative to the bonded indebtedness required by law and by the terms under which the issuance and sale of the bonds were originally authorized. All other taxes levied for the purposes of the combined school district shall be spread over the entire area of the combined district.

HISTORY: New 1955, p. 538, Act 269, Eff. Jul. 1.

340.433 District annexation; assumption of bond of annexed district by combined district.

Sec. 433. Whenever any district having a bonded indebtedness incurred after December 8, 1932, is proposed to be annexed to a district which at the time has no such outstanding bonded indebtedness, the resolution of the board of the annexing district,

as set forth in section 431 of this act, may provide that such annexation shall not take effect unless the qualified school electors of the annexing district approve an increase in the constitutional limitation on taxes for the purpose of providing a debt levy for the bonded indebtedness of the district to be annexed and the school tax electors of the annexing district approve the assumption of such indebtedness. The sufficiency of such increase in the constitutional limitation on taxes as to amount and years shall first be approved by the municipal finance commission before being submitted to a vote of the electors of the district.

When such increase in the constitutional limitation on taxes and the assumption of such bonded indebtedness has been voted and the annexation becomes effective, the annexing district shall assume the obligation of the bonded indebtedness of the annexed district and pay the same by spreading a debt retirement tax levy uniformly over the territory of the combined district: Provided, That such assumption of the bonded indebtedness of the annexed district shall not operate to release the territory of the annexed district for the final responsibility of paying the obligation or to rescind the increase in the limitation on taxes pledged to the bond issue or available for it in the annexed district, nor be construed as so doing.

HISTORY: New 1955, p. 538, Act 269, Eff. Jul. 1.

340.434 District annexation; retirement of bonds of annexing district.

Sec. 434. Whenever any district which annexes another district has, at the time of such annexation, a bonded indebtedness incurred after December 8, 1932, the territory of such district shall remain as a separate assessing unit for purposes of such bonded indebtedness until such indebtedness has been retired or the outstanding bonds refunded by the combined district. All other tax levies for the purposes of the combined school district shall be spread over the entire area of such district.

HISTORY: New 1955, p. 538, Act 269, Eff. Jul. 1.

340.435 District annexation; assumption of bond of annexing district by combined district.

Sec. 435. Whenever any district having a bonded indebtedness incurred after December 8, 1932, proposes to annex a district which at the time has no such outstanding bonded indebtedness, the resolution of the board, as set forth in section 431 of this act, may provide that such annexation shall become effective only if the school electors of the district to be annexed approve an increase in the constitutional limitation on taxes for the same amount and for the same years still in effect for the bonded indebtedness represented by 1 or more of the outstanding bond issues of the annexing district and the school tax electors of the district to be annexed approve the assumption of such bonded indebtedness, at the same election at which the school electors of the district to be annexed approve the annexation.

If the increase in the constitutional limitation on taxes and the assumption of such bonded indebtedness are approved and the annexation becomes effective, the obligation of the bonded indebtedness shall become the obligation of the entire territory of the district and it shall be paid by spreading a debt retirement levy uniformly over the entire territory of such district. The assumption of the bonded indebtedness by the district shall not release the original territory from final payment of the debt.

HISTORY: New 1955, p. 539, Act 269, Eff. Jul. 1;—Am. 1959, p. 252, Act 177, Eff. Mar. 19, 1960.

340.436 District annexation; separate retirement of bonds of constituent districts.

Sec. 436. If any district which has a bonded indebtedness incurred after December 8, 1932, becomes annexed to another district which also has such a bonded indebtedness, the identity of the annexed district shall not be lost by virtue of such annexation and its territory and the territory of the annexing district shall remain as separate as-

sessing units for the purposes of such bonded indebtedness until the indebtedness of each has been refunded. The board of the annexing district shall constitute the board of trustees for the annexed district having such bonded indebtedness and the officers of the annexing district shall be the officers for said annexed district. The board of the annexing district shall certify and order the levy of taxes for such bonded indebtedness in the name of the annexed district, shall not commingle the debt retirement funds of the annexed district with those of the annexing district, and shall do all things relative to the bonded indebtedness required by law and by the terms under which the issuance and sale of the bonds were originally authorized. All other taxes levied for the purposes of the combined school district shall be spread over the entire area of the combined district.

HISTORY: New 1955, p. 539, Act 269, Eff. Jul. 1.

340.437 District annexation; retirement of bonds of constituent districts by combined districts.

Sec. 437. Whenever any district which has a bonded indebtedness incurred after December 8, 1932, proposes to annex a district which also has such a bonded indebtedness, the resolution of the board, as set forth in section 431 of this act, may provide that such annexation shall become effective only if the school electors of the annexing district approve an increase in the constitutional limitation on taxes for the purpose of providing a debt levy for such bonded indebtedness of the district to be annexed and the school tax electors of the annexing district approve the assumption of such bonded indebtedness, and if the qualified school electors of the district to be annexed approve an increase in the constitutional limitation on taxes for the purposes of providing a debt levy for the bonded indebtedness of the annexing district and the school tax electors of the district to be annexed approve the assumption of such bonded indebtedness.

When such increases in the limitation on taxes have been voted and the annexation becomes effective, the district shall assume the obligation of the bonded indebtedness of both the annexing and annexed districts and pay the same by spreading a debt retirement tax levy uniformly over the territory of the district. The assumption of the bonded indebtedness by the district shall not operate to release the territory of the annexing district or of the annexed district for the final responsibility of paying the bonded obligation or to rescind the increase in the limitation on taxes pledged to the bond issue or available for it in each of the districts, nor be construed as so doing.

Whenever any district which has a bonded indebtedness incurred after December 8, 1932, proposes to annex a district which also has such a bonded indebtedness, the resolution of the board as set forth in section 431 of this act may provide that such annexation shall become effective only if the school electors of the district to be annexed approve an increase in the constitutional limitation on taxes for the same amount and for the same years still in effect for 1 or more of the bond issues of the annexing district and the school tax electors of the district to be annexed approve the assumption of such bonded indebtedness at the same election at which the school electors of the district to be annexed approve the annexation.

HISTORY: New 1955, p. 539, Act 269, Eff. Jul. 1;—Am. 1959, p. 253, Act 177, Eff. Mar. 19, 1960.

340.438 District annexation; assumption of outstanding bonds by combined district after three years.

Sec. 438. Any time after 3 years from the effective date of the annexation, where any one or more of the districts forming the combined district have outstanding bonded indebtedness incurred after December 8, 1932, the combined district may assume the obligation of such bonded indebtedness and pay the same by spreading a debt retirement tax levy uniformly over the territory of the combined district, when-

ever the electors of the combined district shall approve an increase in the constitutional limitation on taxes for that purpose sufficient to provide a total tax levy when such increase is applied to the latest available taxable valuation of the combined district equal to or greater than such total levy when applying the increase in the limitation on taxes available or pledged for the bond issue or issues to the latest available taxable valuation of the district or districts as such territory existed prior to the annexation and the school tax electors of the combined district shall approve the assumption of such bonded indebtedness. The assumption of the bonded indebtedness shall not operate to release the territory of the district originally incurring the bonded indebtedness from the final responsibility of paying the obligation or to rescind the increase in the limitation on taxes pledged to the bond issue or available for it in such district, nor be construed as so doing. The election may be held at any time following the effective date of annexation whenever a proposal is made to increase the bonded indebtedness of the combined district, and if such assumption of indebtedness is approved, it shall then become effective immediately. At the election to issue new bonds of the combined district, any outstanding bond issues of any or all of the original districts may be refunded as a part of the new bond issue and, in that event, it shall not be necessary to present the question of assumption of such indebtedness as a separate proposition. Where a school district is attached to another school district under the provisions of sections 440 to 443 of this act, the vote by the school electors of the combined district may be held at any time following the effective date of annexation.

HISTORY: New 1955, p. 540, Act 289, Eff. Jul. 1;—Am. 1956, p. 464, Act 215, Imd. Eff. May 1;—Am. 1957, p. 155, Act 135, Eff. Sep. 27;—Am. 1958, p. 234, Act 195, Eff. Sep. 13.

340.439 District annexation; notice, time.

Sec. 439. It shall be the duty of the secretary of the board of the annexing district to give written notice of such annexation to the county superintendent of schools of each of the counties in which the territory of the combined district is situated, and to the superintendent of public instruction. Such notice shall be given within 15 days of the effective date of any annexation.

HISTORY: New 1955, p. 540, Act 289, Eff. Jul. 1.

340.440 Nonoperating district; notice to reopen schools or attachment of operating district.

Sec. 440. On or after July 1, 1956, any school district which shall not have operated a school within the district for a period of the 2 immediately prior years thereto or for any 2-year period thereafter shall be subject to the provisions of sections 440, 441, 442 and 443 of this chapter.

On the first day of June, 1956, and each June first thereafter, the county superintendent of schools in each county of the state shall compile a list of school districts in such county which have not operated school within the district during the preceding 2 or more years, and within 10 days he shall notify in writing the board of education of each such district that it must comply with the provisions of sections 440, 441, 442 and 443 of this chapter. Each such district shall within a period of 1 year following this official notification, (1) attach itself as provided by this act either totally or in part to 1 or more operating districts, or (2) reopen and operate its own school.

HISTORY: New 1955, p. 540, Act 289, Eff. Jul. 1.

340.441 Nonoperating district; annexation or attachment to other districts, procedure.

Sec. 441. Upon failure of such district to comply with either of these requirements, the county board of education or the county boards of education, if such school district is situated in more than 1 county, shall, upon the approval of the superintendent

of public instruction, annex or attach such entire district either totally or in part to 1 or more operating districts in accordance with the following provisions:

(a) Within a period of 30 days after the expiration of the 1-year period, the county board or boards of education shall hold a hearing for the purpose of ascertaining facts and making recommendations regarding the annexation or attachment of such district, or parts thereof, to another district or districts which operate a school. At least 5 days prior to the date of the hearing, notice of such hearing must be given to the secretary of each of the boards of education of school districts whose boundaries might be affected by the annexation or attachment of the closed school district.

(b) Within 30 days following such hearing the county board or boards of education shall issue a written order regarding the annexation or attachment of the closed district either totally or in part to 1 or more operating districts. Such order shall indicate the date on which such annexation or property attachment shall take place. A copy of such order shall be transmitted by the county board or boards of education to the secretary of the board of education of each school district whose boundaries will be changed as the result of the order. This order shall have full effect in law on all districts concerned notwithstanding provisions of any other section of this act unless an appeal is taken as provided in this section.

(c) Within a period of 20 days after receipt of such order, each school district which is affected by the order shall (1) comply with the order, or (2) appeal to the state board of education for a review of the order as made by the county board or boards of education.

HISTORY: New 1955, p. 540, Act 269, Eff. Jul. 1;—Am. 1958, p. 235, Act 195, Eff. Sep. 13.

340.442 Nonoperating district; state board of education, review.

Sec. 442. The state board of education shall, within 90 days after the receipt of an appeal from any 1 or all of the affected districts, (1) after a review of the facts confirm the order, or (2) hold a hearing on the basis of the appeal. Within 30 days after the hearing, the state board of education shall (1) ratify the order of the county board or boards of education, or (2) amend the order of the county board or boards of education.

Any order issued by the state board of education under authority of this section shall have full force in law notwithstanding the provisions of any other section of this act.

HISTORY: New 1955, p. 541, Act 269, Eff. Jul. 1.

340.443 Nonoperating district; state school aid, forfeiture.

Sec. 443. Any school district which fails to comply with the orders of the county board or boards of education, or in the case of an appeal the state board of education, shall forfeit all financial benefits to which it might be entitled as the result of legislative appropriations for school aid purposes.

HISTORY: New 1955, p. 541, Act 269, Eff. Jul. 1.

340.444 District annexation; bonded debt not subject to tax limitation, approval by school tax elector.

Sec. 444. The authority and procedures prescribed in sections 433, 435, 437, and 438 of this act for the assumption of bonded indebtedness by an annexing or annexed school district, by both such districts or by a school district after annexation has become effective, shall apply to the assumption by either or both districts of any bonded debt which is not subject to the constitutional limitation on taxes: Provided, however, That the qualified school electors of the district or districts proposing annexation shall not be required to approve an increase in the tax limitation in respect to such bonded debt. The assumption of such unlimited tax bonded debt shall be approved by the school tax electors of either or both districts, as the case may be. In voting to assume

the bonded debt of another school district, which has more than one issue of bonds outstanding, the school tax electors may approve the assumption of the bonded indebtedness represented by one or more of such bond issues.

HISTORY: Add. 1956, p. 464, Act 215, Imd. Eff. May 1.

340.445 District annexation; approval of tax limitation increase by electors of territory annexed.

Sec. 445. Whenever a school district which has voted to increase the constitutional limitation on taxes for either building and site or general fund purposes, and the term of years for which the millage was voted has not expired, proposes to annex a district, the resolution of the board as set forth in section 431 of this act may provide that the annexation shall become effective only if the school electors of the district to be annexed approve an increase in the constitutional limitation on taxes for the same amounts, for the same purposes, and for the same years as are still in effect in the annexing district.

HISTORY: Add. 1957, p. 125, Act 105, Imd. Eff. May 24.

340.446 Division of intermediate districts; petition, election, effective date.

Sec. 446. (1) The board of education of an intermediate school district may divide a district which has no bonded indebtedness and attach the parts thereof to 2 or more operating districts when requested to do so by resolution of the board of the district to be divided, or when petitioned by not less than 5% of the registered general electors residing in the district as of the date the petition is received, and when the qualified school electors of the district, voting on the question at an annual or special election, approve the division. Any city or township clerk shall certify to the superintendent of the intermediate school district the number of registered general electors residing in a school district when requested by such superintendent.

The resolution of the board of the district to be divided, or the petition of the registered general electors residing in the district may determine the effective date of the division of the school district which shall not be later than the end of the fiscal year in which the election takes place.

Line of division.

(2) The board of education of the intermediate school district of the county in which the district to be divided is constituent shall determine, by resolution, the line of division by clear description. A school district shall be constituent in the county in which the latest annual financial report was filed with the superintendent of the intermediate school district. The determination of the line of division shall be based on the resolution of the board of education of the district to be divided or on the petition of the electors.

HISTORY: Add. 1962, p. 100, Act 119, Eff. Mar. 28, 1963;—Am. 1964, p. 132, Act 139, Eff. Aug. 28.

340.447 Division of districts; approval of ballot, election, territory attachment.

Sec. 447. The secretary of the board of education of the district proposed to be divided shall call an election at which the question of the division of the district shall be submitted to the qualified school electors. The vote on the proposition shall be by printed or duplicated ballot in such form as determined by the county board of education to clearly indicate the line of division by clear description. Before an election is held, the superintendent of public instruction shall approve the proposed division and the attachment of the parts so divided to existing operating districts. The election in the district to be divided shall be held not less than 10 nor more than 60 days following the date of approval by the superintendent of public instruction. The affirmative vote of a majority of the qualified school electors voting on the question shall be necessary to ratify the action of the county board of education. All territory attached to an

existing operating district shall be a part of the district to which attached for all purposes, including the levy of all taxes which the district to which the territory is attached has the authority to levy.

HISTORY: Add. 1962, p. 109, Act 119, Eff. Mar. 28, 1963.

340.448 Division of district; certified statement of vote; division of property.

Sec. 448. The secretary of the board of the district in which the election is held, within 5 days after the election, shall file a certified statement of the vote for division with the superintendent of the intermediate school district. Within 30 days after the filing of the certified statement of the vote approving the division, the board of education of the intermediate school district, by resolution, shall declare the district divided, attach the territory thereof to the specified operating districts and make an equitable distribution of the money, property and other material belonging to the district among the districts to which the territory is attached. Whenever the effective date is determined by the resolution of the board or by the petition of the electors as provided in section 446, the board of education of the intermediate school district shall declare the district divided as of the date specified in the resolution or petition.

HISTORY: Add. 1962, p. 109, Act 119, Eff. Mar. 28, 1963;—Am. 1964, p. 133, Act 139, Eff. Aug. 28.

340.449 Division of district; notice to officers; maps.

Sec. 449. The county superintendent of schools shall notify the secretaries of the boards of education of the districts whose boundaries would be changed, the affected township supervisors or city assessors and the superintendent of public instruction of the division of the district. The notification shall contain a map clearly indicating in detail the boundaries of the affected districts before the alteration in boundaries and the boundaries of the affected districts as established by the division of the district.

HISTORY: Add. 1962, p. 109, Act 119, Eff. Mar. 28, 1963.

CHAPTER 5.

TRANSFER OF TERRITORY BETWEEN DISTRICTS.

340.461 Transfer of territory between districts; approval.

Sec. 461. The county board of education may, in its discretion, detach territory from 1 district and attach it to another when requested to do so by resolution of the board of any district whose boundaries would be changed by such action, or when petitioned by not less than 2/3 of the resident owners of the land to be transferred. The county board of education shall take final action in regard to the resolution or petition within a period of 60 days of the receipt of the resolution or petition. Only territory contiguous to a district may be transferred. Whenever the latest available taxable valuation of the area to be detached is more than 10% of the latest available taxable valuation of the entire school district from which it is to be detached, the action of the county board of education directing such detachment shall not be valid unless approved, at an annual or special election called for that purpose in the district from which the detachment is to be made, by an affirmative vote of a majority of the school tax electors of the district, voting thereon.

HISTORY: New 1955, p. 541, Act 269, Eff. Jul. 1;—Am. 1957, p. 155, Act 135, Eff. Sep. 27.

340.462 Transfer of territory; notice of hearing, posting, publication.

Sec. 462. The county superintendent of schools shall give at least 10 days' notice of the time and place of the meeting of the county board of education and of the pro-

posed alteration in school district boundaries to be considered at said meeting, by posting such notice in at least 5 public places in each of the districts whose territory may be affected by such alteration and by publication at least once prior to such meeting in a newspaper of general circulation in the territory of the affected districts.

HISTORY: New 1955, p. 541, Act 269, Eff. Jul. 1.

340.463 Transfer of territory; districts in more than one county, meeting.

Sec. 463. Whenever the territory of districts the boundaries of which would be affected by the proposed alteration extends into 2 or more counties, or whose boundaries as a result of the proposed alteration would extend into 2 or more counties, the county boards of education of all such counties shall meet jointly and sit as a single board to consider and act upon the request for the transfer of territory. The resolution or petition for the transfer of territory, as set forth in section 461 of this act, may be addressed to and filed with the county board of any one of such counties and it shall then be the duty of the county superintendent of schools of such county to call the joint meeting of the affected county boards and to give the notice of such meeting as set forth in section 462 of this act. Action on the resolution or petition for transfer of territory shall be taken only at a meeting attended by at least a quorum of each of the county boards. At such joint meeting of the county boards of education, they shall elect 1 of their members chairman and another secretary thereof.

HISTORY: New 1955, p. 542, Act 269, Eff. Jul. 1;—Am. 1957, p. 156, Act 135, Eff. Sep. 27;—Am. 1961, p. 235, Act 162, Eff. Sep. 8.

340.464 Transfer of territory; maps showing boundaries, alteration.

Sec. 464. When the county board of education or the joint county boards of education have approved alterations in the boundaries of school districts, such board or joint boards shall cause a map to be prepared showing in detail the boundaries of the affected districts before the alteration in boundaries and the boundaries of territory annexed or detached. A copy of such map bearing the certification of the county superintendent of schools or the secretary of the joint boards shall be filed with the secretary of each affected district and with each affected township supervisor or city assessor.

HISTORY: New 1955, p. 542, Act 269, Eff. Jul. 1.

340.465 Transfer of territory; effective date; property, accounting; adjournment of hearing.

Sec. 465. In the resolution ordering the transfer of property, the county board or joint boards shall determine the effective date of such transfer, which shall not be less than 10 days from the date of the resolution, and shall determine whether any personal property of a school district is to be transferred and, when any real property owned by a school district is transferred to another district, determine an equitable payment for the taking of such property. The board or joint boards may require an accounting from the affected districts and, for the purpose of making its determination, may adjourn from time to time or subject to the call of the president of the board or chairman of the joint boards.

HISTORY: New 1955, p. 542, Act 269, Eff. Jul. 1.

340.466 Transfer of territory; effect on indebtedness; taxes, liability, certification, collection.

Sec. 466. Whenever territory is detached from a district which has a bonded indebtedness incurred after December 8, 1932, and transferred to another district, such territory shall remain as part of the district from which detached for the purpose of levying the debt retirement tax for such bonded indebtedness until such bonds have been redeemed or sufficient funds are available in the debt retirement fund for such purpose,

but shall not be part of the district from which detached for the purpose of any subsequent bond issue, nor shall any portion of such territory so detached be part of the district from which detached for any tax levy hereafter imposed for the purpose of any prior bonded indebtedness created or assumed at a time when such portion of such territory so detached was not a part of a district or territory approving or assuming such bonded indebtedness. Such territory shall be a part of the district to which transferred for all other purposes. Such territory shall not be subject to a bond debt retirement tax levy for bonded indebtedness of the district to which transferred existing at the time of transfer until the bonded indebtedness of the district from which transferred existing at the time of transfer has been retired or sufficient funds are available and earmarked in the debt retirement fund for such purpose, or whenever the board of education of the district to which the property is transferred, by resolution, effective for a period of not more than 3 years, exempts such property from such debt levy. The school officials of the district to which such territory is transferred shall certify the required debt retirement levy for the bonds of the district from which such territory has been detached, and the territory over which it is to be spread, to the proper taxing officials when certifying the other taxes to be levied by said district, and the tax collecting officials shall remit the collections thereon along with other tax collections to the district to which the property is transferred, and the officials of said district shall immediately transmit such collections to the district from which the territory was taken.

Payment of pro rata share by receiving district, procedure.

The district to which the land has been transferred may pay to the district from which the land has been detached the present value of the pro rata bonded indebtedness of the territory which has been thus detached. In such event the county board of education shall certify to the municipal finance commission the fact of the transfer, the description of the territory thus transferred, the bonded indebtedness of the district from which the territory has been detached, the assessed valuation of the district from which the territory has been detached, the assessed valuation of the territory thus detached, and such other information as the municipal finance commission may require. The municipal finance commission shall thereupon determine the pro rata share of the bonded indebtedness of the territory thus detached to the district from which the territory has been detached in accordance with sound bond accounting principles. The municipal finance commission shall thereupon certify to the county board of education the amount thus determined, and the county board of education shall certify such amounts to the districts affected. The district to which the territory has been transferred may pay to the district from which the territory has been detached such sum. Said settlement of the bonded indebtedness shall be made on the state equalized valuation in the year of transfer, and the district receiving such moneys shall apply the same in accordance with the terms and tenor of the bond issue. Any transfer made after September 1 in any given year shall be deemed a part of the territory from which detached for the purpose of the succeeding December tax levy, and the settlement in such case shall be made after the December tax levy in the year of transfer. Upon settlement of the bonded indebtedness by the district to which the territory has been transferred, then the territory shall become subject to the bond debt retirement tax levy for bonded indebtedness of the district to which transferred existing at the time of transfer. For the purpose of making such settlement, the district to which the territory is attached may use up to 15% of any state aid money in any one year.

HISTORY: New 1955, p. 542, Act 269, Eff. Jul. 1;—Am. 1961, p. 59, Act 61, Eff. Sep. 8;—Am. 1969, p. 196, Act 96, Imd. Eff. Jul. 24.

340.466a Transfer of territory; operational millage levy, time; certification of taxes.

Sec. 466a. When territory is attached to a district, effective prior to September 1 of any year, school operational millage for that year shall be levied on property in such territory by the attaching district. When territory is attached to a district effective on or after September 1 of any year, school operational millage for that year shall be levied on property in such territory by the district from which the territory is detached. The school officials of the district entitled to levy school operational millage within the transferred territory, shall certify the school operational millage, and the territory over which it is to be spread, to the proper taxing officials when certifying the ad valorem taxes to be levied by the district.

HISTORY: Add. 1967, p. 143, Act 114, Imd. Eff. Jun. 27.

340.467 Transfer of territory; appeal, state board of education.

Sec. 467. Any one or more resident owners of land considered for transfer from 1 district to another, or the board of any district whose territory is affected, may appeal the action of the county board of education or joint boards in transferring such land, or the failure to transfer such land, or the action taken relative to the accounting determination, to the state board of education within 10 days after such action or determination by the county board of education or the joint boards. If the county board of education or the joint boards fail to take action within the time limit prescribed in section 461, the appeal may be made to the state board of education within 10 days following the termination of the period. Such appeal shall have the effect of holding the effectiveness of the resolution from which appealed in abeyance until the appeal is acted upon by the state board of education.

The state board of education is hereby empowered to consider such appeals and to confirm, modify or set aside the order of the county board of education or the joint boards and its action on any such appeal shall be final.

HISTORY: New 1955, p. 543, Act 269, Eff. Jul. 1;—Am. 1957, p. 156, Act 135, Eff. Sep. 27.

340.468 District boundary change; twelfth grade students; continuation, tuition.

Sec. 468. In any case where the boundaries of a school district are changed, students in the twelfth grade at the time of the change or entering the twelfth grade at the beginning of the school year immediately following the change shall be allowed to continue attending school in the district which they attended before the change without the payment of tuition.

HISTORY: Add. 1965, p. 441, Act 263, Imd. Eff. Jul. 21, 1966;—Add. 1965, p. 739, Act 375, Imd. Eff. Jul. 23.

CHAPTER 6.**BOARDS OF EDUCATION; TERMS OF OFFICE; ELIGIBILITY; ACCEPTANCE; VACANCIES; FILLING OF VACANCIES.****340.491 Board of education; members, term of office.**

Sec. 491. The terms of office of all members of boards of education shall commence on July 1 and continue until their successors are elected and qualified.

HISTORY: New 1955, p. 543, Act 269, Eff. Jul. 1;—Am. 1961, p. 30, Act 29, Imd. Eff. May 12.

340.492 Board of education; eligibility to office.

Sec. 492. Any school elector in a school district, who is the owner in his own right of property which is assessed for taxes, shall be eligible to election or appointment to office in such school district: Provided, That where a husband and wife own property jointly, if otherwise qualified, each shall be eligible to appointment or election to school office: Provided further, That in any school district which registers its school electors, if less than 25% of the registered school electors are school tax electors, any

qualified school elector is eligible to be elected as a member of the board of education.

HISTORY: New 1955, p. 543, Act 269, Eff. Jul. 1;—Am. 1959, p. 453, Act 271, Imd. Eff. Nov. 3.

340.493 Board of education; office acceptance, affidavit of eligibility, oath.

Sec. 493. Within 5 days after his election each member shall be notified of his election and within 10 days after his notification or appointment to the board of any district, each person so elected or appointed shall file with the secretary of the board an acceptance of the office to which he has been elected or appointed, accompanied by a written affidavit setting forth the fact of eligibility as provided in section 492. Each person elected or appointed to the board of any district shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of member of the board of education according to the best of my ability."

HISTORY: New 1955, p. 543, Act 269, Eff. Jul. 1;—Am. 1962, p. 6, Act 5, Eff. Mar. 28, 1963;—Am. 1963, p. 439, Act 245, Imd. Eff. Jun. 13.

340.494 Board of education; vacancy.

Sec. 494. The office of a member of the board shall become vacant immediately, without declaration by any officer or acceptance by any board or its members, upon any of the following events:

First, The death of the incumbent, or his being adjudicated insane or being found to be mentally incompetent by the proper court;

Second, His resignation;

Third, His removal from office;

Fourth, His conviction of a felony;

Fifth, His election or appointment being declared void by a competent tribunal;

Sixth, His neglect to file his acceptance of office, or to give or renew any official bond required by law;

Seventh, Upon the failure of the district to elect a successor at the annual school meeting or election;

Eighth, His ceasing to possess the legal qualifications for holding office; or

Ninth, His removal from the district.

HISTORY: New 1955, p. 543, Act 269, Eff. Jul. 1.

340.495 Board of education; vacancy, filling; election.

Sec. 495. Whenever less than a majority of the offices of any district become vacant, the remaining members of the board shall immediately fill such vacancy or vacancies. If any vacancy is not filled as herein provided within 20 days after it shall have occurred, the county board of education of the county in which the district is situated shall fill such vacancy by appointment: Provided, That when the territory of the district extends into more than 1 county, such appointment shall be made by the county boards of education of each county acting jointly as a single board. In the event that a majority of the offices become or are vacant at the same time, the remaining member or members of the board, if such there be, shall immediately call a special election of the district to fill such vacancies, and if such election is not called by the remaining member or members of the board, within 20 days after the happening of such vacancies, or if all of the offices of the members of the board shall become vacant, the county superintendent of schools of the county in which the district or the greater portion thereof as measured by the assessed valuation is situated, shall call a special election of such district to fill the existing vacancies. Any person elected or appointed to fill a vacancy in the board of any district shall file his acceptance and qualify as hereinbefore provided and shall hold such office until the next succeeding annual election.

at which time the electors of the district shall fill such office for the unexpired portion of the term.

HISTORY: New 1955, p. 544, Act 269, Eff. Jul. 1.

CHAPTER 7.

SCHOOL ELECTIONS.

340.511 School electors; qualification; repeat elections on proposals.

Sec. 511. A school elector shall possess the qualifications provided for qualified electors in section 1 of article 2 of the constitution and statutes enacted thereunder. Upon questions involving the increase of the ad valorem tax limitation imposed by section 6 of article 9 of the constitution for a period of more than 5 years or the issue of bonds, school electors shall possess the qualifications provided in section 6 of article 2 of the constitution. No person shall vote in any school election unless he shall have resided within the school district at least 30 days next preceding the election. The same question or measure involving consolidation of school districts, annexation of entire districts, annexation or transfer of a portion of 1 school district to another, or bonding of school districts, shall not be submitted to the voters of any school district more often than once in 6 months, unless the board is presented with a petition requesting the board to call another election and signed by qualified school electors of the district to the number of not less than 50% of the registered general electors residing in the district as of the date the petition is presented to the board. Any city or township clerk shall certify to the intermediate school district superintendent of schools the number of registered general electors residing in a school district when requested by the intermediate school district superintendent, who shall make the information available to the board of the district.

HISTORY: New 1955, p. 544, Act 269, Eff. Jul. 1;—Am. 1963, p. 295, Act 208, Imd. Eff. May 15;—Am. 1963, 2nd Ex. Ses., p. 50, Act 39, Imd. Eff. Dec. 27.

340.512 School electors; challenges; examination, perjury.

Sec. 512. If any person offering to vote shall be challenged as unqualified by any board member or inspector, or by any elector qualified to vote at that election or meeting, he or she shall be sworn to answer truthfully all questions put to him or her touching his or her qualifications as an elector. Any board member or any one of the inspectors may administer the oath to a person whose vote has been challenged. Any board member, inspector or qualified voter at that election or meeting may question said person as to his or her qualifications as an elector. If the answers to questions put to such person shall show that he or she is a qualified voter at that election or meeting his or her ballot shall be received, endorsed, handled and treated in all respects in the same manner as is provided in the general election laws of this state relative to the ballots of persons challenged as unqualified; and in case of a contested election, the same proceedings may be had, and the voter shall be entitled to the same rights and privileges, as are provided in the general election laws relative thereto. If the answers to questions put to such person show that he is not a qualified voter at that election or meeting his ballot shall not be received. If any one of his answers concerning a material matter shall not be true, he shall, on conviction, be deemed guilty of perjury.

HISTORY: New 1955, p. 544, Act 269, Eff. Jul. 1.

340.513 School electors; preservation of ballots of challenged voter.

Sec. 513. Whenever, at any election in a district wherein registration is not a qualification for voting, the ballot of any person who has been challenged as an unqualified voter and who has taken the oath, shall be received by the inspectors of election, the inspectors shall record the name and residence of the challenged voter in the poll book and place after the name a distinctive number, which number the inspectors, before

depositing the ballot in the ballot box, shall cause to be plainly indorsed thereon, and sealed in the same manner as provided by law for preventing the identification of ballots received from challenged voters in general elections. After the vote at the election has been canvassed, the board of canvassers shall cause any challenged ballots to be sealed in an envelope addressed to the secretary of the board to be preserved by him for a period of not less than 90 days following the election.

HISTORY: New 1955, p. 544, Act 289, Eff. Jul. 1;—Am. 1963, 2nd Ex. Ses., p. 50, Act 39, Imd. Eff. Dec. 27.

340.514 Declaration of election; plurality of vote except in primary districts.

Sec. 514. In all school elections the person or persons receiving the greatest number of votes shall be declared elected, and after qualifying he or they shall hold office until his or their successors shall be elected and qualified: Provided, however, That in primary districts a majority vote shall be required.

HISTORY: New 1955, p. 545, Act 289, Eff. Jul. 1.

340.514a Elections; board of canvassers, establishment, powers, duties, members, term, notice of appointment.

Sec. 514a. (1) Except in those cases where the school election is conducted by city officials, a 4-member board of canvassers is hereby established in every school district in this state, notwithstanding any statutory provision or any other rule or law to the contrary. All the powers granted to and duties required by law to be performed by any board of school canvassers are hereby granted to and required to be performed by the board of canvassers hereby established. Members of the boards shall be appointed for terms of 4 years beginning January 1 next following their appointment. Of the members first appointed, 1 member of each of the political parties represented on the canvassing board shall be appointed for a term ending December 31, 1967, and 1 for a term ending December 31, 1965. Members of the board shall be notified of their appointment within 5 days thereafter by the secretary.

Eligibility, affidavit, vacation of office.

(2) Members of the board shall be qualified and registered electors of the school district in which they serve. No person shall be appointed to a board of canvassers unless such person shall have filed with the secretary an affidavit on a form approved by the state bureau of elections containing the following information: Name, home address, political party affiliation, date of birth, employment and statement of physical disability, if any. The secretary shall notify the county clerk of the name, address and political affiliation of board members, and the county clerk shall maintain such record for public inspection. A member of a board of canvassers vacates his office if at any time during his term of office he or any member of his immediate family serves as an election inspector or becomes a candidate for any elective public office at an election to be canvassed by its board of canvassers or serves as a member of the board of education in the district for which his board is established.

Bipartisan selection of members, vacancy.

(3) Selection of the members of such board shall be made from each of the 2 political parties casting the greatest number of votes for secretary of state at the preceding November election in the county or counties in which the school district is located. No political party shall be represented by more than 2 members on the board at any one time. Persons possessing qualifications for membership on the board may submit an application for the position on a form prescribed by the board of education. The board of education shall appoint from the applications on file the members of the canvassing board by December 1 of each odd numbered year, but the members of the first board shall be appointed as soon as possible after this act takes effect. In event of a vacancy, the board of education shall make the appointment to fill the vacancy. Any person ap-

pointed to fill the vacancy shall serve for the balance of the unexpired term. If an insufficient number of applications to fill the position has been submitted, the board of education shall make the appointments in any manner it deems desirable.

Meetings, quorum, certification of results; completion of canvass by board of county canvassers.

(4) The board shall meet as necessary to transact their business and shall elect 1 of their members chairman and 1 vice chairman. Any 3 members shall constitute a quorum but no actions shall become effective unless 1 member from each political party represented concurs therein. The secretary shall be the clerk of the board of canvassers. Should the board fail to certify the results of any election for any office or proposition within the 14 days immediately following the election at which the office or proposition was voted on, they shall immediately deliver to the secretary of the board of county canvassers of that county, or if the district lies in more than one county, to the board of county canvassers of that county in which the greatest number of registered voters of that school district reside, all records and other information pertaining thereto. The board of county canvassers shall meet forthwith and make the necessary determinations and certify the results of that election within the 7 days immediately following the receipt of the records.

Expenses, compensation.

(5) The members of the board of canvassers shall receive actual and necessary expenses incurred in the performance of their official duties and in addition may be paid a daily rate if so ordered by the board of education.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 50, Act 39, Imd. Eff. Dec. 27.

CITED IN OTHER SECTIONS: The above section is cited in § 340.409.

340.515 Elections; tie vote.

Sec. 515. In case 2 or more persons receive an equal and the highest number of votes for any office, such persons shall proceed to draw lots for the election to said office, which drawing shall take place before any 2 members of the board not required to draw lots.

HISTORY: New 1955, p. 545, Act 269, Eff. Jul. 1.

340.516 Elections; voting machine.

Sec. 516. The board of any district is authorized to provide voting machine facilities for any school election, either by rental or by cooperative agreements or contracts with municipalities or other political subdivisions of the states.

HISTORY: New 1955, p. 545, Act 269, Eff. Jul. 1.

340.517 Elections; fraud; recount petition, notice, conduct.

Sec. 517. In all school elections, except elections for board members in primary districts, school electors equal in number to not less than 10% of the total votes cast in the election, who believe that there has been fraud or error committed by the board of canvassers in their canvass or return of the votes cast at the election upon any question or proposition voted upon, or upon the election of any person thereat, may petition the board of county canvassers not later than 6 days after certification of the results of the election for a recount of the votes cast on the question, proposition or election. Upon the filing of any petition for a recount, the board shall give notice of the recount in a manner as near as may be in accordance with the provisions of the law governing recounts in general elections, and the recount shall be governed by and conducted in accordance with applicable provisions of the general election laws with respect to recounts for county offices.

HISTORY: Add. 1961, p. 217, Act 152, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 51, Act 39, Imd. Eff. Dec. 27.

340.518 Elections; voting application, approval; poll list, registration card.

Sec. 518. In all school elections, except elections for board members in primary districts, every elector offering to vote, before being given a ballot, shall identify himself by executing an application showing his signature and address of residence in the presence of an election inspector. The application shall indicate that the person offering to vote is qualified to vote in the school election. In elections where registration cards are used, the election inspector in charge of the precinct registration file shall compare the signature upon the application with the signature upon the registration card, and if the same do not correspond the vote of the person shall be challenged and the same procedure shall be followed as provided for the challenging of electors. In all precincts if the person offering to vote has signed the application by making a mark, then the person shall identify himself by some additional means. If it is found that the applicant is entitled to vote, an election inspector shall approve the application and write his initials thereon, after which the number on the ballots issued shall be noted on the application. The applications shall serve as an additional poll list and after the election they shall be filed with the secretary of the board. In precincts using registration cards there shall be noted by one of the election inspectors upon the precinct registration card of each elector voting at any election, the date of the election.

Tax electors, additional certificate.

When questions involving the increase of the ad valorem tax limitation imposed by section 6 of article 9 of the constitution for a period of more than 5 years or the issuance of bonds are submitted, the application for ballots shall also contain a certificate to be subscribed to by persons entitled to vote on such questions as provided in section 6 of article 2 of the state constitution. The certificate shall state that, in addition to having the qualifications of an elector, the elector or the husband or wife of the elector has property assessed for taxes in the district or territory to be affected by the result of the election, and voting on such questions shall be restricted to persons so qualified. If a question relating to the expenditure of public money or the issuance of bonds is submitted at a primary or election at which candidates are to be voted for or other propositions submitted, each elector entitled to vote on such question shall execute a certificate as hereinbefore provided which shall be separate and distinct from the certificate required in connection with the issuance of other ballots. The certificate may either appear in a separate division of the regular application for ballots or may be printed on a separate application.

HISTORY: Add. 1961, p. 337, Act 203, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 52, Act 39, Imd. Eff. Dec. 27.

340.519 Elections; time.

Sec. 519. Notwithstanding any law to the contrary, no regular or special school election shall be held within 30 days before or after any regular state general election. The words "general election" mean the elections required by law to be held in the month of November, excluding any primary election. This section shall not be construed so as to prevent the holding of any school election on the day of any general state election.

HISTORY: Add. 1961, p. 337, Act 203, Eff. Sep. 8;—Am. 1963, p. 296, Act 206, Imd. Eff. May 15.

CHAPTER 8.

REGISTRATION SCHOOL DISTRICTS.

340.531 Registration district; adoption of chapter.

Sec. 531. Every school district which has become a registration district by virtue of a resolution of its board at the time this act takes effect shall continue to be a registration district and be governed by the provisions of this chapter, subject to discontinuance as provided for in section 540 of this chapter. The board of any school district, except a primary school district, may by resolution adopt the provisions of this chap-

ter. After such action has been taken, all elections of the district shall be held in compliance with the provisions of this chapter and for election purposes such district may be referred to as a registration school district.

HISTORY: New 1955, p. 545, Act 289, Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 340.531 to 340.540 are cited in § 389.36.

340.531a Registration district; bond proposals, annexation, consolidation, election procedures.

Sec. 531a. In all school districts, issues of bonding, annexation and consolidation to which the consent of the electors is required shall be decided by an election held under the provisions of this chapter notwithstanding the provisions of section 531 of this act.

HISTORY: Add. 1980, p. 208, Act 143, Eff. Aug. 17.

340.532 Registration district; vote, qualification.

Sec. 532. The inspectors of election at any annual or special election shall not receive the vote of any person residing in a registration school district whose name is not registered as an elector in the city or township in which he resides, or whose name is not in the registration file in the precinct in which he offers to vote when city registration records are used in school elections as hereinafter provided.

HISTORY: New 1955, p. 545, Act 289, Eff. Jul. 1.

340.533 Registration district; city and township registration records, use; election conduct; expenses; termination of agreement.

Sec. 533. (a) The board of any registration school district whose territory includes the entire or a portion of the territory of a city or township, by agreement with the governing body of the city or township, may use the registration records of the city or township at any election held by the school district on such terms and conditions, including the payment of the necessary expenses of any such election, as the school district and the city or township may mutually agree upon. If a school district whose territory includes the entire or a portion of the territory of a city or township holds an election at the same time that the city or township holds an election, the election commissioners and inspectors and other election officials provided by law for such city or township election may act in their respective capacities for the school election when mutually agreed thereto by the board of the school district and the governing body of the city or township for that portion of the school district lying within the boundaries of the city or township, the expense of which is to be borne proportionately by the board and the city or township government. The board of any school district whose territory includes the entire or a portion of the territory of a city or township may determine, upon agreement with the governing body of the city or township, that the city or township by its proper officials shall conduct any annual or special election on behalf of the school district in that portion of the school district lying within the boundaries of the city or township on such terms and conditions, including the payment of the necessary expenses, as may be mutually agreed upon between the school district and the city or township. The agreement to use the registration records of the city or township for school elections and for conducting the school elections by the city or township officials shall be continuing and shall be terminated only on 12 months' notice by either party.

Application of general election laws; last day; notice; voting machines.

(b) In any school district or portion of a district where the registration records of a city or township are used in school elections, the provisions of the general election laws shall apply with respect to the last day of registration preceding an election, the time and manner of giving notice of registration and election, and the use of voting machines.

HISTORY: New 1955, p. 545, Act 269, Eff. Jul. 1;—Am. 1961, p. 340, Act 207, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 52, Act 39, Imd. Eff. Dec. 27.

340.534 Registration district; voting precincts.

Sec. 534. The board of any registration school district shall form the district into 1 or more voting precincts as it shall deem expedient. Whenever the city or township officials conduct an election for a school district as above provided, the voting precincts of the school district shall be the same as those of the city or township for that portion of the school district lying within the boundaries of the city or township.

HISTORY: New 1955, p. 546, Act 269, Eff. Jul. 1;—Am. 1961, p. 340, Act 207, Eff. Sep. 8.

340.535 Registration district; city and township registration records not used; procedure.

Sec. 535. In any registration school district or portion of such district in which the registration records of a city or township are not used at school elections the following procedures shall apply:

Map of district filed with clerk of municipality.

(a) The secretary of the board of each registration school district shall cause to be prepared and filed with the clerk of each city or township, to keep with his registration books, a map or maps showing the boundary, roads or streets, and the name of each registration school district or part of such district lying within the boundaries of the city or township.

Duplicated registration lists and cards; signature of voter.

(b) Within 10 days after any school district becomes subject to the provisions of this section, the secretary of the board of such district shall in writing request the clerk of each city or township into which the school district extends to furnish said secretary a certified list of the names and residential addresses of the existing registered electors of the city or township who reside within the school district. As soon as practical after receiving such request, it shall be the duty of the city or township clerk to make, certify and deliver to the school district secretary a true list of the names and addresses of the registered electors of the city or township residing within the school district as is shown by the clerk's registration books. The initial list of registered voters may consist of duplicated registration cards containing the same information contained on the face of the original cards, or a list contained upon 1 or more sheets, or may consist of photographic duplications of the face of the original cards. Each sheet or card shall bear the official seal or stamp of the certifying clerk. The school district shall pay the cost of preparing lists so requested, but the clerk may furnish the certified record without assessing any cost therefor. The secretary may convert the original registration list to separate district precinct lists or cards, and each precinct list or card copied from the original shall bear the certification of the secretary or the official clerk of the board that it is a true copy. When the original list has been converted to separate registration cards, each person whose name appears on the card shall be requested to sign the card at the first election thereafter at which he offers to vote and, in case he refuses to do so, ballots shall not be issued to him at the election nor any future election until he has signed the card.

New registrations; time; cancellations, transfers.

(c) The clerk of each city or township, at the time of taking the city or township registration of any person, shall determine in what school district the person resides, and, if it is a registration school district, the clerk shall prepare an additional registration card for the person and forthwith deliver it to the secretary of the board of the school district. The additional card may be sworn to and signed by the person registering, or it may be a carbon copy of the original city or township registration card certified to by the city or township clerk or his accredited assistant. Any person registering after 5 p.m. of the fifth Friday next preceding any annual or special school election or after 5 p.m. of the next succeeding day which is not a legal holiday in case the fifth Friday is a legal holiday shall not be eligible to vote in the annual or special school election, and any registration so taken shall not be delivered to the secretary of the school district until after the annual or special school election has been held. No school registrations shall be taken at any time city or township registrations are closed. The officer who first receives such registrations shall be at his office for such purpose between the hours of 8 a.m. and 5 p.m. on the first Saturday preceding the close of registration which is not a legal holiday.

Each city or township clerk shall prepare an additional copy of any cancellation of registration and of each transfer of registration and from time to time deliver the cancellation and transfer copies to the secretary of the applicable board, who shall apply such corrections to the registration records of the school district.

Notice of last day to register, posting, publication.

(d) Notice of the last day on which persons may register in order to be eligible to vote in any annual or special election shall be given by the secretary of the board by posting a notice thereof in 3 public places in each voting precinct at least 10 days before the last day, or by publication in 1 or more of the papers, if any in the district, at least 2 times within 10 days next preceding the last day of registration, or, if no daily paper is published in the district, notice may be published at least once in a weekly newspaper published therein if the paper be so published.

Notice of election, posting, publication, contents.

(e) Notice of the time and place of holding any election shall be given by the secretary of the board by posting notice thereof in 3 public places in each voting precinct at least 10 days before the election, or by publication in 1 or more of the papers, if any in the district, at least 2 times within 10 days next preceding the election, or, if no daily paper is published in the district, the notice may be published at least once in a weekly newspaper published therein if the paper be so published. The notice of election shall contain the names of all candidates for each office to be voted on, and the substance of all special matters, if any, to be submitted thereat.

HISTORY: New 1955, p. 546, Act 269, Eff. Jul. 1;—Am. 1961, p. 341, Act 207, Eff. Sep. 8;—Am. 1967, p. 171, Act 146, Eff. Jul. 1.

340.536 Registration district; election inspectors, appointment, oath, vacancies; canvass of votes, return.

Sec. 536. Except in those cases where the school election is conducted by city officials as hereinbefore provided, the board in each district subject to the provisions of this chapter shall appoint 3 or more school electors for each voting precinct to compose the board of election inspectors therein. Such appointments shall be made at least 10 days prior to the time required for election, as the case may be. Each member shall take the constitutional oath of office and shall be entitled to administer oaths to any persons in connection with the election. In case of inability or refusal to act, the board of education may fill the vacancy and in case the members shall not all be present at the time of opening the polls, the members of the board of election inspectors present may fill the vacancy. The inspectors of election, including the inspectors of

election where the election is conducted by city officials, shall immediately after canvassing the votes make their return thereof and deliver the same to the secretary of the board of education.

HISTORY: New 1955, p. 547, Act 209, Eff. Jul. 1.

340.537 Registration district; canvass returns; election results; certificate of result, filing; notice of election, acceptance, oath.

Sec. 537. The board of canvassers shall convene within 3 days succeeding any election and acting as a board of school canvassers canvass the returns, and from the statements filed with the secretary shall determine the result of the election upon each question and proposition voted upon, and what persons were duly elected at said election. The secretary shall make triplicate certificates of such determination showing the result of the election upon each question or proposition, and what persons were declared elected to the several offices respectively, one of which he shall file in the office of the intermediate school district superintendent of schools, one in the office of the clerk of the city or township in which such district is situated, and the other shall be filed in his own office. The person receiving the greatest number of votes, as shown by said statements, shall be deemed to have been duly elected, but if there shall be no choice by reason of 2 or more candidates having received an equal number of votes for the office, said candidates shall, under supervision of the board, choose by lot the person who shall be declared elected to said office. It shall be the duty of the secretary of the board, within 5 days after the determination, to notify in writing each person elected of his election and each shall file a written acceptance of such election, together with the constitutional oath of office, with the secretary of the board within 10 days after mailing such notice, or within the time provided in the act under which the district is operating.

HISTORY: New 1955, p. 548, Act 209, Eff. Jul. 1;—Am. 1961, p. 218, Act 152, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 53, Act 39, Imd. Eff. Dec. 27.

340.538 Registration district; nominating petitions, canvass, withdrawal of candidates; ballots, form.

Sec. 538. To obtain the printing of the name of any candidate for member of the board on the ballot, the candidate shall file nomination petitions with the secretary of the board not later than 4 p.m. on the thirtieth day prior to the date of election, unless the thirtieth day falls on a Saturday, Sunday or legal holiday in which case nomination petitions may be served on the secretary up to 4 p.m. on the next secular day. Each petition shall be signed by a number of registered school electors of the district equal to not less than 1% nor more than 4% of the total number of votes received by the candidate for member of the board of education who received the greatest number of votes at the last election at which members of the board of education were elected but in no case shall the number be less than 20. No elector shall sign the petition for more candidates than are to be elected. The petition shall be substantially in the following form:

We, the undersigned qualified registered school electors of (legal name of school district) and state of Michigan, do hereby nominate (name of candidate) of (street address) (post office address) a resident qualified elector of said district as a member of the board of education of said school district for a term of years, expiring to be voted for at the election to be held on the day of, 19....

Warning—whoever knowingly signs more petitions for the same office than there are candidates to be elected, or signs a name other than his own, is violating the provisions of this act.

Name	(Street No. in cities and townships having street Nos., otherwise R.R. Nos.)	date of signing Month Day Year
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20 numbered lines as above

Certificate of Circulator

The undersigned circulator of the above petition asserts that he is qualified to circulate this petition, that each signature on the petition was signed in his presence, that to his best knowledge and belief each signature is the genuine signature of the person purporting to sign the same and that the person was at the time of signing a qualified registered elector of the school district listed in the heading of the petition and that such elector was qualified to sign the petition.

(Signature of Circulator)

(Street Number or Rural Route)

(City or Township)

(Date)

Warning—Any circulator knowingly making a false statement in the above certificate or any person who files a name other than his own as circulator is guilty of a misdemeanor.

The size of all nominating petitions shall be 8 1/2 inches by 13 inches and shall be printed in the following type sizes: The words "nominating petition" shall be in 24-point bold face type: "we, the undersigned, etc." shall be in 8-point type: "warning" and the language contained therein shall be in 12-point bold face type and the balance of the petition shall be in 8-point type.

Any person who knowingly signs more petitions for the same office than there are candidates to be elected, or signs any name other than his own, is guilty of a misdemeanor.

The circulator of any nomination petition shall be a qualified and registered elector of the school district in which the petition is being circulated.

Upon the filing of nomination petitions with the secretary of the board, he shall canvass the same to ascertain if the petitions have been signed by the requisite number of qualified and registered school electors, and for the purpose of determining the validity thereof may cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which the petitions were circulated for properly determining the authenticity of the signatures. If it is determined that the nomination petitions of any candidate do not comply with such requirements, including the fact that the candidate does not possess the qualifications as required by law for membership on the board, or if for any other cause the candidate is not entitled to have his name printed upon any official election ballots, the secretary of the board shall immediately notify the candidate of such fact. In the case of nomination petitions

filed on behalf of the secretary of the board, the treasurer of the board shall perform the above duties of the secretary in connection therewith instead of the secretary.

After the filing of a nomination petition by or on behalf of a proposed candidate for membership on the board, the candidate shall not be permitted to withdraw unless a written notice of withdrawal, signed by the candidate, is served on the secretary of the board or duly authorized agent not later than 4 p.m. of the third day after the last day for filing such petition unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the secretary up to 4 p.m. on the next secular day.

The secretary of the board shall prepare and have printed an official ballot which shall contain a separate area for each term of office. The ballot shall be substantially in the same form as provided in the general election law, and the names of all candidates who have been duly nominated for each term of office shall be printed in the proper place thereon. In the printing of such ballots, the provisions of the general law of the state for transposing and alternating the positions of the names of candidates on the ballots shall apply. No party emblem or designation shall be placed on school election ballots. The head of each section of the ballot shall have printed on it the number of persons to be voted for and the expiration date of the term involved.

HISTORY: New 1955, p. 548, Act 269, Eff. Jul. 1;—Am. 1959, p. 128, Act 124, Eff. Mar. 19, 1960;—Am. 1961, p. 369, Act 218, Eff. Sep. 8, —Am. 1965, p. 40, Act 26, Imd. Eff. Apr. 22;—Am. 1968, p. 134, Act 80, Imd. Eff. Jun. 4.

340.539 Registration district; general election laws, application; secretary of district board, municipal clerk.

Sec. 539. The Michigan election law, Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Compiled Laws of 1948, so far as it is applicable to elections under this chapter, including the voting of absent voters, and all provisions of Act No. 116 of the Public Acts of 1954, relating to the hours for the opening and closing of the polls at elections and for preserving the purity of elections and for preventing fraud and corruption, shall govern all elections under this chapter so far as the same are applicable and not inconsistent with the provisions of this chapter. Where the provisions of the Michigan election law are applicable under the provisions of this chapter, the secretary of the board of the school district operating under this chapter shall perform the duties prescribed for a township, village or city clerk in the Michigan election law.

HISTORY: New 1955, p. 549, Act 269, Eff. Jul. 1;—Am. 1960, p. 208, Act 143, Eff. Aug. 17.

340.540 Registration district; discontinuance.

Sec. 540. The board of any district which has come under the provisions of this chapter by virtue of the adoption of its provisions by resolution of the board, at any time after 1 year, may discontinue the application of this chapter by resolution or, upon a petition signed by 10% of the registered electors in the district, shall submit the question of the discontinuance of this chapter within such district to the vote of the electors thereof at the next annual election. Such petition shall be filed with the secretary of the board not less than 30 days preceding such annual election. Any resolution providing for the discontinuance of the application of this chapter shall become effective 90 days after the adoption of the resolution.

HISTORY: New 1955, p. 549, Act 269, Eff. Jul. 1;—Am. 1968, p. 137, Act 83, Imd. Eff. Jun. 4.

CHAPTER 9.

BOARDS OF EDUCATION—GENERAL POWERS AND DUTIES.

340.561 Board of education; public meetings, record, temporary officers.

Sec. 561. All business which the board of any district is authorized to perform shall be done at a public meeting of the board and no act shall be valid unless voted at a

meeting of the board by a majority vote of the members elect of the board and a proper record made of the vote. A meeting in which all members are present, with or without proper notice, shall be considered a legal meeting for the transaction of business. Meetings of the board shall be public meetings and no person shall be excluded therefrom. The board may hold executive sessions, but no final action shall be taken at any executive session. The minutes of all board meetings must be signed by the secretary. In the absence of the secretary in any meeting, the president shall appoint a temporary secretary who shall sign the minutes of the meeting. In the absence of the president, the other members present shall elect a temporary president.

HISTORY: New 1955, p. 549, Act 266, Eff. Jul. 1;—Am. 1959, p. 355, Act 240, Eff. Mar. 19, 1960;—Am. 1961, p. 257, Act 181, Eff. Sep. 8.

340.562 Board of education; public records, inspection.

Sec. 562. The board of every district shall purchase a record book and such other books, blanks and stationery as may be necessary to keep a record of the proceedings of the board, the accounts of the treasurer, and for doing the business of the district in an orderly manner. All records of the board shall be public records and subject to inspection under section 750.492 of the Compiled Laws of 1948.

HISTORY: New 1955, p. 550, Act 269, Eff. Jul. 1;—Am. 1959, p. 355, Act 240, Eff. Mar. 19, 1960.

340.563 Board of education; taxes, levy.

Sec. 563. The board of every district shall vote to levy such taxes as may be necessary for all school operating purposes, which shall include but not be limited to school furnishings and all appurtenances, the care of school property for such alterations as shall be necessary to place the school house in a safe and sanitary condition, teachers' and employees' wages, water supply, premium upon indemnity bond for the treasurer of the district, tuition and transportation of the pupils, record books and blanks, and all apparatus, equipment and material which may be necessary in order that the schools may be properly managed and maintained, and for the deficiencies in operating expenses for the preceding year, if any.

HISTORY: New 1955, p. 550, Act 269, Eff. Jul. 1.

340.564 Board of education; taxes; secretary's certificate to clerks.

Sec. 564. The secretary of the board of every school district shall file a certified copy of a resolution of the board certifying the taxes to be levied on the taxable property within the district as approved by the electors of the district or the board with the city and township clerk of each city and township in which the territory of the district is situated on or before September 1 of each year or within 10 days after the annual meeting if held in September.

HISTORY: New 1955, p. 550, Act 269, Eff. Jul. 1;—Am. 1958, p. 48, Act 46, Eff. Sep. 13;—Am. 1960, p. 138, Act 123, Eff. Aug. 17.

340.565 Board of education; taxes; accounting, funds.

Sec. 565. All such taxes when collected and received shall be accounted for under the title of "general fund"; all primary money shall be accounted for under the title of "primary fund"; all library money shall be accounted for under the title of "library fund"; and all building and site money shall be accounted for under the title of "building and site fund", and all collections of taxes levied for the purpose of retiring bonded indebtedness shall be accounted for pursuant to the provisions of chapter 7 of Act No. 202 of the Public Acts of 1943, as amended, being sections 137.1 to 137.3, inclusive, of the Compiled Laws of 1948, in force or as the same may hereafter be amended.

HISTORY: New 1955, p. 550, Act 269, Eff. Jul. 1.

340.566 Board of education; money, payment, use.

Sec. 566. No money raised by tax shall be used for any other purpose than that for which it was raised without the consent of a majority of the school tax electors of the district voting on the question at an annual or special meeting or election, and no

moneys received from the primary school fund shall be appropriated for any other use than the payment of teachers' wages, tuition and transportation of children, as provided by law.

HISTORY: New 1955, p. 550, Act 269, Eff. Jul. 1.

340.567 Board of education; borrowing power, tax collection.

Sec. 567. The board of education of any district may borrow money in anticipation of the collection of taxes in accordance with Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948, in force or as the same may hereafter be amended.

HISTORY: New 1955, p. 550, Act 269, Eff. Jul. 1.

340.567a Board of education; borrowing powers; school operation; repayments; notes, issuance, due dates, interest, limitations; certificate of approval; validity of note.

Sec. 567a. Subject to the restrictions prescribed in this section, the board of education of any school district may borrow money and issue its note or notes therefor, for the purpose of securing funds for school operations or for the payment of previous loans made for school operations under this or any other statute, and for the payment of the note or notes hereunder shall pledge moneys to be received by it from the state school aid fund. Any such notes shall be the full faith and credit obligations of the school district and shall be payable from tax levies or from any unencumbered funds of the school district in event of the unavailability or insufficiency of state aid funds for any reason, including the invalidity of any statute pertaining thereto. Notes issued under this section shall become due on or before September 1 immediately following the fiscal year in which they are issued, except as hereinafter provided. Notes from time to time issued in any fiscal year shall not exceed 100% of the difference between the total state aid funds apportioned to the school district for such fiscal year and the portion thereof already received or pledged, provided that during the last 3 months of any fiscal year additional notes may be issued pledging state aid funds for the next fiscal year. Such additional notes shall not exceed 15% of the state aid funds apportioned to the school district for the next fiscal year or if such apportionment has not yet been made, then 15% of the apportionment for the then current fiscal year, which additional notes shall mature not later than November 1 immediately following their issuance. Notes issued under this section shall bear interest at not to exceed 6% per annum and may be made redeemable prior to maturity on such terms and conditions as shall be provided in the notes. The issuance of notes under this act shall not be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948. No notes shall be issued for borrowing under the provisions of this act without the prior approval of the superintendent of public instruction, for which approval application shall be made by the school district. The superintendent of public instruction shall issue a certificate of approval which shall show the amount fixed as the state appropriation allocated to the school district for the present and, if applicable, for the next succeeding fiscal year and any payments distributed to the school district prior to the date of the certificate. The failure of any school district to receive any state appropriation shall not affect the validity or enforceability of any note issued under this section. A school district may make more than 1 borrowing under this section during any school year. No school district shall contest the validity of any note issued by it under this section if it has received permission from the superintendent of public instruction to issue the same and has received

the principal amount of the note. No school district shall make any new borrowing under section 26 of Act No. 312 of the Public Acts of 1957, as amended, being section 388.636 of the Compiled Laws of 1948, while this section is in effect.

HISTORY: Add. 1968, p. 556, Act 316, Eff. Nov. 15;—Am. 1968, p. 296, Act 146, Imd. Eff. Jul. 31.

340.568 Investment of funds; restrictions.

Sec. 568. The treasurer of any school district, when authorized by resolution of the board of education, may invest debt retirement funds, building and site funds, building and site sinking funds, or general funds of the district. Such investment shall be restricted to the following:

(a) Bonds, bills or notes of the United States, or obligations, the principal and interest of which are fully guaranteed by the United States, or obligations of the state. In the case of primary or fourth class school districts such bonds, bills or notes shall be payable at the option of the holder upon not more than 90 days' notice or if not so payable that they shall have maturity dates not more than 5 years from the purchase dates thereof; or

(b) Certificates of deposit issued by any state or national bank organized and authorized to operate a bank in this state.

(c) Commercial paper rated prime at the time of purchase and maturing not more than 270 days from the date of purchase.

Deposit of obligations.

Any obligation purchased under the provisions of this section, when received by the treasurer, shall be deposited with the bank or trust company having the deposit of the moneys of the particular fund from which such obligation was purchased.

Commingling of funds; earnings.

Moneys in the several funds of a district shall not be commingled for the purpose of making any investment authorized by this section and all earnings on any such investment shall become a part of the fund for which such investment was made.

HISTORY: New 1955, p. 550, Act 269, Eff. Jul. 1;—Am. 1957, p. 156, Act 135, Eff. Sep. 27;—Am. 1963, p. 440, Act 248, Imd. Eff. Jun. 13;—Am. 1970, p. 165, Act 72, Imd. Eff. Jul. 12.

340.569 Teacher's contracts; contents, filing, termination.

Sec. 569. The board of every district shall hire and contract with such duly qualified teachers as may be required. All contracts with teachers shall be in writing and signed by a majority of the board in behalf of the district, or by the president and secretary, or by the superintendent of schools or his designee when so directed at a meeting of the board. The contracts shall specify the wages agreed upon and in primary school districts shall require the teacher to keep a correct list of the pupils, grading and the age of each, attending the school, and the number of days each pupil is present, the aggregate attendance and percentage of attendance, and to file the same with the superintendent of the intermediate district and a true copy thereof with the secretary of the board at the end of the school year, and no teacher shall be entitled to receive his last payment for his services until the report shall be filed. The contract shall be filed with the secretary and a duplicate copy of the contract shall be furnished to the teacher. No contract with any person shall be valid unless such person shall hold a legal certificate of qualification at the time the contractual period shall begin, and all such contracts shall terminate if the certificate shall expire by limitation and shall not immediately be renewed, or it shall be suspended or revoked by proper legal authority. Any board after a teacher has been employed at least 2 consecutive years by the board may enter into a continuing contract with such teacher if the teacher holds a permanent or life certificate. A continuing contract is a contract which shall remain in full force and effect, as provided in the rules and regulations of the board, until the

teacher resigns, elects to retire, is retired, or is dismissed for reasonable and just cause after a fair hearing.

HISTORY: New 1955, p. 551, Act 269, Eff. Jul. 1;—Am. 1965, p. 15, Act 14, Eff. Mar. 31, 1966.

340.569a Purchase of annuity, contract; payroll deduction, retroactive effect.

Sec. 569a. At the request of an employee and as part of his compensation arrangement, the board of education of any school district may purchase an annuity contract for an employee for retirement or other purposes and may make payroll allocations in accordance with such arrangement for the purpose of paying the entire premium due and to become due under the annuity contract. The allocation shall be made in a manner which will qualify the annuity premiums, or a portion thereof, for the benefit afforded under section 403 (b) of the current federal internal revenue code or any equivalent provision of subsequent federal income tax law. The employee shall own the annuity contract and his rights thereunder shall be nonforfeitable except for failure to pay premiums. The board of education shall have no liability thereunder because of its purchase of any annuity contracts. This section shall be applied in a nondiscriminatory manner to employees of the school district. Its effect shall be retroactive to October 1, 1961.

HISTORY: Add. 1963, p. 440, Act 248, Imd. Eff. Jun. 13.

340.569b Teachers' contracts; termination; substitution of new contract, effect.

Sec. 569b. At any time, the board of any district, by agreement between the board and a teacher or by agreement between the board and any organization representing the teacher in accordance with Act No. 176 of the Public Acts of 1939, as amended, being sections 423.1 to 423.30 of the Compiled Laws of 1948, may terminate an existing contract for the services of the teacher and substitute a new contract which provides an increased benefit to the teacher. The new contract shall be binding without regard to any preexisting duties or obligations of either the school board or the teacher under the first contract.

HISTORY: Add. 1966, p. 106, Act 82, Eff. Mar. 10, 1967.

340.569c School building principals; employment; duties.

Sec. 569c. Boards of education may employ an administrator or administrators, usually called building principals, and who shall:

- (a) Supervise the operation and management of the school or schools and property as the board determines for the building principals.
- (b) Be assigned administrative responsibilities and coordinate instructional leadership, under the supervision of the superintendent, for the planning, management, operation and evaluation of the educational program and services.
- (c) Submit recommendations to the superintendent for the appointment, assignment, promotion or dismissal of all personnel assigned to his supervision.

HISTORY: Add. 1970, p. 661, Act 246, Imd. Eff. Dec. 30.

340.570 Unqualified teachers, counselors prohibited; notice, requirements.

Sec. 570. The board of any district shall not permit any teacher without a valid Michigan teaching certificate to teach in any grade or department of the school or any teacher without an endorsement by the state board of education to serve in a counseling role as such role is defined by the state board of education. The intermediate school district superintendent shall immediately notify the superintendent of public instruction of the names of noncertificated teachers and the names of nonendorsed teachers serving in a counseling role and the district employing the same and the amount of time the noncertificated and nonendorsed teachers were employed in dis-

tricts which do not employ a superintendent of schools. Persons who have been employed as counselors 1 year prior to the effective date of this act shall be endorsed providing that they meet the specifications of the teacher certification code of the state and shall have a minimum of twelve semester hours of graduate credit in the field of guidance or its equivalent as determined by the department.

HISTORY: New 1955, p. 551, Act 269, Eff. Jul. 1;—Am. 1965, p. 441, Act 263, Imd. Eff. Jul. 21;—Am. 1969, p. 442, Act 230, Eff. Jul. 1, 1971.

340.571 Exchange teachers; salary, compensation, rights, benefits.

Sec. 571. The board of any school district except a primary district may pay, for a period of not more than 1 year, the salary of any qualified teacher who has taught within the school district for 3 or more years while the teacher, with the consent of the board of his district, is performing teaching duties in another state of the United States, a foreign country or territory of either, in exchange for the services of a teacher of another state of the United States, foreign country or territory of either. The teacher of this state while on exchange duty shall be entitled to the same compensation, rights and privileges, including retirement benefit, as if the teacher had been continuously performing his normal duties as a teacher for the board by whose consent such exchange was made.

HISTORY: New 1955, p. 552, Act 269, Eff. Jul. 1;—Am. 1965, p. 739, Act 375, Imd. Eff. Jul. 23.

340.572 Teacher's sabbatical leave; professional improvement; term.

Sec. 572. Any board after a teacher has been employed at least 7 consecutive years by said board and at the end of each additional period of 7 or more consecutive years of employment may grant said teacher a sabbatical leave for professional improvement for not to exceed 2 semesters at any one time: Provided, That the teacher holds a permanent or life certificate, or is engaged in teaching in a college maintained by the board. During said sabbatical leave, the teacher shall be considered to be in the employ of the said board, shall have a contract, and may be paid compensation as provided in the rules and regulations of said board: Provided, however, That said board shall not be held liable for death or injuries sustained by any teacher while on sabbatical leave.

Credit toward retirement.

Teachers on a sabbatical leave shall be allowed credit toward retirement for time spent on such leave in accordance with rules and regulations established by the boards of control of public school employees' retirement funds.

Restoration to teacher position.

A teacher upon return from a sabbatical leave shall be restored to his or her teacher position or to a position of like nature, seniority, status and pay. Said teacher shall be entitled to participate in any other benefits that may be provided for by rules and regulations of the board made pursuant to law.

HISTORY: New 1955, p. 552, Act 269, Eff. Jul. 1.

340.573 Superintendent of schools; qualifications, waiver.

Sec. 573. Before any person may be employed as a superintendent of schools of any school district, he shall possess at least an earned bachelor's degree from a college acceptable to the state board of education and be the possessor of or be eligible for a teacher's certificate or have educational qualifications equivalent thereto in accordance with standards determined by the state board of education: Provided, That said state board may waive the requirements of this section for any person employed as superintendent of schools for the school year 1951-1952, and subsequent years while he continues in such capacity for the same school district.

HISTORY: New 1955, p. 552, Act 269, Eff. Jul. 1.

340.574 Assistants, employees; duties, compensation.

Sec. 574. Every board may employ such assistants and employees as may be necessary and prescribe their duties and fix their compensation.

HISTORY: New 1955, p. 552, Act 269, Eff. Jul. 1.

340.575 Length of school term; determination, minimum; certification; deduction of state aid; rules.

Sec. 575. The board of every district shall determine the length of the school term. The minimum number of days of student instruction shall be not less than 180. Any district failing to hold 180 days of student instruction shall forfeit 1/180th of its total state aid appropriation for each day of such failure. Not later than August 1, the board of every district shall certify to the department of education the number of days of student instruction in the previous school year. If the district did not hold at least 180 days of student instruction, the deduction of state aid shall be made in the following fiscal year from the first payment of state aid. Days lost because of strikes or teachers conferences shall not be counted as a day of student instruction. The state board of education shall establish rules for the implementation of this section.

HISTORY: New 1955, p. 552, Act 269, Eff. Jul. 1;—Am. 1967, p. 351, Act 237, Eff. Nov. 2;—Am. 1970, p. 165, Act 72, Imd. Eff. Jul. 12.

340.576 Sites, buildings; purchase, lease.

Sec. 576. No board shall build a stone or brick schoolhouse upon any site without first having obtained title in fee to the same, or a lease for a period of not less than 99 years, or unless it shall have obtained a lease for a period of not less than 50 years from the United States government or the state of Michigan, or a political subdivision thereof; nor shall any board build a frame schoolhouse on any site for which it does not have a title in fee or a lease for 50 years without securing the privilege of removing the schoolhouse.

HISTORY: New 1955, p. 552, Act 269, Eff. Jul. 1.

340.576a Building sites; urban renewal program.

Sec. 576a. The board of any school district may become a participating member with other units of government and spend building and site funds for the purpose of acquiring a schoolhouse site or an addition of territory to a schoolhouse site through an urban renewal program.

HISTORY: Add. 1962, p. 100, Act 111, Imd. Eff. Apr. 30.

340.576b Portable class room, school bus building; acquisition.

Sec. 576b. The board of any school district, including any school district governed by any special or local act, may acquire by purchase, lease, with or without option to purchase, or title retaining contract, classrooms, school buildings, or buildings for the storage of school buses which are of prefabricated construction and which are portable in that such structures or their principal components are capable of being disassembled and transported from one location or site for reassembly and use at another location or site. Any such district may pay for the same out of any funds of the district which are or may become available for these purposes.

HISTORY: Add. 1963, p. 26, Act 23, Eff. Sep. 6.

340.576c Equipment; purchase, rental; payment; contract.

Sec. 576c. The board of any school district, including any school district governed by any special or local act, may acquire by purchase, lease or rental, with or without option to purchase, any equipment necessary for the operation of the school program, including heating, water heating and cooking equipment for school buildings, and may pay for such equipment from operating funds of the district. All heating and cooking equipment may be purchased on title retaining contracts, chattel mortgages, or other form of agreement creating a security interest and pledging in payment moneys in the

general fund or funds received from the state for aid in support of the public schools. Such contracts shall not be entered into or issued for a longer period than 10 years.

HISTORY: Add. 1965, p. 441, Act 263, Imd. Eff. Jul. 21;—Add. 1965, p. 739, Act 375, Imd. Eff. Jul. 23;—Am. 1967, p. 157, Act 126, Imd. Eff. Jun. 27.

340.577 Water supply; utilities.

Sec. 577. Each board shall provide a water supply and other utilities for pupils.

HISTORY: New 1955, p. 553, Act 269, Eff. Jul. 1.

340.578 School property; custody, preservation; school management; rules, regulations.

Sec. 578. Every board shall have the general care and custody of the schools and property of the district and make and enforce suitable rules and regulations for the general management of the schools and the preservation of the property of the district.

HISTORY: New 1955, p. 553, Act 269, Eff. Jul. 1.

340.579 School property; insurance.

Sec. 579. In school districts other than districts of the 1st and 2nd classes the board of education shall insure school district property unless otherwise directed by the school electors. Such insurance may be obtained from mutual, stock or other responsible companies licensed to do business in the state of Michigan.

HISTORY: New 1955, p. 553, Act 269, Eff. Jul. 1;—Am. 1956, p. 464, Act 215, Imd. Eff. May 1.

340.580 School property; use as community center; rules, damages, rent.

Sec. 580. The board of any school district in this state, upon the written application of any responsible organization located in said school district, or of a group of at least 7 citizens of said school district, may grant the use of all school grounds and school-houses as community or recreation centers for the entertainment and education of the people, including the adults and children of school age, and for the discussion of all topics tending to the development of personal character and of civic welfare. Such occupation, however, shall not seriously infringe upon the original and necessary uses of the properties. The board in charge of such building shall prescribe such rules and regulations for their occupancy and use as herein provided as will secure a fair, reasonable and impartial use of the same. The organization or group of citizens applying for the use of properties as specified above shall be responsible for any damage done them over and above the ordinary wear, and shall, if required, pay such use or rental fee as may be determined by the board.

HISTORY: New 1955, p. 553, Act 269, Eff. Jul. 1.

340.581 Lunches; charge.

Sec. 581. The board of any district may use money in the general fund to provide the necessary personnel, equipment, supplies and food to furnish lunches for regularly enrolled pupils, and may accept produce and/or financial reimbursement from the state to supplement the resources of the district. The board shall charge for lunches and may charge prices sufficient to reimburse the district for all costs of the lunch program: Provided, That lunches may be furnished without charge to children who, in the judgment of the board, may be exempted. The board may provide the lunch program by contract for a period of not more than 3 years, or it may engage directly in the business.

HISTORY: New 1955, p. 553, Act 269, Eff. Jul. 1;—Am. 1957, p. 187, Act 165, Eff. Sep. 27.

340.582 Nonresident pupils; tuition, per capita cost.

Sec. 582. The board of any district may admit to the district school nonresident pupils and shall determine the rates of tuition of such pupils and shall collect the same. Tuition for grades kindergarten to 6, inclusive, shall not exceed 25% more than the operation cost per capita for the number of pupils in membership in grades kindergarten

to 12, inclusive. Tuition for grades 7 to 12, inclusive, shall not exceed 12 ½% more than 115% of the operation cost per capita for the number of pupils in membership in grades kindergarten to 12, inclusive. In districts not maintaining grades above grade 8, the tuition shall not exceed 25% more than the operation cost per capita for the number of pupils in membership in grades kindergarten to 8, inclusive. The operation costs and membership so used shall be those of the preceding fiscal year. The per capita cost herein referred to shall not be interpreted to include moneys expended for school sites, school building construction, equipment, payment of bonds, or such other purposes as shall be determined by the superintendent of public instruction not properly included in operation costs.

HISTORY: New 1955, p. 553, Act 269, Eff. Jul. 1;—Am. 1958, p. 235, Act 195, Eff. Sep. 13.

340.582a Funds; tuition, transportation.

Sec. 582a. The board of any district may use money in the general fund or funds received from state appropriations for aid to school districts for the purpose of paying tuition and transportation to another district or districts of resident pupils, even though the grades in which such pupils may be enrolled are maintained within the district.

HISTORY: Add. 1965, p. 739, Act 375, Imd. Eff. Jul. 23.

340.583 Grades, schools, departments; courses of study.

Sec. 583. Every board shall establish and carry on such grades, schools and departments as it shall deem necessary or desirable for the maintenance and improvement of the schools; determine the courses of study to be pursued and cause the pupils attending school in such district to be taught in such schools or departments as it may deem expedient: Provided, That a primary district shall not operate any grades above the eighth.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1.

340.584 Kindergartens.

Sec. 584. The board of any district is authorized and empowered to provide a suitable room or apartment for kindergarten work, and to supply the necessary apparatus, appliances, and teachers for the instruction of children in what is known as the "kindergarten method."

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1.

340.585 Agricultural, industrial, manual training, vocational schools.

Sec. 585. Except in primary districts, every board is authorized to establish, equip and maintain agricultural, industrial, manual training and other vocational schools.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1.

340.586 Adult education courses.

Sec. 586. The board of any school district, except primary school districts, may provide instruction for adults and may employ qualified teachers and provide the necessary equipment for such adult education courses.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1.

340.587 Pre-primary, nursery school or day care programs; rules, regulation.

Sec. 587. The board of any school district, except a primary school district, may establish pre-primary, nursery school or approved day care programs and may provide suitable rooms, employ the necessary teachers, and supply suitable equipment for the programs. The board may charge tuition or fees and accept gifts or federal funds earmarked for the day care program. There shall be cooperative arrangements with the state departments of social welfare, health and mental health to assure maximum utilization of such agencies in providing necessary health and welfare services for children

receiving day care. No state money shall be used directly for this program. The board may determine the age at which a child may be enrolled in such programs.

Rules and regulations shall be adopted by the department of education in implementation of this act with respect to day care programs which clearly restrict membership in such programs on the basis of the child's need for extended day care services.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1;—Am. 1966, p. 510, Act 300, Imd. Eff. Jul. 14.

340.587a Day care programs; handicapped children, adults; exceptions; funds, approval.

Sec. 587a. The board of education of any school district, except a primary school district or an intermediate school district, may construct facilities, purchase sites and equipment, and the board of education of any school district, except a primary school district, may operate day care programs for severely handicapped children and adults, resident or nonresident of the district, who are not eligible for educational programs as defined in sections 771 to 780. For these purposes, the board of education may accept and use funds provided by any local, state, federal, or private agency or by individuals. The facilities and programs shall be approved by the superintendent of public instruction in accordance with rules promulgated by the state board of education.

HISTORY: Add. 1967, p. 272, Act 199, Imd. Eff. Jun. 30.

340.588 Library, museum; management, care.

Sec. 588. Whenever any library or museum has been established by any school district, the board thereof shall provide for its care and management and for this purpose may appoint librarians and hire other employees for such library or museum and fix their salaries, may purchase such books and apparatus as may be necessary, and may include in the general budget for the purpose of the schools such sums as may be necessary for buildings for, and for the maintenance and support of, any such library or museum.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1.

340.589 Attendance areas.

Sec. 589. Every board is authorized to establish attendance areas within the school district.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1.

340.590 Transportation; tuition of pupils nearer bus lines of another district.

Sec. 590. The board of any district may use money in the general fund or appropriations from the state for aid in the support of the public schools, for the purpose of paying tuition and transportation to some other district or districts of children in cases where such children live nearer established bus lines of another district or nearer by the nearest traveled road to the schoolhouse in another district than to the schoolhouse in their own district, and also for the purpose of paying tuition charged in accordance with the provisions of section 774 of this act.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1.

340.590a Transportation; public or state approved nonpublic schools.

Sec. 590a. Any school district transporting or paying for transportation of any of its resident pupils, except mentally and physically handicapped children under section 774 of this act, or children enrolled in special education classes, shall transport or pay for the transportation of every resident child in the elementary and high school grades for whom the school district is eligible to receive an allotment from the school aid fund for transportation pursuant to section 11 of Act No. 312 of the Public Acts of 1957, as amended, attending either the public or the nearest state approved nonpublic school available to which nonpublic school the child is eligible to be admitted, in the school

district, without charge to the resident child, his parents, guardian or person standing in loco parentis to the child. No school district shall be required to transport or pay for transportation of any resident child living within 1 ½ miles, by nearest traveled route, to the public or state approved nonpublic school in which he is enrolled. No school district shall be required to transport or pay for the transportation of any resident child attending a nonpublic school who lives in an area less than 1 ½ miles from a public school in which public school children are not transported, except that the school district shall be required to transport or pay for the transportation of such resident child from the public school within such area to the nonpublic school he attends. The state approved nonpublic school is defined as one complying with the provisions of Act No. 302 of the Public Acts of 1921, being sections 388.551 to 388.558 of the Compiled Laws of 1948.

HISTORY: Add. 1963, p. 480, Act 241, Eff. Jul. 1, 1964.

340.590b Transportation; public or approved nonpublic schools; payment by district.

Sec. 590b. No school district shall be required to transport or pay for the transportation of resident children to state approved nonpublic schools located outside the district unless the school district transports any of its resident children, other than mentally and physically handicapped children under section 774 of this act or children enrolled in special education classes, to public schools located outside the district, in which case the school district shall transport or pay for the transportation of resident children attending a state approved nonpublic school at least to the distance of the public schools located outside the district to which the district transports resident children and in the same general direction.

HISTORY: Add. 1963, p. 420, Act 241, Eff. Jul. 1, 1964.

340.591 Transportation; approved nonpublic schools; contracts.

Sec. 591. The board of any school district may enter into a contract with any other district or with private individuals to furnish transportation for nonresident pupils attending public and state approved nonpublic schools located within such district or in other districts. In no event may the price paid for such transportation be less than the actual cost thereof to the district furnishing the same.

HISTORY: New 1955, p. 554, Act 269, Eff. Jul. 1;—Am. 1963, p. 421, Act 241, Eff. Jul. 1, 1964.

340.592 Transportation; approved nonpublic schools; routes, days, grades.

Sec. 592. Children attending public and the nearest state approved nonpublic school available, to which nonpublic school the child may be admitted, shall be transported along the regular routes as determined by the board of education to public and state approved nonpublic schools. Transportation to public and the nearest state approved nonpublic school located within or outside the district to which nonpublic school the child is eligible to be admitted shall be provided in accordance with rules and regulations promulgated by the superintendent of public instruction, which rules shall not require the transportation or payment for transportation for nonpublic school children on days when public school children are not transported. Nothing contained in this act shall be construed to require or permit transportation of pupils to a state approved nonpublic school attending in the elementary grades where such transportation is furnished by the district for high school pupils only, nor to require or permit the transportation of pupils to a state approved nonpublic school attending the high school grades where such transportation is furnished by the district for elementary pupils only. All vehicles used for the transportation of children shall be adequate and of ample capacity.

HISTORY: New 1955, p. 555, Act 269, Eff. Jul. 1;—Am. 1963, p. 421, Act 241, Eff. Jul. 1, 1964.

340.593 Transportation; educational programs, fairs, health clinics.

Sec. 593. The board of any school district may furnish transportation for its resident or nonresident pupils attending school in the district to educational programs at county or community fairs, to health clinics in or outside of the school district and to educational functions in any other school district or community.

HISTORY: New 1955, p. 555, Act 269, Eff. Jul. 1.

340.594 Buses; purchase, pledge of state aid, regulations.

Sec. 594. The board of any district furnishing transportation may purchase buses on title-retaining contracts or by the issuance of obligations of the district therefor, pledging in payment moneys in the general fund or funds received from the state for aid in the support of the public schools: Provided, That such obligations issued for this purpose shall not be issued for a longer time than the estimated period of usefulness of the buses for which issued, as determined by the board, and in no event for a longer period than 6 years.

HISTORY: New 1955, p. 555, Act 269, Eff. Jul. 1.

340.594a Buses; storage buildings; acquisition, payment.

Sec. 594a. The board of any school district, including any school district governed by any special or local act, operating school buses for the transportation of either resident or nonresident pupils to schools located within or without the district, may purchase, construct or lease such permanently constructed buildings as are necessary for the safe storage of the school buses, and may pay for the same out of the funds of the district provided for that purpose.

HISTORY: Add. 1957, p. 247, Act 197, Eff. Sep. 27;—Am. 1963, p. 26, Act 23, Eff. Sep. 6.

340.594b School buses, safety specifications.

Sec. 594b. The state board of education shall promulgate rules and regulations for safety specifications for school buses transporting children to public and nonpublic schools in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 657, Act 244, Eff. Apr. 1, 1971.

340.594c Inspection by state police.

Sec. 594c. The department of state police shall inspect each school bus annually and more frequently in those districts where bus defects have been found, to determine if the bus meets the specifications of the state board of education. The department of state police may delegate the inspection of school buses to publicly employed inspectors upon satisfying itself that the inspection complies with the provisions of this section.

HISTORY: Add. 1970, p. 657, Act 244, Eff. Apr. 1, 1971.

340.594d School bus, definition.

Sec. 594d. As used in sections 594b, 594c and 594e, "school bus" means a bus used for the transportation of school children to and from a school which is either owned by a school district or, if privately owned, is transporting school children under a contract with a school district.

HISTORY: Add. 1970, p. 657, Act 244, Eff. Apr. 1, 1971.

340.594e Uninspected buses prohibited.

Sec. 594e. No school district, employee of a school district, or school board member of a school district or other person having control over the operation of a school bus shall operate or permit to be operated any school bus which has not been inspected according to the provisions of section 594c.

HISTORY: Add. 1970, p. 657, Act 244, Eff. Apr. 1, 1971.

340.595 Buses; color, enforcement.

Sec. 595. Every school bus hereafter purchased or hereafter repainted shall be painted, with the exception of trim, national school bus chrome yellow, as specified by the national bureau of standards specifications on January 1, 1951; body trim, if used, shall be black; and the name of the school district shall be painted in black on the back, front and sides of the bus. The superintendent of public instruction and police officers shall enforce the provisions of this section.

HISTORY: New 1955, p. 555, Act 269, Eff. Jul. 1;—Am. 1969, p. 341, Act 170, Eff. Mar. 20, 1970.

340.596 Repealed. 1969, p. 341, Act 170, Eff. Mar. 20, 1970.

Section related to restrictions on painting of school buses, penalty.

340.597 Non-school buses; color restriction, penalty.

Sec. 597. Buses, not engaged in the transportation of school children, either part time or full time, shall not be permitted to be painted in these same colors and design. Any person, firm or corporation operating any bus in contravention to the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than \$10.00 nor more than \$100.00, or imprisonment in the county jail for a period not to exceed 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1955, p. 555, Act 269, Eff. Jul. 1.

340.598 Buses; fire extinguishers.

Sec. 598. All buses whose major business is the transportation of school children shall carry at least 1 fire extinguisher as a matter of public safety.

HISTORY: New 1955, p. 558, Act 269, Eff. Jul. 1.

340.599 Boarding of pupils.

Sec. 599. The board of any school district may provide for boarding any pupil, with the consent of the parent or guardian, at some convenient place if the cost of such boarding is less than the cost of transportation or if, in the opinion of the board, transportation is not feasible because of geographical conditions. If elementary or high school pupils are being transported to other school districts, such pupils may also be boarded in the manner and under the circumstances herein provided.

HISTORY: New 1955, p. 556, Act 269, Eff. Jul. 1.

340.599a Boarding schools; licensing and regulation.

Sec. 599a. The state department of public instruction shall license and regulate boarding schools.

HISTORY: Add. 1965, p. 281, Act 180, Imd. Eff. Jul. 15.

340.600 Transportation of pupils; superintendent of public instruction, authority; routes, walking, vehicles, suitability, number.

Sec. 600. The superintendent of public instruction shall have authority by himself or someone designated by him, to review, confirm, set aside or amend the action, order or decision of the board of any school district with reference to the routes over which

pupils shall be transported, the distance such pupils shall be required to walk, and the suitability and number of the vehicles and equipment for the transportation of the pupils.

HISTORY: New 1955, p. 556, Act 269, Eff. Jul. 1;—Am. 1963, p. 421, Act 241, Eff. Jul. 1, 1964.

340.601 Handicapped children; transportation, boarding.

Sec. 601. The board of any school district may provide transportation or pay the costs of the board and room of any resident pupil who, by reason of being physically handicapped, would otherwise be unable to attend school within the district. The board may pay the transportation or board and room of such handicapped child to another school district if such child is enrolled in grades not maintained in the district in which he resides, or is enrolled in programs authorized by sections 771 to 780 of this act.

HISTORY: New 1955, p. 556, Act 269, Eff. Jul. 1;—Am. 1957, p. 156, Act 135, Eff. Sep. 27.

340.602 Camps; recreational, educational; maintenance.

Sec. 602. The board of any school district, except primary school districts, may operate and maintain a camp or camps for resident and nonresident pupils for recreational and instructional purposes; or may cooperate with the board of another school district or the governing body of any other municipality of the state or with individuals in the operation and maintenance of such camps in any manner in which they may mutually agree.

HISTORY: New 1955, p. 556, Act 269, Eff. Jul. 1.

340.603 Camps; entrance requirement, fees, nonprofit operation.

Sec. 603. The board or boards shall determine the age and other entrance requirements for pupils attending the camp program. Fees may be charged both resident and nonresident pupils attending the camp or camps to cover all of the operation and maintenance costs of the program: Provided, That such programs shall be operated without profit. The costs of a camp program shall not be included in the determination of the per capita costs of the regular school program of any school district.

HISTORY: New 1955, p. 556, Act 269, Eff. Jul. 1.

340.604 Camps; facilities, personnel, location; private contributions.

Sec. 604. The board or boards may acquire, equip and maintain the necessary facilities and employ the necessary persons for the operation of the camp program which may be conducted on property located either within or outside the territorial limits of the school district. The board or boards are hereby authorized to accept private contributions to be used exclusively for the operation of such camp or camps as may be established under this act. Camps may be conducted on property under the custody and management of the school district; on other public property under the custody of the state, the federal government, the state board of education, or any county, township, city or village with its consent; or on private property with the consent of the owner.

HISTORY: New 1955, p. 556, Act 269, Eff. Jul. 1.

340.605 Scholarships; educational purposes; gifts, custodian, bond.

Sec. 605. The board of any school district, except a primary school district, is hereby authorized to receive, by assignment, conveyance, gift, devise or bequest, any real or personal property or any interest therein, for use in maintaining scholarships or for other educational purposes, and such board may act as trustee or custodian of such property. Such property shall be used by the board solely for the educational purposes for which it was assigned, conveyed, given, devised or bequeathed, whether by way of trust or otherwise. The treasurer of the board is authorized, when required, to give bond to insure proper administration of such property.

HISTORY: New 1955, p. 557, Act 269, Eff. Jul. 1.

340.606 Child educational program; parents under federal jurisdiction; per capita cost; basis.

Sec. 606. The board of any school district may serve as an agent for the federal government in providing its educational program, either within its own district or upon the premises of a military encampment or hospital over which the federal government has taken exclusive jurisdiction, to children of parents or guardians who live on such land over which the federal government has taken exclusive jurisdiction: Provided, That the federal government under any legislation now existing or to be enacted will pay the full per capita operation costs for each such child educated by the district on its own premises, and the full per capita operation costs, plus all costs for capital outlay, for each such child educated by the district upon the premises of the federal government as above described: Provided further, That in determining the per capita cost, any allotment made for such child on a membership basis by the state for the purpose of aiding in the support of the public schools shall be deducted. The superintendent of public instruction shall approve the items included or excluded in determining the operation and capital outlay costs.

HISTORY: New 1955, p. 557, Act 269, Eff. Jul. 1.

340.606a Federal government lands; attachment, educational purposes.

Sec. 606a. Land over which the federal government is exercising exclusive jurisdiction may be attached for educational purposes by the superintendent of public instruction after a hearing to districts offering educational programs for children residing on such lands and such children shall be residents of the district entitled to all the educational rights and privileges of other resident children. In cases where land has been attached under the provisions of this subsection, the provisions of section 606 do not apply.

HISTORY: Add. 1963, p. 96, Act 86, Imd. Eff. May 8.

340.607 Board of education; oaths, administration.

Sec. 607. Any school officer may administer oaths for the qualifying of school officers and oaths required in any other transaction connected with, or related to, the public schools of his district.

HISTORY: New 1955, p. 557, Act 269, Eff. Jul. 1.

340.608 Board of education; expenses of members and employees, payment, public record.

Sec. 608. The board may pay the actual and necessary expenses incurred by any of its members or employees in the discharge of official duties or in the performance of functions which have been authorized by said board. Such expenditures shall be public records and shall be made available to any person upon request.

HISTORY: New 1955, p. 557, Act 269, Eff. Jul. 1;—Am. 1970, p. 166, Act 72, Imd. Eff. Jul. 12.

340.609 Board of education; attorney, employment.

Sec. 609. The board shall have authority to employ an attorney to represent the school district or board in all suits brought for or against the district, and to render such other legal service as may be for the welfare of the school district.

HISTORY: New 1955, p. 557, Act 269, Eff. Jul. 1.

340.610 Board of education; treasurer; deposits of money, designation of deposition.

Sec. 610. The treasurer of each district shall deposit the funds of the district in any bank or trust company authorized to do business in this state, and such deposit shall be made in his name as treasurer of the district. The board of each district shall, by resolution, determine a depository or depositories in which the funds of the district shall

be deposited and it shall be the duty of the treasurer to deposit all funds of the district therein, and in such proportion and manner as may be provided by the board.

HISTORY: New 1955, p. 557, Act 269, Eff. Jul. 1.

340.611 Board of education; treasurer; maximum deposits.

Sec. 611. No bank or depository shall receive a larger deposit of the funds of any district than \$100,000.00: Provided, That any bank whose combined capital and surplus exceeds \$50,000.00 may receive deposits of said funds in an amount not more than double the combined capital and unimpaired surplus of said bank.

HISTORY: New 1955, p. 557, Act 269, Eff. Jul. 1.

340.612 Board of education; annual report to superintendent of public instruction, form.

Sec. 612. Every board shall make an annual report to the superintendent of public instruction at such time and in such form as he may prescribe.

HISTORY: New 1955, p. 558, Act 269, Eff. Jul. 1.

340.613 Expulsion of pupils; physically or mentally handicapped.

Sec. 613. The board may authorize or order the suspension or expulsion from school of any pupil guilty of gross misdemeanor or persistent disobedience, or one having habits or bodily conditions detrimental to the school, whenever in its judgment the interests of the school may demand it: Provided, That except in a case in which the parents or legal guardian of a child refuses to have the child medically or clinically examined, no child may be expelled or suspended from school upon the basis of physical handicap unless the board has obtained a certified statement from a physician that the child is so physically handicapped that he should not attend school, or on the basis of mental handicap unless the board has obtained a statement from a psychiatrist or a child center or clinic or other appropriate agency approved by the superintendent of public instruction that the child is incapable of benefiting from public school attendance.

HISTORY: New 1955, p. 558, Act 269, Eff. Jul. 1.

340.614 Board of education; duties, rules, safety of pupils in attendance or en route.

Sec. 614. Every board shall have authority to make reasonable rules and regulations relative to anything whatever necessary for the proper establishment, maintenance, management and carrying on of the public schools of such district, including regulations relative to the conduct of pupils concerning their safety while in attendance at school or en route to and from school.

HISTORY: New 1955, p. 558, Act 269, Eff. Jul. 1.

340.615 School taxes; budgets; property tax limitation act.

Sec. 615. School taxes shall be assessed, levied and collected as provided in Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157, inclusive, of the Compiled Laws of 1948. Budgets shall be submitted and school districts shall be governed by the provisions of the property tax limitation act, Act No. 62 of the Public Acts of 1933, as amended, being sections 211.201 to 211.217, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1955, p. 558, Act 269, Eff. Jul. 1.

340.616 Financial reports of school districts.

Sec. 616. The board of education of every school district, including county school districts, employing a superintendent of schools shall publish a financial report. The general nature of such report shall be determined by the superintendent of public instruction. Boards of education of all other districts shall publish financial reports as required by the superintendent of public instruction.

HISTORY: Add. 1956, p. 464, Act 215, Imd. Eff. May 1.

340.617 Employees; fringe benefits, payroll deduction.

Sec. 617. The board of education of any school district in the process of establishing salaries or determining other working conditions may use money in the general fund of the school district to provide other related benefits of an economic nature on a joint participating or nonparticipating basis with school employees for employees of the school district.

The board at the request of an employee may provide payroll deduction programs.

HISTORY: Add. 1956, p. 464, Act 215, Imd. Eff. May 1;—Am. 1963, p. 106, Act 96, Eff. Sep. 6;—Am. 1969, p. 57, Act 27, Imd. Eff. Jul. 5.

340.618 Behavior problems in children's programs; social worker; rules.

Sec. 618. The board of education of any school district or the intermediate school district board may establish a program designed for the prevention and treatment of behavior problems of children, and may employ persons to be known as school social workers and other personnel necessary to provide an adequate program for the purpose. The board of education of any school district or the intermediate school district board proposing to establish the program shall first furnish evidence concerning local or intermediate district needs satisfactory to the superintendent of public instruction. The program shall be operated in accordance with rules and regulations established by the superintendent of public instruction in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1956, p. 236, Act 195, Eff. Sep. 13;—Am. 1967, p. 102, Act 83, Eff. Nov. 2.

340.619 Social worker, personnel; special training; approval.

Sec. 619. All persons appointed as school social workers or employed in any other capacity in the program established under sections 618, 619 and 620 of this act shall have special training for such work. The program and qualifications of the personnel shall be approved by the superintendent of public instruction, who may require such reports and other information as he deems necessary.

HISTORY: Add. 1956, p. 236, Act 195, Eff. Sep. 13;—Am. 1967, p. 102, Act 83, Eff. Nov. 2.

340.620 Social work programs; funds, allocation.

Sec. 620. Funds shall be allocated each year to each of the school districts maintaining approved school social worker programs as provided in the act which grants general state aid to schools.

HISTORY: Add. 1956, p. 236, Act 195, Eff. Sep. 13;—Am. 1967, p. 102, Act 83, Eff. Nov. 2.

340.621 Pedestrian overpass for school children; title-retaining contracts; highway authorities, approval.

Sec. 621. The board of any school district, including any school district governed by any special or local act, may purchase, construct or lease pedestrian overpasses for the safe conduct of school children enroute to and from school and may pay for the same

out of the funds of the district, or may purchase the same on title retaining contracts. Such contracts shall not be entered into or issued for a longer period than 10 years. No pedestrian overpass shall be constructed over any public highway without the prior approval of the highway authorities having jurisdiction over such highway.

HISTORY: Add. 1959, p. 133, Act 128, Imd. Eff. Jul. 8;—Am. 1960, p. 73, Act 80, Imd. Eff. Apr. 25.

340.622 Auxiliary services for school children; state funds, use; rules, regulations.

Sec. 622. Whenever the board of education of a school district provides any of the auxiliary services specified in this section to any of its resident children in attendance in the elementary and high school grades, it shall provide the same auxiliary services on an equal basis to school children in attendance in the elementary and high school grades at non-public schools. The board of education may use state school aid funds of the district to pay for such auxiliary services. Such auxiliary services shall include health and nursing services and examinations; street crossing guards services; national defense education act testing services; speech correction services; visiting teacher services for delinquent and disturbed children; school diagnostician services for all mentally handicapped children; teacher counsellor services for physically handicapped children; teacher consultant services for mentally handicapped or emotionally disturbed children; remedial reading; and such other services as may be determined by the legislature. Such auxiliary services shall be provided in accordance with rules and regulations promulgated by the state board of education in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1965, p. 674, Act 343, Imd. Eff. Jul. 23.

CHAPTER 10.

ASSESSING AND COLLECTING TAXES IN SCHOOL DISTRICTS WITHIN A CITY.

340.641 Repealed. 1963, p. 103, Act 92, Eff. Sep. 6.

Section provided for meetings of electors to vote school taxes.

340.641a School district wholly or partly in city; school taxes, certification, collection; city officers, powers, duties.

Sec. 641a. Upon the approval of the city governing body the board of education of a school district situated in whole or in part in a city may certify the levy of school taxes on the taxable property of the school district for collection at the same time and in the same manner as for the collection of city taxes. Taxes in a school district levied and in process of collection at the time this amendatory act takes effect shall be collected and proceedings taken in regard thereto as provided by the laws then in effect. In proceedings for the assessment, spreading and collection of taxes for school purposes in the district, and for the receipt and disbursement of moneys belonging to the district, the city assessing officer, city clerk and city treasurer of the city or cities in which the district is situated shall have like powers and duties as prescribed by the laws of this state for township supervisors, township clerks and township treasurers.

HISTORY: Add. 1966, p. 55, Act 31, Eff. Dec. 31.

340.642 Repealed. 1966, p. 56, Act 31, Eff. Dec. 31.

Section provided for reporting of taxes voted on by school board.

340.642a School district in township; school taxes, certification and collection by township, procedure; township officers, duties; tax liens, interest, penalties.

Sec. 642a. Upon the approval of the township or township boards the board of education of a school district may certify the total or one-half of the total school taxes of the district to each township clerk of each township wherein the school district is located on or before June 1 in each year. Each township supervisor shall thereupon and before June 30 of each year prepare the assessment and tax rolls and furnish the same to each affected township treasurer with his collection warrant attached thereto. Each township treasurer shall thereupon proceed to collect such taxes and remit the collections thereof to the school district as provided in Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948.

School taxes shall become a lien against the property on which assessed on July 1. Taxes collected on or before August 31 in each year shall be without penalty. Taxes collected thereafter shall bear a penalty of 4%. Interest and collection charges shall be included in the delinquent tax rolls returned to the county treasurer as of March 1 each year.

Taxes in a school district already levied and in process of collection at the time this amendatory act takes effect shall be collected and proceedings taken in regard thereto as provided by the laws then in effect. The provisions of Act No. 206 of the Public Acts of 1893, as amended, shall apply to proceedings in relation to the assessment, spreading and collection of taxes for school purposes in the district and to the powers and duties of the township supervisor and the township treasurer.

HISTORY: Add. 1966, p. 55, Act 31, Eff. Dec. 31.

340.643 Repealed. 1966, p. 56, Act 31, Eff. Dec. 31.

Section provided for city school taxes, clerk's statement for assessors and collection, referendum on installment referendum.

340.643a Additional tax rate; school taxes, increase authorization, resolution, collection; first debt retirement fund tax, collection.

Sec. 643a. If the electors of any school district vote the authorization of a tax rate in addition to that allocated to the district under Act No. 62 of the Public Acts of 1933, as amended, being sections 211.201 to 211.217a of the Compiled Laws of 1948, on or after June 1 and before September 1 in any year, the board of education, by resolution, may authorize the additional millage so voted to be levied and collected, in the year voted only, with the county taxes. The levy and collection procedures for such additional tax shall be in accordance with the laws in effect for the levy and collection of county taxes. The same proceedings may be taken for the levy and collection of the first debt retirement fund tax when a bond issue is approved by the electors on or after June 1 and before September 1 in any year.

HISTORY: Add. 1966, p. 56, Act 31, Eff. Dec. 31.

340.644-340.647 Repealed. 1966, p. 56, Act 31, Eff. Dec. 31.

Sections provided for assessing and collecting taxes in school districts within a city.

CHAPTER 11.

SCHOOL OFFICERS' MEETINGS.

340.661-340.663 Repealed. 1959, p. 49, Act 45, Eff. Mar. 19, 1960.

Sections provided for school officers' meetings.

CHAPTER 12.
BONDED INDEBTEDNESS OF DISTRICTS.

340.681 School district bonds; purpose, refunding; vote; limitation.

Sec. 681. Any school district, by a majority vote of the registered school tax electors voting on the question at an annual or special election called for that purpose, may borrow money and issue bonds of the district to defray all or any part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping or reequipping school buildings, structures, athletic fields, playgrounds, or other facilities, or any parts thereof or additions thereto; acquiring, preparing, developing or improving sites, or any parts thereof or additions thereto, for school buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; participating in the administrative costs of an urban renewal program through which the school district desires to acquire a site or addition thereto for school purposes; refunding all or any part of existing bonded indebtedness; or the accomplishing of any combination of the foregoing purposes. No school district shall issue bonds under this chapter for an amount greater than 15% of the total assessed valuation of the district, nor shall the bonded indebtedness of a district extend beyond a period of 30 years for money borrowed. Refunding bonds or the refunding part of any such bond issue shall not be deemed to be within the 15% limitation but shall be deemed to be authorized in addition thereto. Any bond qualified under section 16 of article 9 of the 1963 state constitution and any implementing legislation shall not be included for purposes of calculating the foregoing 15% limitation.

HISTORY: New 1955, p. 560, Act 269, Eff. Jul. 1;—Am. 1958, p. 45, Act 42, Eff. Sep. 13;—Am. 1959, p. 48, Act 45, Eff. Mar. 19, 1960;—Am. 1962, p. 100, Act 111, Imd. Eff. Apr. 30;—Am. 1963, p. 102, Act 90, Eff. Sep. 6;—Am. 1963, 2nd Ex. Ses., p. 99, Act 67, Eff. Jan. 1, 1964;—Am. 1965, p. 438, Act 258, Imd. Eff. Jul. 21.

340.682 School district bonds; board of election inspectors; conduct of elections, form of ballot, canvass.

Sec. 682. The election shall be conducted in accordance with the laws applicable to the particular class of school district in which the election is held, except that in primary districts the polls shall be kept open at least 2 hours, and the board of education shall appoint school electors of the district in the number it deems sufficient to act as a board of election inspectors. Members of the board of education shall not serve on any board of election inspectors. If any of the members of any board of election inspectors are unable to be present, the other members of the board of election inspectors shall fill the vacancies resulting therefrom. The board of election inspectors shall cause a poll list to be kept and a suitable ballot box to be used. Printed ballot or voting machine shall be used and the question submitted shall be in substantially the following form:

“Shall, county/or counties of
(Here state the legal name of the school district)
. and state of Michigan, borrow the sum of not to exceed
dollars (\$.....) and issue its bonds therefor, for the purpose of?
Yes ()
No ().”

The canvass of the same shall be conducted in the same manner as at township elections, or as far as the laws governing the same are applicable, and when said laws are not applicable, the board of inspectors shall prescribe the manner in which the canvass shall be conducted. In any school district operating under chapter 8 of part 2 of this act and voting in more than 1 voting precinct, the board may appoint such assistants to act as boards of inspectors for the various precincts as may be necessary. Any-

thing contained in the ballot not herein specified shall be considered surplusage and of no legal effect whatsoever.

HISTORY: New 1955, p. 561, Act 269, Eff. Jul. 1;—Am. 1959, p. 253, Act 177, Eff. Mar. 19, 1960.

340.683 School district bonds; issuance, terms.

Sec. 683. Whenever any such school district shall have voted to borrow any sum of money, the board of such district is hereby authorized to issue the bonds of such district, in such form and executed in such manner by the president and secretary of the board of such district, and payable at such time or times and in such sums, not less than \$50.00, and with such rate of interest, not exceeding 6% per annum, as such board shall direct.

HISTORY: New 1955, p. 561, Act 269, Eff. Jul. 1.

340.684 School district bonds; act governing issuance.

Sec. 684. School districts shall be governed by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948, in force or as the same may hereafter be amended.

HISTORY: New 1955, p. 561, Act 269, Eff. Jul. 1.

340.685 School district bonds; taxes for payment of principal and interest.

Sec. 685. Whenever any money shall have been borrowed by any school district, the board of such district shall annually impose a tax on the taxable property in such district for the purpose of paying the principal thus borrowed, or any part thereof, and the interest thereon, to be levied and collected as other school taxes are collected.

HISTORY: New 1955, p. 561, Act 269, Eff. Jul. 1.

340.686 School district bonds; handling of moneys.

Sec. 686. All sums of money raised by taxes or otherwise received by any school district for the purpose of paying and discharging the principal and interest of the indebtedness shall be handled under the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948, in force or as the same may hereafter be amended.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

340.687 School district bonds; treasurer; debt retirement fund, payment.

Sec. 687. The treasurer of said board or district shall have the custody of all moneys, securities and other evidences of value belonging or pertaining to the debt retirement fund and shall pay out the moneys of said fund, or transfer the securities or evidences of value therein, only upon the order of a majority of the board, and upon a written order of the president and secretary of said board.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

340.688 School district bonds; treasurer's record, report.

Sec. 688. The treasurer of such school district shall keep a record in a proper book provided for that purpose of the moneys and securities on hand in said debt retirement fund and of the transactions relating thereto, and shall from time to time and whenever requested by said board make a complete report concerning the same, and the proper officers of said school district shall make such reports concerning the transactions relating to said debt retirement fund as may be required by the superintendent of public instruction or other authority in connection with the handling of the funds of said school district.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

CHAPTER 13.

SUITS AND JUDGMENTS AGAINST DISTRICTS.

340.701 Justices of the peace; action against school districts, jurisdiction, appeal.

Sec. 701. Justices of the peace shall have jurisdiction in all cases of assumpsit, trespass on the case and replevin against school districts when the amount claimed or matter in controversy shall not exceed \$100.00; and the parties shall have the same right of appeal as in other cases.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

340.702 Service of process.

Sec. 702. In suits or proceedings against school districts, service of process may be made upon the president, secretary or treasurer of the board of such district.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

340.703 Judgment against district; collection.

Sec. 703. No execution shall issue on any judgment against a school district, nor shall any suit be brought thereon, but the same shall be collected in the manner prescribed in this chapter.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

340.704 Final judgment against district; certification by treasurer.

Sec. 704. Whenever any final judgment shall be obtained against the school district, if the same shall not be removed to any other court, the treasurer of the district shall certify to the assessing officer of the township or municipality in which the district is located and to the secretary of the district the date and amount of such judgment, with the name of the person in which favor the same was rendered, and if the judgment shall be removed to another court the treasurer shall certify the same as aforesaid, immediately after the final determination thereof against the district.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

340.705 Final judgment; certification by plaintiff and judicial officers.

Sec. 705. If the treasurer shall fail to certify the judgment as required in the preceding section, it shall be lawful for the party obtaining the same, his executors, administrators or assigns, to file with the assessing officer of the proper city or township the certificate of the justice or clerk of the court rendering the judgment, showing the facts which should have been certified by the treasurer.

HISTORY: New 1955, p. 562, Act 269, Eff. Jul. 1.

340.706 Final judgment; district in two or more municipalities.

Sec. 706. If the district against which any such judgment shall be rendered is situated in part in 2 or more townships or municipalities, a certificate thereof shall be delivered as aforesaid to the assessing officer of each township and municipality in which such district is in part situated.

HISTORY: New 1955, p. 563, Act 269, Eff. Jul. 1.

340.707 Final judgment; assessment of taxes for judgment.

Sec. 707. The assessing officer or officers receiving either of the certificates of a judgment as aforesaid shall proceed to assess the amount thereof, with interest from the date of the judgment to the time when the warrant for the collection thereof will expire, upon the taxable property in the district, placing the same on the assessment roll in the column for school taxes; and the same proceeding shall be had, and the same shall be collected and returned in the same manner as other district taxes.

HISTORY: New 1955, p. 563, Act 269, Eff. Jul. 1.

CHAPTER 14.

CONDEMNATION OF SCHOOL SITES AND ADDITION TO SCHOOL SITES.

340.711 Condemnation proceedings; prima facie evidence of necessity.

Sec. 711. Whenever a site for a schoolhouse or schoolhouses, agricultural sites, athletic fields and playgrounds shall be designated, determined, established or enlarged in the manner provided by law and the board shall be unable to agree with the owner or owners of such site upon the compensation to be paid therefor, or for the land to enlarge the same, or in case such board shall, by reason of any imperfection in the title of said site or land to be added thereto, arising either from break in the chain of title, tax sale, mortgages, levies or any other cause, be unable to procure a perfect, unencumbered title in fee simple to said site, or land for the enlargement thereof, the board of such district shall authorize 1 or more of its members to apply to the circuit judge, if there be one in the county, or to a circuit court commissioner of the county for a jury to ascertain and determine the just compensation to be made for the real estate required by such school district for such site, or for the enlargement thereof, and the necessity for using the same, which application shall be in writing and shall describe the real estate required by such board or by such district as accurately as is required in a conveyance of real estate: Provided, That whenever the board shall have designated, selected or established in a manner provided by law a schoolhouse site or land for the enlargement thereof, such selection, designation or establishment shall be prima facie evidence to said jury of the necessity to use the site so established.

HISTORY: New 1955, p. 563, Act 269, Eff. Jul. 1.

340.712 Condemnation proceedings; summoning of jury, notice to owner.

Sec. 712. It shall be the duty of the circuit judge or circuit court commissioner, upon such application being made to him, to issue a summons or venire, directed to the sheriff or any constable of the county, commanding him to summon 18 freeholders residing in the vicinity of such site who are in nowise of kin to the owner of such real estate and not interested therein to appear before such judge or commissioner, at the time and place therein named, not less than 20 nor more than 50 days from the time of issuing such summons or venire, as a jury to ascertain and determine the just compensation to be made for the real estate required by such school district for such site, or for the enlargement thereof, and the necessity for using the same, and to notify the owner or occupant of such real estate, if he can be found in the county, of the time and place where such jury is summoned to appear, and the object for which such jury is summoned, which notice shall be served at least 10 days before the time specified in such summons or venire for the jury to appear as hereinbefore mentioned.

HISTORY: New 1955, p. 563, Act 269, Eff. Jul. 1.

340.713 Condemnation proceedings; hearing; notice, publication; personal service.

Sec. 713. Thirty days' previous notice of the time and the place where such jury will assemble shall be given by the board of such district, where the owner or owners of such real estate shall be unknown, nonresidents of the county, minors, insane or non compos mentis, or inmates of any prison, by publishing the same in a newspaper published in the county where such real estate is situated; or, if there be no newspaper published in such county, then in some newspaper published in the nearest county where a newspaper is published, once in each week for 4 successive weeks, which notice shall be signed by the board or by the secretary or treasurer of such district, and shall describe the real estate required for such site, or for the enlargement thereof, and state the time when and place where such jury will assemble, and the object for which

they will assemble; or such notice may be served on such owner personally, or by leaving a copy thereof at his last place of residence.

HISTORY: New 1955, p. 563, Act 269, Eff. Jul. 1.

340.714 Condemnation proceedings; persons attending, summons return, jury selection.

Sec. 714. It shall be the duty of such judge or commissioner, and of the persons summoned as jurors, as hereinbefore provided, and of the sheriff or constable summoning them, to attend at the time and place specified in such summons or venire; and the officer who summoned the jury shall return such summons or venire to the officer who issued the same, with the names of the persons summoned by him as jurors, and shall certify the manner of notifying the owner or owners of such real estate, if he was found; and, if he could not be found in said county, he shall certify that fact. Either party may challenge any of the said jurors for the same causes as in civil actions. If more than 12 of said jurors in attendance shall be found qualified to serve as jurors, the officer in attendance and who issued the summons or venire for such jury shall strike from the list of jurors a number sufficient to reduce the number of jurors in attendance to 12; and, in case less than 12 of the number so summoned as jurors shall attend, the sheriff or constable shall summon a sufficient number of freeholders to make up the number of 12; and the officer issuing the summons or venire for such jury may issue an attachment for any person summoned as a juror who shall fail to attend, and may enforce obedience to such summons, venire or attachment, as courts of record or justices' courts are authorized to do in civil cases.

HISTORY: New 1955, p. 564, Act 269, Eff. Jul. 1.

340.715 Condemnation proceedings; determination of compensation and necessity, witnesses, view of premises, jury's finding, certificate of judge.

Sec. 715. The 12 persons selected as the jury shall be duly sworn by the judge or commissioner in attendance, faithfully and impartially to inquire, ascertain and determine the just compensation to be made for the real estate required by such school district for such site, or for the enlargement thereof, and the necessity for using the same in the manner proposed by such school districts; and the persons thus sworn shall constitute the jury in such case. Subpoenas for witnesses may be issued and their attendance compelled by the circuit judge or commissioner in the same manner as may be done by the circuit court or by a justices' court in civil cases. The jury may visit and examine the premises and from such examination and such other evidences as may be presented before them shall ascertain and determine the necessity for using such real estate in the manner and for the purpose proposed by such school district and the just compensation to be made therefor; and if such jury shall find that it is necessary that such real estate shall be used in the manner or for the purpose proposed by such school district, they shall sign a certificate in writing stating that it is necessary that said real estate, describing it, shall be used as a site for a schoolhouse for such district, or to enlarge its existing site; also stating the sum to be paid by such school district as the just compensation for the same. The said circuit judge or circuit court commissioner shall sign and attach to, and endorse upon the certificate thus subscribed by the said jurors, a certificate stating the time when and the place where the said jury assembled, that they were by him duly sworn as herein required, and that they subscribed the certificate. He shall also state in such certificate who appeared for the respective parties on such hearing and inquiry, and shall deliver such certificate to any member of the board of such school district.

HISTORY: New 1955, p. 564, Act 269, Eff. Jul. 1.

340.716 Condemnation proceedings; judgment, collection.

Sec. 716. Upon filing such certificate in the circuit court of the county where such real estate is situated, such court shall, if it finds all the proceedings regular, render judgment for the sum specified in the certificate signed by such jury against such school district, which judgment shall be collected and paid in the manner as other judgments against school districts are collected and paid.

HISTORY: New 1955, p. 565, Act 269, Eff. Jul. 1.

340.717 Condemnation proceedings; unknown or incompetent owner; deposit with county treasurer.

Sec. 717. In case the owner of such real estate shall be unknown, insane, non compos mentis, or an infant, or cannot be found within such county, it shall be lawful for the said school district to deposit the amount of such judgment with the county treasurer of such county for the use of the person or persons entitled thereto; and it shall be the duty of such county treasurer to receive such money, and at the time of receiving it to give a receipt or certificate to the person depositing the same with him, stating the time when such deposit was made and for what purpose; and such county treasurer and his sureties shall be liable on his bond for any money which shall come into his hands under the provisions of this act, in case he shall refuse to pay or account for the same, as herein required: Provided, That no such money shall be drawn from such county treasurer except upon an order of the circuit court, circuit court commissioner or judge of probate, as hereinafter provided.

HISTORY: New 1955, p. 565, Act 269, Eff. Jul. 1.

340.718 Vesting of title; writ of possession.

Sec. 718. Upon satisfactory evidence being presented to the circuit court of the county where such real estate lies that such judgment or the sum ascertained and determined by the jury as the just compensation to be paid by such district for such site, or for such addition to its site, has been paid, or that the amount thereof has been deposited according to the provisions of the preceding sections, such court shall, by order or decree, adjudge and determine that the title in fee of such real estate shall, from the time of making such payment or deposit, forever thereafter be vested in such school district and its successors and assigns and shall, in and by such order or decree, award to such school district a writ of possession for the recovery of the possession of such real estate; a copy of which order or decree, certified by the clerk of said county, shall be recorded in the office of the register of deeds of such county, and the title of such real estate shall henceforth, from the time of making such payment or deposit, be vested forever thereafter in such school district and its successors and assigns in fee.

HISTORY: New 1955, p. 565, Act 269, Eff. Jul. 1.

340.719 Vesting of title; delivery of possession.

Sec. 719. Such school district may, at any time after making the payment or deposit hereinbefore required, enter upon and take possession of such real estate for the use of said district. And it shall be the duty of the county clerk of said county, on the request of said school district, to issue out of and under the seal of the circuit court of said county a writ of possession as awarded in such order or decree, which writ shall be directed to the sheriff of such county and shall be attested and made returnable, and shall be substantially, so far as may be, in the same form provided for writs of possession in actions of ejectment; and it shall be the duty of such sheriff thereupon to remove the respondent or respondents in such proceedings, and all persons holding under them, or either of them, from the real estate described in such decree and in such writ, and deliver the possession thereof with the appurtenances to such school district.

HISTORY: New 1955, p. 565, Act 269, Eff. Jul. 1.

340.720 Condemnation proceedings; jury disagreement, adjournments.

Sec. 720. In case the jury herein provided for shall not agree, another jury may be summoned in the same manner and the same proceedings may be had, except that no further notice of the proceedings shall be necessary; but instead of such notice, the judge or commissioner may adjourn the proceedings to such time as he shall think reasonable, not exceeding 30 days, and shall make the process to summon a jury returnable at such time and place as the said proceedings shall be adjourned to. Such proceedings may be adjourned from time to time by the said judge or commissioner on the application of either party and for good cause, to be shown by the party applying for such adjournment, unless the other party shall consent to such adjournment; but such adjournment shall not in all exceed 3 months.

HISTORY: New 1955, p. 565, Act 269, Eff. Jul. 1.

340.721 Condemnation proceedings; encumbrances against sites; separate judgment.

Sec. 721. In case the said schoolhouse site or land required to enlarge the same is encumbered by mortgage, levy, tax sale or otherwise, as aforesaid, the mortgagee or other parties claiming to be interested in said title shall severally be made a party to the procedure aforesaid, and shall be authorized, upon the filing of the certificate of the jury in the circuit court of said county, to appear before the circuit judge and make proof relative to their proportionate claims to the said site, or the compensation to be made therefor as determined by said jury. And the said circuit judge shall, by decree, settle their several claims in accordance with the rights of the parties respectively, and may divide the sum awarded by said jury between the claimants as in his judgment will be equitable and right, rendering against said district a separate judgment for each of the amounts so awarded.

HISTORY: New 1955, p. 566, Act 269, Eff. Jul. 1.

340.722 Condemnation proceedings; order for payment of money.

Sec. 722. The circuit judge, judge of probate or circuit court commissioner of any county where any money has been deposited with the treasurer of such county, as hereinbefore provided, shall, upon the written application of any person or persons entitled to such money and upon receiving satisfactory evidence of the right of such applicant to the money thus deposited, make an order directing the county treasurer to pay the money thus deposited with him to said applicant; and it shall be the duty of such county treasurer, on the presentation of such order, with the receipt of the person named therein endorsed on said order and duly acknowledged, in the same manner as conveyances of real estate are required to be acknowledged, to pay the same; and such order, with the receipt of the applicant or person in whose favor the same shall be drawn, shall, in all courts and places, be presumptive evidence in favor of such county treasurer to exonerate him from all liability to any person or persons for said money thus paid by him.

HISTORY: New 1955, p. 566, Act 269, Eff. Jul. 1.

340.723 Condemnation proceedings; fees, compensation.

Sec. 723. Circuit judges and circuit court commissioners, for any services rendered under the provisions of this act, shall be entitled to the same fees and compensation as for similar services in other special proceedings. Jurors, constables and sheriffs shall be entitled to the same fees as for like services in civil cases in the circuit court.

HISTORY: New 1955, p. 568, Act 269, Eff. Jul. 1.

340.724 Condemnation proceedings; judge, commissioner; substitutes.

Sec. 724. In case any circuit judge or circuit court commissioner who shall issue a summons or venire for a jury shall be unable to attend to any of the subsequent pro-

ceedings in such case, any other circuit court commissioner may attend and finish said proceedings.

HISTORY: New 1955, p. 586, Act 289, Eff. Jul. 1.

CHAPTER 15.

COMPULSORY EDUCATION.

340.731 Compulsory school attendance; regulations.

Sec. 731. (a) Except as provided in section 732 and subject to the provisions of subsection (b), every parent, guardian or other person in this state, having control and charge of any child between the ages of 6 and 16 years, shall send such child, equipped with the proper textbooks necessary to pursue his school work, to the public schools during the entire school year, and such attendance shall be continuous and consecutive for the school year fixed by the district in which such child is enrolled. In school districts which maintain school during the entire year and in which the school year is divided into quarters, no child shall be compelled to attend the public schools more than 3 quarters in any one year; but a child shall not be absent for any 2 consecutive quarters.

(b) A child becoming 6 years of age before December 1 shall be enrolled on the first school day of the school year in which his sixth birthday occurs. A child becoming 6 years of age on or after December 1 shall be enrolled on the first school day of the school year following the school year in which his sixth birthday occurs.

HISTORY: New 1955, p. 586, Act 289, Eff. Jul. 1;—Am. 1962, p. 128, Act 134, Eff. Mar. 28, 1963.

340.732 Children not required to attend public school.

Sec. 732. In the following cases, children shall not be required to attend the public schools:

Private, parochial, or denominational school.

(a) Any child who is attending regularly and is being taught in a private, parochial or denominational school which has complied with all the provisions of this act and teaches subjects comparable to those taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools of the district within which such private, denominational or parochial school is located;

Page or messenger in legislature.

(b) Any child who is regularly employed as a page or messenger in either branch of the legislature during the period of such employment;

Physical incapacity.

(c) Any child who is physically unable to attend school. If the attendance officer is notified of the nonattendance of any child at school and he shall find the one in parental control claiming that such child is physically unable to attend school, he may require the said person in parental control of said child to secure a written statement of a competent physician, certifying that such child is physically unable to attend school;

Mentally handicapped, emotionally disturbed, or unadjustable children.

(d) Any child whose parent or legal guardian claims that the said child under his jurisdiction is unable to pursue the school work offered by the school district in which he maintains his legal residence because of mental or emotional conditions may be released from school attendance by the county superintendent or superintendent of schools in districts for which the county attendance officer acts, or the superintendent of schools in all other districts: Provided, That such county superintendent or superintendent of schools has obtained a written statement from a psychiatrist or a child center or clinic or other appropriate agency approved by the superintendent of public instruction that the child is incapable of benefiting from public school attendance: Provided further, That a child shall be excused from attending school if such child is

determined to be unadjustable under the provisions of Act No. 157 of the Public Acts of 1947, being sections 409.1 to 409.30, inclusive, of the Compiled Laws of 1948;

Children under 9, distance from school; exceptions.

(e) Children under 9 years of age whose parents do not reside within 2 ½ miles, by the nearest traveled road, of some public school: Provided, That if transportation is furnished for pupils in said district, this exemption shall not apply;

Confirmation classes, attendance.

(f) Any child 12 to 14 years of age while in attendance at confirmation classes conducted for a period of not to exceed 5 months in either of said years; and

Religious instruction classes off public school property.

(g) Any child who is regularly enrolled in the public schools while in attendance at religious instruction classes for not more than two class hours per week, off public school property during public school hours upon written request of the parent, guardian or person in loco parentis in accordance with rules and regulations prescribed by the superintendent of public instruction.

HISTORY: New 1955, p. 568, Act 269, Eff. Jul. 1;—Am. 1964, p. 454, Act 270, Eff. Aug. 28.

340.733 County attendance officer; oath, bond, powers, duties; district attendance officer.

Sec. 733. The county superintendent of schools in each county shall select a person, or more than one if authorized by the county board of education, of good moral character to act as attendance officer or officers for the county. The person or persons so selected shall file with the county clerk an acceptance and oath of office and a bond in the sum of \$1,000.00, with 2 sufficient sureties to be approved by the county clerk. The person or persons so selected shall be known as the county attendance officer or officers, and shall have all the powers of a deputy sheriff, and shall perform the duties of attendance officers in all school districts of the county when directed to do so by the county superintendent of schools, except as hereinafter provided. In school districts having a population of over 3,000, the board shall have authority to appoint 1 or more attendance officers and fix the compensation of the same, said compensation to be paid by the district: Provided, That if in any school district the board does not appoint an attendance officer, the county attendance officers shall act in such district.

HISTORY: New 1955, p. 567, Act 269, Eff. Jul. 1.

340.734 District attendance officers; bond, power.

Sec. 734. The attendance officers appointed by any board shall give bonds to the board in the sum of \$500.00, said bonds to be approved by the board and filed with said board, and such officers shall have, within their jurisdiction and while in the performance of the duties of attendance officer, the powers of the deputy sheriff.

HISTORY: New 1955, p. 568, Act 269, Eff. Jul. 1.

340.735 Attendance officers; compensation.

Sec. 735. The compensation of the county attendance officer shall be determined by the county board of education, and actual expenses and all bills for such service shall be certified by the county superintendent of schools. When the board appoints an attendance officer, said board shall fix the compensation for such attendance officer and pay such officer from the general fund. The compensation and actual expenses of the county attendance officer shall be allowed and paid in the same manner as the compensation of other county officers is allowed and paid by the county.

HISTORY: New 1955, p. 568, Act 269, Eff. Jul. 1.

340.736 Compulsory attendance; data, report; primary district.

Sec. 736. It shall be the duty of the secretary of the board in primary districts to provide the teacher, at the commencement of school, with a copy of the last school

census, together with the names and addresses of the persons in parental relation, also the address of the county superintendent of schools. The teacher shall, at the opening of school and at such other times as may be necessary, compare such census list with the enrollment of the school and report to the county superintendent of schools the names of the parents or other persons in parental relation whose children of the ages hereinbefore mentioned are not in regular attendance at school; also the names of parents or other persons in parental relation who have children of school age not included in such census and who do not attend school.

HISTORY: New 1955, p. 568, Act 269, Eff. Jul. 1.

340.737 Compulsory attendance; district other than primary; data, report.

Sec. 737. In all districts except primary districts, the secretary of the board shall, at the commencement of school, furnish a copy of the last school census to the superintendent of schools, or the teacher or teachers if no superintendent is employed, in such districts, together with the name and address of the attendance officer under whose jurisdiction they act, and it shall be the duty of said superintendent, teacher or teachers, at the opening of school, to compare said census list with the enrollment of the school or schools, and from time to time as it may be necessary report to the proper attendance officer the names and addresses of any parents or other persons in parental relation whose children of the ages hereinbefore mentioned are not in regular attendance at the public schools, also names of parents or others in parental relation whose children are not in the school and whose names are not included in such census.

HISTORY: New 1955, p. 568, Act 269, Eff. Jul. 1.

340.738 Compulsory attendance; data, report; private, denominational, parochial schools.

Sec. 738. It shall be the duty of the principal, or any other person or persons in charge of every private, denominational or parochial school, at the opening of such schools and at such other time as the superintendent or county superintendent of schools hereinafter mentioned shall direct, to furnish to the superintendent of schools of the district in which such private, denominational or parochial school is situated or to the county school superintendent or superintendent of schools, the name, age and grade of every child who has enrolled at such schools and the number or name of the district and the city or township and county where the parent, guardian or person in parental relation resides and the name and address of the parent, guardian or other person in parental relation of every such child; and also the name, age and grade of every child who has enrolled in such schools and who is not in regular attendance thereat, together with the number or name of the district and the city or township and county where the parent, guardian or person in parental relation resides and the name and address of the parent, guardian or other person in parental relation to every such child.

HISTORY: New 1955, p. 568, Act 269, Eff. Jul. 1.

340.739 Compulsory attendance; violation, investigation by attendance officer.

Sec. 739. It shall be the duty of the attendance officer of the district, whenever notified by the teacher, superintendent or other persons of violations of this act, and the county attendance officer, when notified by the county superintendent of schools, to investigate all cases of nonattendance at school, and if the children complained of are not exempt from the provisions of this chapter under the conditions named in section 732, then he shall immediately proceed as provided hereinafter in this chapter.

Notice to parent as to nonattendance, failing work, behavior problem.

When a child has been repeatedly absent from school without valid excuse, or is failing in school work or gives evidence of behavior problems, and after attempts to

confer with the parent or other person in parental relationship to such child have failed, the superintendent of schools, or the county superintendent of schools in a district which does not employ a superintendent, may request the attendance officer to notify such parent or other person in parental relationship by registered mail to come to the school or to a place designated by him at a time specified to discuss the child's absence or failing work or behavior problems with the proper school authorities.

Nonattendance of nonresident pupil.

The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of any nonresident pupil to the county superintendent of schools of the county in which such nonresident pupil resides. It shall be the duty of the county attendance officer, when notified by the county superintendent or superintendent of schools, to investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner as is hereinafter provided in this chapter for enforcing attendance of pupils attending schools in districts in which they reside.

HISTORY: New 1955, p. 569, Act 269, Eff. Jul. 1.

340.740 Compulsory attendance; violation by parents, penalty.

Sec. 740. In case any person, parent or other person in parental relation shall fail to comply with the provisions of this act, he shall be deemed guilty of a misdemeanor, and shall on conviction thereof be punished by a fine of not less than \$5.00 nor more than \$50.00, or imprisonment in the county or city jail for not less than 2 nor more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1955, p. 569, Act 269, Eff. Jul. 1.

340.741 County attendance officer; districts not employing attendance officers.

Sec. 741. It shall be the duty of the county superintendent of schools to furnish the attendance officer of the county, at the opening of the schools, with a list of the teachers and superintendents employed in his county in school districts other than those employing an attendance officer as provided in the preceding sections of this chapter.

HISTORY: New 1955, p. 569, Act 269, Eff. Jul. 1.

340.742 Failure to send children to school; notice to parents, teachers, attendance officer.

Sec. 742. In case any parent or other person in parental relation shall fail to send the child or children under his or her control to the public school or other school as herein provided, the attendance officer, upon having notice from proper authority of such fact, shall give formal written notice in person or by registered mail to the parent or other person in parental relation that the child or children under his or her control shall present himself or themselves at the public school, or other school, as hereinbefore provided, on the next regular school day following the receipt of such notice, and that said child or children shall continue in regular and consecutive attendance in school. The attendance officer shall, at the same time the said formal notice is given to the parent or person in parental relation, notify the teacher or county school superintendent or superintendent of schools of the fact of notice, and it shall be the duty of the teacher or superintendent or county superintendent to notify the attendance officer of the failure on the part of the parent or other person in parental relation to comply with said notice.

HISTORY: New 1955, p. 569, Act 269, Eff. Jul. 1.

340.743 Failure to send children to school; complaint against parents, punishment.

Sec. 743. It shall be the duty of the attendance officer, after having given the formal notice described in section 742 hereof, to determine whether the parent or other person in parental relation has complied with the notice, and in case of failure to so comply he shall make a complaint against said parent or other person in parental relation having the legal charge and control of such child or children before any justice of the peace in the county where such party resides for such refusal or neglect to send such child or children to school; and said justice of the peace shall issue a warrant upon said complaint and shall proceed to hear and determine the same in the same manner as is provided by statute for other cases under his jurisdiction, and in case of conviction of any parent or other person in parental relation for violation of this act, said parent or other person in parental relation shall be punished according to the provisions of section 740 of this act: Provided, That in cities having a municipal or recorder's court and justice of the peace, the attendance officer shall make the aforesaid complaint before the magistrate of said municipal or recorder's court or before a justice of the peace, and said magistrate or justice shall issue a warrant and proceed to hear and determine the case in the same manner as is provided in the statute for other cases under his jurisdiction.

HISTORY: New 1955, p. 570, Act 269, Eff. Jul. 1.

340.744 Attendance officer; assistance by school personnel.

Sec. 744. It shall be the duty of all school officers, superintendents or teachers of other persons to render such assistance and furnish such information as they may have at their command to aid such attendance officer in the performance of his official duty.

HISTORY: New 1955, p. 570, Act 269, Eff. Jul. 1.

340.745 Ungraded schools; establishment.

Sec. 745. The board of any district except primary districts may establish 1 or more ungraded schools for the instruction of certain children as defined and set forth in the following section. They may, through the attendance officer and superintendents of schools, require such children to attend said ungraded schools or any department of their graded schools as said board of education may direct.

HISTORY: New 1955, p. 570, Act 269, Eff. Jul. 1.

340.746 Ungraded schools; assignment of children.

Sec. 746. The following cases of persons between and including the ages of 7 and 16 years, residing in school districts described in section 745 of this chapter, shall be deemed juvenile disorderly persons and shall, in the judgment of the proper school authorities, be assigned to the ungraded school or schools as provided in section 745 of this chapter: Class 1, habitual truants from any school in which they are enrolled as pupils; class 2, children who, while attending any school, are incorrigibly turbulent, disobedient and insubordinate, or are vicious and immoral in conduct; class 3, children who are not attending any school and who habitually frequent streets and other public places, having no lawful business, employment or occupation.

HISTORY: New 1955, p. 570, Act 269, Eff. Jul. 1.

DEAF CHILDREN.**340.747 Deaf children; school attendance.**

Sec. 747. Every parent, guardian or other person in the state of Michigan having control or charge of any child or children between the ages of 7 and 18 years, and who by reason of deafness or imperfect hearing cannot be taught successfully in the public schools, shall be required to send such child or children to a day school for the deaf,

the Michigan school for the deaf, located at Flint, or to such other school for the deaf as the said parent, guardian or other person in parental control prefers: Provided, That should the parent, guardian or other person in parental control of said child or children fail to meet the foregoing provision, then such child or children shall be sent to the Michigan school for the deaf located at Flint.

HISTORY: New 1955, p. 570, Act 269, Eff. Jul. 1.

340.748 State school for the deaf; transportation.

Sec. 748. In cases where such parent, guardian or other person, on account of poverty, is unable to furnish such child or children with transportation to and from such school, the board of trustees for the Michigan school for the deaf shall furnish such transportation each year, and the said board of trustees may include therewith transportation for such parent, guardian or other person to said school and return, where the child is under the age of 12 years, and for that purpose may issue a certificate directed to the auditor general that said amount is necessary for the benefit of such individuals, who shall draw his warrant upon the state treasurer therefor; and any such sums are hereby appropriated and shall be paid out of any moneys in the general fund, not otherwise appropriated, and the auditor general shall charge all such moneys, so drawn, to the county of which such parent, guardian or other person is a resident, or to which he or she belongs, to be collected and returned to the general fund the same as any state taxes are required to be by law.

HISTORY: New 1955, p. 570, Act 269, Eff. Jul. 1.

340.749 Provisions governing enforcement; report.

Sec. 749. All of the provisions of this chapter shall apply in the execution of sections 747 and 748 above, and the officers mentioned shall be required to report all cases of deaf children residing in their jurisdiction to the superintendent of the Michigan school for the deaf, and they shall enforce said sections 747 and 748 in the same manner as other sections of this chapter are enforced, and the same penalties shall be applicable.

HISTORY: New 1955, p. 571, Act 269, Eff. Jul. 1.

BLIND CHILDREN.

340.750 Blind children; census enumerator's report, report to state school for blind.

Sec. 750. It shall be the duty of each school census enumerator provided for in the general school laws of the state to procure the name, age, residence, and the name and residence of the parents or guardians or persons in control or in charge of each blind child, and of each child whose vision is so defective as to make it impossible to educate properly such child in the public schools, between the ages of 7 and 19 years. The said list shall, after it has been properly verified and within the time prescribed by the general school laws for the filing of census lists, be forwarded to the superintendent of public instruction. The said superintendent of public instruction shall, immediately upon receipt of the various lists, prepare and tabulate a report containing the name, age and residence of each blind child and each child whose vision is so defective as to make it impossible for it to be properly educated in the schools for the seeing within this state, together with the names and residences of the parents, guardian or person having the control of any such child, which report shall be forwarded to the superintendent of the Michigan school for the blind.

HISTORY: New 1955, p. 571, Act 269, Eff. Jul. 1.

340.751 Blind children; school attendance, exceptions.

Sec. 751. It shall be the duty of every parent, guardian or other person having control or charge of any child or children in the state of Michigan, between the ages of 7

and 19 years, who are blind, or whose vision is so defective as to make it impossible to have them properly educated in the schools for the seeing, to send such child or children to the Michigan school for the blind, to be received at that school in accordance with the provisions of the statute and the rules and regulations which are or may be prescribed by the board of control of said school: Provided, That the parent, guardian or person having control of any such child or children shall not be required to send them to the Michigan school for the blind when they come within any one of the following classes:

- (1) Any child or children being educated in any private or parochial school;
- (2) Any child or children physically or mentally incompetent of being educated;
- (3) Any child or children over the age of 17 years who have been taught and are employed and are working at a trade;
- (4) Any child or children of the age of 18 years employed at the Michigan employment institution for the blind; or
- (5) Any child being educated in a special school or classes for such children in the public schools.

HISTORY: New 1955, p. 571, Act 269, Eff. Jul. 1.

340.752 Blind children; attendance enforcement.

Sec. 752. It shall be the duty of the superintendent of the Michigan school for the blind to furnish to the county superintendent of schools of every county and to the secretary of school boards a list of the names of such children as come within the provisions of this chapter. Each attendance officer shall, when notified by the board of control or by the superintendent of the Michigan school for the blind, or by anyone appointed or designated by them, or by the county superintendent of schools, that there are within the school district or county, as the case may be, children who come within the provisions of this chapter, investigate all such cases and report the conditions found to exist to the superintendent of the Michigan school for the blind and the superintendents of schools of the counties. The superintendent of the Michigan school for the blind shall, upon receipt of such report from any attendance officer, determine whether or not the children in question are included within the provisions of this chapter, and if in his judgment such children are included within the provisions of this chapter and are not included within the exempted classes named herein, he shall notify the proper attendance officer who, upon receipt of such notice, shall take such steps against the parent, guardian or other person having charge or control of any such child or children, to enforce the provisions of this chapter as herein prescribed.

HISTORY: New 1955, p. 572, Act 269, Eff. Jul. 1.

340.753 Blind children; transportation for parents and pupils.

Sec. 753. In case a parent, guardian or other person, on account of indigent circumstances, is unable to furnish such child or children with transportation to and from such school, the board of trustees of the Michigan school for the blind shall provide such transportation each year, and the said board of trustees may include therewith transportation for such parent, guardian or other person to said school and return, when the child is under 12 years of age, and for that purpose may issue a certificate directed to the auditor general that said amount is necessary for the benefit of such individuals, who shall draw his warrant upon the state treasurer therefor, and any such sums are hereby appropriated and shall be paid out of any moneys in the general fund not otherwise appropriated, and the auditor general shall charge all such moneys so

drawn to the county of which such parent, guardian or other person in parental relation is a resident, or to which he or she shall belong, to be collected and returned to the general fund the same as any state taxes are required to be by law.

HISTORY: New 1955, p. 572, Act 269, Eff. Jul. 1.

340.754 Violation of chapter by parents; penalty.

Sec. 754. If any parent or other person in parental relation shall fail to comply with the provisions of this chapter, he shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be fined not less than \$5.00 nor more than \$50.00, or imprisonment in the county or city jail for not less than 20 nor more than 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: New 1955, p. 572, Act 269, Eff. Jul. 1.

340.755 Dangerous weapons; use of physical force to take possession.

Sec. 755. Any teacher or superintendent may use such physical force as may be necessary to take possession from any pupil of any dangerous weapon carried by him.

HISTORY: Add. 1964, p. 595, Act 290, Eff. Aug. 28.

340.756 Discipline; use of physical force to maintain.

Sec. 756. Any teacher or superintendent may use such physical force as is necessary on the person of any pupil for the purpose of maintaining proper discipline over the pupils in attendance at any school.

HISTORY: Add. 1964, p. 595, Act 290, Eff. Aug. 28.

340.757 Physical force; liability; gross abuse.

Sec. 757. No teacher or superintendent shall be liable to any pupil, his parent or guardian in any civil action for the use of physical force on the person of any pupil for the purposes prescribed in sections 755 and 756 of this act, as amended, except in case of gross abuse and disregard for the health and safety of the pupil.

HISTORY: Add. 1964, p. 595, Act 290, Eff. Aug. 28.

CHAPTER 16.

TUITION OF PUPILS.

340.761 High school; payment of tuition and transportation, discontinuance; use of surplus funds.

Sec. 761. The board of any district which does not maintain grades above the eighth shall pay the tuition of any children of school age, resident of said district, who have completed the studies of the 8 grades, to any school district maintaining a high school which is approved for the collection of high school tuition by the superintendent of public instruction; the board of any district which maintains grades above the eighth which are not approved for the collection of tuition by the superintendent of public instruction may pay the tuition of any children of school age, resident of said district, eligible to attend in those grades not approved, to any district approved for the collection of tuition by the superintendent of public instruction for the grade attended. The board shall pay the expense of daily transportation during school days of children attending high school in another district or districts. The board of a school district maintaining a legal high school as provided in this act shall, when directed by a majority vote of the school electors, discontinue such high school and thereafter such board shall pay the tuition and transportation for its eighth grade graduates. General funds and any surplus moneys in the treasury of said district belonging to the primary fund may be used in paying necessary and authorized tuition.

HISTORY: New 1955, p. 572, Act 269, Eff. Jul. 1.

340.762 High school; definition.

Sec. 762. A high school shall be an approved school other than a primary school maintaining 12 grades of work with at least 3 teachers devoting their entire teaching time to the work of the seventh, eighth, ninth, tenth, eleventh and twelfth grades, or at least 2 teachers devoting their entire teaching time to the work of the ninth, tenth, eleventh and twelfth grades, or a 9 grade school with at least 1 teacher devoting his entire teaching time to the work of the seventh, eighth and ninth grades, or a 10 grade school with at least 1 teacher devoting his entire teaching time to the work of the ninth and tenth grades, or the eighth, ninth and tenth grades, or an 11 grade school with at least 2 teachers devoting their entire teaching time to the work of the ninth, tenth and eleventh grades, or the eighth, ninth, tenth and eleventh grades.

HISTORY: New 1955, p. 573, Act 269, Eff. Jul. 1;—Am. 1957, p. 157, Act 135, Eff. Sep. 27.

340.763 High schools; tuition and transportation to school in bordering state; payment; severing clause.

Sec. 763. In a state bordering on the state of Michigan, the nearest and the next nearest approved high schools by the nearest traveled road to the residence of a parent or guardian of children of this state, qualified to have their tuition paid as provided in this act, shall be considered legal high schools to which school districts not maintaining a legal high school shall be permitted to pay high school tuition and transportation: Provided, That such high school shall maintain a school term of at least 9 months. In case such eligible children desire to attend such legal high school in a border state, the entire tuition and transportation shall be paid as in this act provided for the paying of the tuition and transportation to high schools in this state. If elementary grades are maintained in connection with such legal high school in a state bordering on the state of Michigan it shall be considered a legal school to which school districts which have voted to discontinue wholly or in part shall be permitted to pay elementary tuition and transportation: Provided, That if this section shall be declared unconstitutional by the courts, it shall not be construed to invalidate the provisions of any other section of this act.

HISTORY: New 1955, p. 573, Act 269, Eff. Jul. 1.

340.764 High school pupils; eligibility for tuition payment.

Sec. 764. Pupils eligible to have their tuition paid in whole or in part shall be holders of eighth grade diplomas, which shall have been granted prior to the effective date of this act by the superintendent of a school district, or shall be granted by the county superintendent of schools of the several counties upon the written recommendation of the teacher or principal of the school, public, private or parochial in which any such pupil has theretofore been enrolled, or shall have completed 8 grades of work in a school district as evidenced by the written statement of the superintendent of schools in such school districts.

HISTORY: New 1955, p. 573, Act 269, Eff. Jul. 1.

CHAPTER 17.

EDUCATION OF THE MENTALLY AND PHYSICALLY HANDICAPPED.

340.771 Physically handicapped children; educational program, certified diagnosis.

Sec. 771. The board of any school district may establish and maintain educational programs for the instruction of resident or nonresident pupils up to the age of 25, who by reason of being blind or having defective vision, or who by reason of being deaf or having defective hearing, or who by reason of being crippled or otherwise physically handicapped, or who by reason of having epilepsy, or who by reason of having defective speech, cannot profitably or safely be educated by the usual methods and materi-

als of instruction in the public school: Provided, That no pupil shall be enrolled in such programs except upon a certified diagnosis of a physical defect by competent and appropriate professional authorities acceptable to and according to standards set up by the superintendent of public instruction.

HISTORY: New 1955, p. 573, Act 269, Eff. Jul. 1.

340.772 Physically handicapped children; instructors, requirement.

Sec. 772. All persons appointed to teach such handicapped children shall have had special training for such teaching. Courses of study, adequacy of methods of instruction, qualifications of teachers, the conditions under which teachers are employed, the territory to be served by each district, and the necessary equipment and any special services for such children for any school year must comply with the requirements prescribed by the superintendent of public instruction.

HISTORY: New 1955, p. 574, Act 269, Eff. Jul. 1.

340.773 Physically handicapped children; annual report, reimbursable expenditures.

Sec. 773. The board of any district which maintains 1 or more such schools or classes shall make an annual report to the superintendent of public instruction or oftener if he shall so direct, which report shall include an itemized statement of all reimbursable expenditures for said schools or classes, together with such other facts as the superintendent of public instruction may deem necessary for the proper administration of this chapter.

HISTORY: New 1955, p. 574, Act 269, Eff. Jul. 1.

340.774 Physically handicapped children; budget, state reimbursement; transportation; nonresident children.

Sec. 774. Funds shall be allocated each year to each of the school districts maintaining approved special educational programs for children described in section 771, as provided in the act which grants general state aid to school districts: Provided, The board may pay part or all of the transportation of any handicapped children to a class within the district or in another district: Provided further, That such pupils with the consent of the parent or guardian may be boarded at some convenient place if the cost is less than the cost of transportation. Such children, resident or nonresident, may attend such special schools or classes without the payment of tuition: Provided further, That the difference between the actual per capita cost and the amount received by the receiving school district from funds provided in the act which grants general state aid to school districts may be charged to the school districts in which the children are resident and, if so charged, shall be paid by such sending school districts.

HISTORY: New 1955, p. 574, Act 269, Eff. Jul. 1;—Am. 1956, p. 465, Act 215, Imd. Eff. May 1.

340.775 Mentally handicapped children; educational program, specialized services.

Sec. 775. The board of education of any school district may establish and maintain educational programs or provide specialized services when approved by the superintendent of public instruction for the instruction of mentally handicapped children up to the age of 21, resident or nonresident, who cannot profitably or safely be educated by the usual methods or means of instruction in the public schools.

HISTORY: New 1955, p. 575, Act 269, Eff. Jul. 1;—Am. 1956, p. 236, Act 195, Eff. Sep. 13.

340.775a Emotionally disturbed children; programs; age limit, enrollment, diagnosis.

Sec. 775a. The board of education of any school district or the boards of education of two or more school districts may establish and maintain educational programs and provide specialized services for resident or nonresident pupils up to the age of 21 who,

by reason of being emotionally disturbed, cannot profitably or safely be educated by the usual methods or means of instruction in the public schools. No pupil shall be enrolled in such programs except upon a certified diagnosis of emotional disturbance by competent and appropriate professional authorities acceptable to and according to standards set up by the superintendent of public instruction.

HISTORY: Add. 1960, p. 232, Act 154, Imd. Eff. May 23;—Am. 1965, p. 441, Act 263, Imd. Eff. Jul. 21.

340.775b Mentally handicapped children; county agency.

Sec. 775b. In addition to the authority granted in sections 775 and 775a, the board of education of any school district in counties now or hereafter having a population of more than 2,000,000 may enter into an agreement with any county agency within that county conducting a special education program for mentally handicapped and mentally disturbed children for that agency to provide the district the educational programs or specialized services that the board is authorized to establish or maintain at its own facilities or in the facilities owned or operated by such agency. When such an agreement is entered into and approved by the superintendent of public instruction, such program shall be deemed to be the program of the school district for general state aid purposes and for all purposes under this chapter.

HISTORY: Add. 1968, p. 325, Act 225, Imd. Eff. June 25;—Am. 1969, p. 164, Act 81, Imd. Eff. Jul. 23.

340.776 Mentally handicapped children; instructors, requirements.

Sec. 776. All persons appointed to teach or serve professionally such handicapped children shall have had special training for such services. Establishment of services, eligibility of pupils, sizes of classes, housing and equipment, instructional programs, qualifications of personnel, and the territory to be served must comply with requirements prescribed by the superintendent of public instruction before the cost of such programs may be reimbursed as set forth in this chapter.

HISTORY: New 1955, p. 575, Act 269, Eff. Jul. 1.

340.777 Mentally handicapped children; special programs, financing; transportation, boarding of students.

Sec. 777. The board of education of a school district where programs are established shall include in its annual budget a sufficient sum of money to provide for maintaining the program. Each school district approved for a program for the education of the mentally handicapped shall receive allowances for each pupil served as shall be determined and authorized by the superintendent of public instruction under the terms of the act which grants general state aid to school districts. Any district board of education maintaining a program for the mentally handicapped may pay all or part of the cost of transportation of handicapped children living more than 1½ miles from the classes they attend. If the superintendent of public instruction determines from the best evidence available that such pupil cannot safely walk this distance, the limit of 1½ miles may be waived, and any district board of education not maintaining a program for the mentally handicapped may pay all or part of the transportation costs or board and room for a mentally handicapped child so that he may benefit from the educational program for the mentally handicapped in another district or at an approved day school for mentally handicapped children operated by any county within this state authorized by law to establish such a school if such program has been approved by the superintendent of public instruction and such services may be reimbursed to the district paying the cost as provided in the act which grants general state aid to school districts. The district maintaining the program for mentally handicapped children may provide board and room for nonresidents, if previously approved by the superintendent of public instruction, and may be reimbursed for the full cost of such room and board as provided in the act which grants general state aid to school districts. The difference between the actual per capita operational cost for such children, as approved

by the superintendent of public instruction, and the per capita amount received by the receiving school district from allowances from the act which grants general state aid to school districts may be charged to the school districts in which the children are resident and, if so charged, shall be paid by such sending school district.

HISTORY: New 1955, p. 575, Act 269, Eff. Jul. 1;—Am. 1956, p. 465, Act 215, Imd. Eff. May 1;—Am. 1957, p. 168, Act 146, Imd. Eff. May 29;—Am. 1964, p. 294, Act 221, Imd. Eff. May 22.

340.778 Physically and mentally handicapped children; transportation to schools in bordering states, payment; severing clause.

Sec. 778. A school district in a state bordering on the state of Michigan, which maintains a class for special instruction of either physically or mentally handicapped children shall be considered a legal school district to which the board of any district that does not maintain a class for handicapped children shall be permitted to pay tuition for resident pupils enrolled in such special classes. The payment and the rate of such tuition shall be approved by the superintendent of public instruction. The board may pay part of or all of the transportation of any resident handicapped child to such border state school district. The school district shall be reimbursed for the tuition when approved as herein provided and for the reasonable costs of transportation of such children: Provided, That if this section shall be declared unconstitutional by the courts, it shall not be construed to invalidate the provisions of any other section of this chapter.

HISTORY: New 1955, p. 576, Act 269, Eff. Jul. 1.

340.779 Physically and mentally handicapped children; schools; expenses, payment; reports, contents; vouchers.

Sec. 779. The board maintaining 1 or more such schools or classes shall cause to be executed annually such reports as requested by the superintendent of public instruction so as to show the rate of salaries paid to the instructors of such school or classes and the time covered by such payment, the special school appliances purchased, price paid for each article or series of articles, and all other apparatus, equipment, supplies and services contemplated by this chapter. The treasurer of such school district shall forward 2 copies of these reports to the superintendent of public instruction on or before September first. The superintendent of public instruction shall present vouchers to the auditor general, authorizing him to pay to the treasurer of the proper school district the amount covered by the certified vouchers presented.

HISTORY: New 1955, p. 576, Act 269, Eff. Jul. 1.

340.780 Special education; superintendent of public instruction; visiting teachers, title; requirements.

Sec. 780. (1) The superintendent of public instruction shall have general supervision over all work done under this chapter.

(2) Notwithstanding any other provision of law, a visiting teacher in any special educational program shall be known as a school social worker and shall not be required to have a teaching certificate, subject to the rules and regulations established by the department of education.

HISTORY: New 1955, p. 576, Act 269, Eff. Jul. 1;—Am. 1966, p. 354, Act 259, Imd. Eff. Jul. 11.

340.780a Handicapped and vocational education; report; ages.

Sec. 780a. A school district operating schools, except a district proceeding under the provisions of section 778, shall have completed as of September 1, 1970, a study of educational programs and provisions required to meet the needs of handicapped children and vocational educational needs of the district and have formulated a plan for establishment of such programs and provisions. The study shall be conducted in cooperation with the intermediate district in accordance with guidelines and procedures established by the state department of education. The department shall submit a re-

port of findings to the legislature on or before January 1, 1971, including any recommended legislation which may be required to guarantee the educational needs of handicapped children and vocational educational needs. The survey of needs and provisions for service shall include all children up to the age of 21 years, including those attending public and nonpublic schools, in accordance with guidelines established by the department of education.

HISTORY: Add. 1969, p. 396, Act 230, Eff. Mar. 20, 1970.

340.780b Trainable mentally handicapped program; adoption.

Sec. 780b. (1) The intermediate district shall have all the powers granted to it by sections 780b to 780j for the operation of a program for trainable mentally handicapped individuals for a constituent school district that adopts a formal resolution authorizing the intermediate school district to operate such a program.

(2) A constituent school district adopting a resolution shall forward a copy of the resolution, certified by the secretary of its board of education, to the superintendent of public instruction who shall promptly advise the intermediate school of that fact.

HISTORY: Add. 1970, p. 590, Act 205, Imd. Eff. Aug. 25.

340.780c Trainable mentally handicapped; definition by superintendent.

Sec. 780c. The superintendent shall define "trainable mentally handicapped" for the purposes of sections 780b to 780j and may revise such definition from time to time.

HISTORY: Add. 1970, p. 590, Act 205, Imd. Eff. Aug. 25.

340.780d Professional personnel, establishment of qualifications.

Sec. 780d. The superintendent shall establish the qualifications of all professional personnel including, without limitation, teachers, diagnosticians, aides and social workers employed in programs for trainable mentally handicapped operated by intermediate school districts.

HISTORY: Add. 1970, p. 590, Act 205, Imd. Eff. Aug. 25.

340.780e Conditions for reimbursement of costs.

Sec. 780e. Intermediate school districts operating programs for the trainable mentally handicapped shall comply with the requirements of the superintendent as to: establishment of services, eligibility of pupils, sizes of classes, housing and equipment, instructional programs and territory to be served before the cost of such programs may be reimbursed to the intermediate school districts as set forth in this act.

HISTORY: Add. 1970, p. 590, Act 205, Imd. Eff. Aug. 25.

340.780f Operation of program by intermediate school district.

Sec. 780f. Subject to the conditions and limitations established in sections 780b to 780j, an intermediate school district may operate an appropriate program for the trainable mentally handicapped.

HISTORY: Add. 1970, p. 590, Act 205, Imd. Eff. Aug. 25.

340.780g Acquisition of housing and land by intermediate school district.

Sec. 780g. An intermediate school district operating a program for the trainable mentally handicapped may buy, construct, lease or otherwise acquire the housing and land necessary for the program.

HISTORY: Add. 1970, p. 590, Act 205, Imd. Eff. Aug. 25.

340.780h Borrowing power of intermediate school districts; issuance of bonds, limitation.

Sec. 780h. An intermediate school district coming under the provisions of sections 780b to 780j, by a majority vote of the registered school tax electors voting on the question at an annual or special election called for that purpose, may borrow money and issue bonds of the intermediate school district subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Com-

piled Laws of 1948, to defray all or any part of the costs of: purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping or reequipping buildings to house the program for the trainable mentally handicapped and other related facilities; acquiring, preparing, developing or improving sites, or any part thereof or additions thereto, for building and other facilities to house programs for the trainable mentally handicapped; refunding all or any part of existing bonded indebtedness; or the accomplishment of any combination of the foregoing purposes. An intermediate district shall not issue bonds for purposes of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping or reequipping buildings for the trainable mentally handicapped, special education or vocational education for an amount greater than 1.5% of the total assessed valuation of the intermediate district nor shall the bonded indebtedness of any intermediate district under this act extend beyond a period of 30 years for money borrowed.

HISTORY: Add. 1970, p. 580, Act 205, Imd. Eff. Aug. 25.

340.780i Issuance of refunding bonds.

Sec. 780i. Refunding bonds or the refunding part of any such bond issue shall not be deemed to be within the 1.5% limitation but shall be deemed to be authorized in addition thereto. Any bond qualified under section 16 of article 9 of the state constitution and any implementing legislation shall not be included for purposes of calculating the foregoing 1.5% limitation.

HISTORY: Add. 1970, p. 581, Act 205, Imd. Eff. Aug. 25.

340.780j Construction of sections.

Sec. 780j. Sections 780b through 780j are to be deemed to clarify and supplement any existing powers and duties of intermediate school districts with regard to programs for the trainable mentally handicapped. These sections shall not be considered to repeal or conflict with other sections of this act except where necessary to give full substance to the purposes of sections 780b through 780j.

HISTORY: Add. 1970, p. 581, Act 205, Imd. Eff. Aug. 25.

CHAPTER 18.

HEALTH AND PHYSICAL EDUCATION.

340.781 Physical education; courses; public, normal schools.

Sec. 781. There shall be established and provided in all public schools of this state, and in all state normal schools, health and physical education for pupils of both sexes, and every pupil attending such schools of this state so far as he or she is physically fit and capable of doing so shall take the course in physical education as herein provided.

HISTORY: New 1955, p. 578, Act 269, Eff. Jul. 1.

340.782 Physical education; instructors, equipment; instruction in sex hygiene, birth control; attendance excuses.

Sec. 782. It shall be the duty of boards in all school districts having a population of more than 3,000 to engage competent instructors of physical education and to provide the necessary place and equipment for instruction and training in health and physical education; and other boards may make such provision: Provided, That nothing in this chapter shall be construed or operate to authorize compulsory physical examination or compulsory medical treatment of school children. The board of any school district may provide for the teaching of health and physical education and kindred subjects in the public schools of the said districts by qualified instructors in the field of physical education: Provided, That any program of instruction in sex hygiene be supervised by a registered physician, a registered nurse or a person holding a teacher's certificate, qualifying such person as supervisor in this field: Provided, however, That it is not the intention or purpose of this act to give the right of instruction in birth control and it is

hereby expressly prohibited to any person to offer or give any instruction in said subject of birth control or offer any advice or information with respect to said subject: Provided further, That any child upon the written request of parent or guardian shall be excused from attending classes in which the subject of sex hygiene or the symptoms of disease is under discussion and no penalties as to credits or graduation shall result therefrom.

HISTORY: New 1955, p. 576, Act 269, Eff. Jul. 1.

340.783 Physical education; teacher's course in normal schools.

Sec. 783. The curriculum in all normal schools of this state shall contain a regular teacher's course in health and physical education under competent jurisdiction.

HISTORY: New 1955, p. 577, Act 269, Eff. Jul. 1.

340.784 Interscholastic athletic activities; supervision.

Sec. 784. The superintendent of public instruction shall have supervision and may exercise control over the interscholastic athletic activities of all the schools of the state.

HISTORY: New 1955, p. 577, Act 269, Eff. Jul. 1.

340.785 Health and physical education; supervisors, assistants.

Sec. 785. The superintendent of public instruction shall appoint such supervisors and other office and clerical help as he shall deem necessary to carry out the provisions of this chapter and he may revoke said appointments in his discretion.

HISTORY: New 1955, p. 577, Act 269, Eff. Jul. 1.

340.786 Public recreation and playgrounds; joint operation, employee's retirement fund.

Sec. 786. Any school district or board may operate a system of public recreation and playgrounds; acquire by lease, purchase or other means, equip and maintain land, buildings or other recreational facilities; employ a superintendent or director of recreation and assistants; vote and expend funds for the operation of such system; or may cooperate with any city, village, county or township in the operating and conducting of such system in any manner in which they may mutually agree; or they may delegate the operation of the system to a recreation board created by any or all of them, and appropriate money voted for this purpose to such board; and any school district or board may appropriate money to be paid to the recreation board to be used by it for the purpose of maintaining the employers' contribution to a public school employees' retirement fund or to a city retirement fund for recreation employees.

HISTORY: New 1955, p. 577, Act 269, Eff. Jul. 1.

340.787 Public recreation; property.

Sec. 787. Any school district or board given charge of the recreation system is authorized to conduct its activities on: (1) Property under its custody and management; (2) other public property under the custody of other municipal corporations or boards, with the consent of such corporations or boards; and (3) private property, with the consent of the owners.

HISTORY: New 1955, p. 577, Act 269, Eff. Jul. 1.

340.788 Interscholastic athletics; medical care; hospital, medical insurance; fees; liability.

Sec. 788. Boards of education shall have the right to provide medical care, including costs of hospitalization, necessary to provide care for students who are injured during participation in a program of interscholastic athletic activities; and shall have the authority to establish policies regarding provisions for care for injuries sustained while participating in such programs.

Boards of education shall have the right to expend school funds for the employment of qualified persons to provide such care, or for payment for all or a part of the cost of participation in mutual benefit programs or insurance programs to insure protection for students during participation in a program of interscholastic athletic activities.

Boards of education shall have the right to require a fee from participants in such programs for all or a part of the cost of medical care, mutual benefit programs or insurance programs to insure protection for students, providing that no student shall be barred from participation in interscholastic athletic activities because of inability to pay the fee.

Nothing in this section shall be construed to imply the incurrence of liability of any school district, officer, or employee.

HISTORY: Add. 1966, p. 31, Act 16, Imd. Eff. Apr. 6.

340.789 Sex education; definition.

Sec. 789. Sex education is the preparation for personal relationships between the sexes by providing appropriate educational opportunities designed to help the individual develop understanding, acceptance, respect and trust for himself and others. Sex education includes the knowledge of physical, emotional and social growth and maturation, and understanding of the individual needs. It involves an examination of man's and woman's roles in society, how they relate and react to supplement each other, the responsibilities of each towards the other throughout life and the development of responsible use of human sexuality as a positive and creative force.

HISTORY: Add. 1966, p. 83, Act 44, Eff. Nov. 15.

340.789a Sex education; content.

Sec. 789a. Any school district may engage competent instructors and provide facilities and equipment for instruction in sex education, including emotional, physical, psychological, physiological, hygienic, economic and social aspects of family life and sexual relations, as well as, socially deviant sexual behavior.

HISTORY: Add. 1966, p. 83, Act 44, Eff. Nov. 15.

340.789b Sex education; department of education, duties.

Sec. 789b. The department of education shall:

(a) Aid in the establishment of educational programs designed to provide pupils in elementary and secondary schools, institutions of higher education and adult education, wholesome and comprehensive education and instruction in sex education.

(b) Establish a library of motion pictures, tapes, literature and other education materials concerning sex education available to school districts authorized to receive the materials under rules of the department.

(c) Aid in the establishment of educational programs within colleges and universities of the state and inservice programs for instruction of teachers and related personnel to enable them to conduct effectively classes in sex education.

(d) Recommend and provide leadership for sex education instruction established by the local school district, including guidelines for family planning information.

HISTORY: Add. 1966, p. 84, Act 44, Eff. Nov. 15.

340.789c Sex education; student excuses.

Sec. 789c. Any student upon the written request of parent or guardian shall be excused from attending classes in which the subject of sex education is under discussion and no penalties as to credits or graduation shall result therefrom.

HISTORY: Add. 1966, p. 84, Act 44, Eff. Nov. 15.

CHAPTER 19.

COMMUNITY COLLEGES.

340.791 Community colleges; establishment by board.

Sec. 791. The board of any school district of a first, second or third class district, or the board of any special act district or other school district having a population of more than 10,000, is hereby authorized and empowered, after having secured the approval of the superintendent of public instruction, to provide for the establishing and offering in such district collegiate and noncollegiate courses of study which collegiate courses, except for school districts of the first class, shall not embrace more than 2 years of collegiate work. Such courses, collectively, exclusive of the regular kindergarten to 12 grades inclusive, shall be known and designated as the community college department of the district school system.

HISTORY: New 1955, p. 577, Act 269, Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 340.791 to 340.795 are cited in § 389.125.

340.792 Community colleges; joint establishment; procedures, rules, approval; referendum.

Sec. 792. The boards of 2 or more school districts are hereby authorized and empowered to provide for the joint establishment and operation of a community college by adopting mutually agreeable procedures, rules and regulations as to administration, financial support and other necessary regulations: Provided, That procedures, rules and regulations are first approved by the superintendent of public instruction: And provided further, That when the combined population of the school districts is not more than 10,000, an affirmative vote of the majority of school electors voting thereon in each district whose board does not have authority to establish a community college without a referendum, approve thereof.

HISTORY: New 1955, p. 577, Act 269, Eff. Jul. 1.

340.793 Community colleges; contracts with other district's residents; tuition, transportation.

Sec. 793. The board of any school district may contract with the board of any other school district maintaining a community college or any other community college board for the attendance thereat of its residents who possess the qualifications for enrollment in such college; may pay the tuition in whole or in part of such students for such periods of time and covering such courses as may be agreed upon by the contracting districts and provide transportation to and from said college for all residents who possess qualifications for enrollment in such college.

HISTORY: New 1955, p. 578, Act 269, Eff. Jul. 1;—Am. 1964, p. 119, Act 123, Eff. Aug. 28.

340.794 Community colleges; annual contributions by governmental units; uniform fees.

Sec. 794. Any county, township and/or other governmental unit by action of its governing body is hereby authorized to contribute annually toward the support of a community college to a school district maintaining such institution: Provided, That whenever such contribution is made, the fees charged by the said school district for instruction shall be uniform throughout the said county, township or governmental unit.

HISTORY: New 1955, p. 578, Act 269, Eff. Jul. 1.

340.795 Community college department of school district; discontinuance, transfer of property.

Sec. 795. (1) If a school district is operating a community college department, and a community college district is established and operated as provided by Act No. 188 of the Public Acts of 1955, as amended, being sections 390.571 to 390.882 of the Com-

piled Laws of 1948, which community college district includes the territory of such school district or a major portion thereof, the board of the school district, with the approval of the superintendent of public instruction, may discontinue the community college department. The term "community college department" includes any junior college department established prior to June 14, 1955.

Transfer to community college district.

(2) When a community college department is discontinued, the board of the school district may (a) give such part of the real and personal property of such school district as may be appropriate for community college use to the community college district or sell it to the community college district at prices and on terms satisfactory to the board, the community college district, and the superintendent of public instruction, and execute and deliver contracts, deeds and instruments of conveyance; (b) sell the real or personal property used by the community college department no longer deemed necessary for school district purposes or for community college purposes, at prices and on terms satisfactory to the board, and execute and deliver contracts, deeds and instruments of conveyance; (c) settle any accounts or obligations which may arise on account of the community college district taking over such college or department; and (d) rent or lease real or personal property of the school district to the community college district for such times and on such terms as may be mutually agreed upon and contracted for.

HISTORY: Add. 1963, p. 22, Act 20, Imd. Eff. Apr. 25.

340.796 Community college department of school district; self-liquidating projects; borrowing money, issuing bonds.

Sec. 796. Any school district operating a community college department under the authority of this act may acquire lands and acquire or erect and equip buildings and maintain them to be used as residence halls, apartments, dining facilities, student centers, parking facilities and health centers. Such a school district may finance the acquisition thereof by borrowing money and issuing bonds or other obligations therefor under such terms and provisions as it deems best, including the right to refund such bonds or obligations. The school district shall obligate itself for the repayment thereof, together with interest thereon, solely out of the income and revenues from such facilities or other facilities heretofore or hereafter acquired or any combination thereof or from allocations and pledges of fees and charges required to be paid by students enrolling in the college, or any combination thereof. The bonds shall be for a period of not to exceed 50 years, and shall never constitute a debt of the state or any political subdivision thereof.

HISTORY: Add. 1965, p. 203, Act 134, Imd. Eff. Jul. 8;—Am. 1967, p. 620, Act 292, Imd. Eff. Aug. 1.

CHAPTER 20.

EDUCATION OF ALIENS.

340.811 Education of aliens and illiterates; English language and government instruction.

Sec. 811. The superintendent of public instruction is hereby authorized, with the cooperation of the boards of the school districts of this state, to provide for the education of aliens and of native illiterates over the age of 18 years residing in said districts, who are unable to read, write and speak the English language and who are unlearned in the principles of the government of this state and the United States. All instruction given under the provisions of this act shall be in the English language and shall be conducted by persons whose general qualifications and training are approved by the superintendent of public instruction.

HISTORY: New 1955, p. 578, Act 269, Eff. Jul. 1.

340.812 Education of aliens and illiterates; approval, budget.

Sec. 812. The superintendent of public instruction may grant permission to the board of any school district to come within the provisions of this act and to provide for the education of the persons named in section 811. Such educational work herein provided for shall be conducted under his supervision or subject to his approval. The board of any school district providing for such education may recommend a tax or estimate and submit a budget to the proper authorities for carrying out the provisions of this act: Provided, That in any city or school district where the budget of the board is subject to the approval of the common council or other local legislative body, such common council or other local legislative body shall have the final power to decide the necessity for the inauguration or continuation of the courses of instruction herein prescribed and to determine the amount of appropriation necessary therefor.

HISTORY: New 1955, p. 578, Act 269, Eff. Jul. 1.

CHAPTER 21.

PART-TIME SCHOOLS.

340.821 Part-time vocational, agricultural, continuation schools; establishment, attendance, exception.

Sec. 821. Any school district having a population of 5,000 or more and containing 50 or more children, subject to the provisions of this chapter may, through its board, establish and maintain part-time vocational, agricultural or general continuation schools or courses of instruction for the education of minors under 17 years of age who have ceased to attend all-day schools. Said schools or courses of instruction shall be in session at least as many weeks in each year as the common schools of such district. When a school district shall have established said schools or courses, it shall require the attendance thereof of every unmarried minor under 17 years of age residing or employed within the confines of said school district who has ceased to attend all-day school and who has not completed 2 years of a 4-year high school course or its equivalent: Provided, That said minors may be excused from the provisions of this section by the superintendent of schools in case they are physically unable to attend or mentally unable to pursue the work offered by the part-time school or would, by reason of part-time school attendance, be deprived of wages essential to their support or that of their family.

HISTORY: New 1955, p. 579, Act 269, Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 340.821 to 340.828 are cited in § 409.3.

340.822 Part-time schools; hours of instruction.

Sec. 822. The required attendance provided for in this chapter shall be at the rate of not less than 8 hours per week, 4 hours of which may consist of supervised instruction given under working conditions, provided such instruction meets the approval of the superintendent of schools and the state board of control for vocational education. It shall be the duty of the local board to determine the hours of session of part-time schools established under this chapter as shall best suit local conditions and school administration.

HISTORY: New 1955, p. 579, Act 269, Eff. Jul. 1.

340.823 Part-time schools; existing facilities, use; location; public school system.

Sec. 823. In the establishment and conduct of such part-time vocational, agricultural and general continuation schools or courses of instruction, any school district shall take advantage of any established educational agencies or utilize adequate and suitable quarters now existing: Provided, however, That said schools or courses shall be within reasonable access to the place of employment and, wherever established,

shall be considered a part of the public school system of the district wherein the minors attending the same are employed or reside.

HISTORY: New 1955, p. 579, Act 269, Eff. Jul. 1.

340.824 Work permits.

Sec. 824. Minors 16 years of age, leaving regular day schools to enter employment, and the employers of such minors shall be subject to the same requirements as to permits to work as are provided by law for children under 16 years of age and their employers: Provided, That permits for minors 16 years of age and over shall not certify that the wages of the minors are essential to the support of the family.

HISTORY: New 1955, p. 579, Act 269, Eff. Jul. 1.

340.825 Employment of minor under seventeen; violation of chapter by employer, penalty.

Sec. 825. The employer of any minor under 17 years of age, who is required to attend part-time vocational, agricultural or general continuation school or courses of instruction as defined in this chapter, shall cease forthwith to employ such minor when notified in writing by the superintendent of schools, or his representative duly authorized in writing, having jurisdiction over such minor's attendance, or his nonattendance in accordance with the regulations as defined in this chapter. Any employer who fails to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than \$10.00 nor more than \$100.00, or by imprisonment for not less than 10 nor more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1955, p. 579, Act 269, Eff. Jul. 1.

340.826 Work permits, revocation.

Sec. 826. The superintendent of schools having jurisdiction, or a person authorized by him in writing, may revoke the permit of any minor who fails to attend such school or courses of instruction when required by the provisions of this chapter.

HISTORY: New 1955, p. 580, Act 269, Eff. Jul. 1.

340.827 Part-time schools; compulsory attendance.

Sec. 827. Every parent, guardian or other person in parental relation to any minor required by this chapter to attend special part-time classes shall be required to send such minor, child or children to such part-time classes when established, and in case any parent, guardian or other person in parental relation to such minor shall fail to comply with the provisions of this chapter, the attendance officer of the district shall proceed to compel attendance of such minor child or children in the same manner as is provided for in the case of nonattendance under the provisions of this act relative to compulsory education, and the penalties therein provided against parent and child shall apply.

HISTORY: New 1955, p. 580, Act 269, Eff. Jul. 1.

340.828 Occupational training and guidance programs; approval.

Sec. 828. Any school district having a population of 10,000 or more may establish a program for the occupational training and guidance of children who are under the age of 17 years, who have ceased to attend regular all-day schools and who are employed in occupations for which working permits are required under the laws governing the employment of minors. Before any such occupational training and guidance program is established by any board, the proposed program of supervised instruction and guidance shall be approved by the superintendent of public instruction. Pupils enrolled in

the public schools of the district and assigned to the occupational training and guidance program established as herein provided shall be considered in membership in the public schools of such district.

HISTORY: New 1955, p. 580, Act 269, Eff. Jul. 1.

CHAPTER 22.

COUNTY NORMAL TRAINING SCHOOLS.

340.831-340.840 Repealed. 1959, p. 116, Act 112, Eff. Mar. 19, 1960.

Sections provided for county normal training schools.

CHAPTER 23.

TEACHERS' CERTIFICATES.

340.851 Teacher's certificates; recording, annulment, oath.

Sec. 851. Before any teacher's certificate shall be valid in any school district, the holder thereof shall record the same in the office of the county superintendent of schools of the county or in the office of the superintendent of schools of any school district, of the first, second or third class or in the office of the superintendent of schools of any school district located wholly or partly within a village or city having a population of 10,000 or more where such person expects to teach. Such certificate shall not be liable to be annulled, except by the board or officer issuing such certificate, and for any cause which would have justified the withholding of such certificate.

Before any teacher's certificate shall be valid in this state, the holder thereof shall make and subscribe the following oath (or affirmation): "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the state of Michigan and that I will faithfully discharge the duties of the office of teacher according to the best of my ability." Any teacher's certificate issued after the effective date of this act shall have attached thereto or superimposed thereon said oath of allegiance signed by the teacher, a duplicate of which oath shall be signed and filed with the superintendent of public instruction: Provided, That said duplicate oath need not be so filed if the teacher has heretofore filed with the superintendent of public instruction an oath in the form herein prescribed. All teachers who hold certificates issued in this state prior to the effective date of this act shall file said oath with the superintendent of public instruction. The oath in all cases shall be notarized. Any oath in the form herein prescribed heretofore filed with the superintendent of public instruction shall be deemed to have been filed in compliance with this act.

HISTORY: New 1955, p. 582, Act 269, Eff. Jul. 1.

340.852 Teacher's certificates; requirement; foreign instructors, exchange teachers.

Sec. 852. No certificate qualifying a person to teach in the public schools of this state shall be granted to any person who is not at least 18 years of age. No permanent certificate qualifying a person to teach in the public schools of this state shall be granted to any person who is not a citizen of the United States. Any certificate granted in contravention of the provisions of this section shall be void. Also, it shall be unlawful for the board of control having in charge any state institution of learning to employ therein regularly as a teacher or in any other capacity any person who is not a citizen of the United States or who has not declared his intention of becoming a citizen. This requirement shall not be construed as prohibiting such board of control from employing for limited periods instructors or lecturers who are citizens of foreign countries. The requirements of this chapter shall not apply to an interchange of teachers between any school district in this state and a foreign country when such interchange shall not be for a period exceeding 1 year, nor to the employment for a period of no

more than 1 year of persons whose services are obtained through the provisions of the Fulbright Act or similar federally sponsored programs for cultural interchange.

HISTORY: New 1955, p. 583, Act 269, Eff. Jul. 1;—Am. 1967, p. 65, Act 46, Eff. Nov. 2.

CHAPTER 24.

SUSPENSION OF TEACHERS' CERTIFICATES.

340.861 Suspension of teacher's certificate; authority, duration, nonperformance of contract.

Sec. 861. The state board of education shall have authority to suspend for the reasons and in the manner herein provided any certificate issued to any teacher who refuses without sufficient cause, in the opinion of said board, to perform a lawful contract to teach in any school in this state in which such teacher is required to hold a certificate issued by such board before entering into a contract to teach. Such suspension shall not be for a longer period of time than the end of the school year in the district in which such contract was violated. During the time such certificate is suspended, such teacher shall not be qualified to teach in any school in this state in which teachers are required to hold a certificate to teach.

HISTORY: New 1955, p. 583, Act 269, Eff. Jul. 1.

340.862 Suspension of teacher's certificate; complaint; hearing, notice, witnesses, expenses, action.

Sec. 862. Such certificate shall be suspended only after a written signed complaint has been filed with the board issuing the same, made by the board with which such teacher has refused to perform the contract, stating fully the alleged facts constituting such breach. The board with which such a complaint is filed shall, within 30 days thereafter, fix a time and place for hearing thereon. Such place of hearing shall be in the county in which the contract was violated. At least 10 days before the date of hearing, a notice that such complaint has been filed and stating the time and place of hearing thereon shall be served either personally or by registered mail on such teacher. A certified copy of the complaint with the name of the board making the same shall be served with the notice. The teacher may, on or before the time of hearing, file a written answer to the charges made in such complaint. Any of the parties may be represented at such hearing by an attorney. The board before whom the hearing is to be had may adjourn the same from time to time on its own motion, or upon the request of any of the parties interested in said cause, for reasons which are deemed satisfactory to such board. Notice of such adjourning shall be given to all parties interested at least 1 day before the date of hearing. The board conducting such hearing shall have authority to subpoena witnesses and administer an oath to them. Subpoenas shall also be issued for witnesses named by the board making the complaint or by the teacher. The actual expenses of such witnesses shall be paid by the board for whom they are subpoenaed. If the charges against the teacher are not sustained and the certificate is not suspended, the expenses of such teacher and of his or her witnesses shall be paid by the board making the complaint. If it appears from the examination and hearing that such teacher has neglected or refused to perform his or her contract to teach without just cause therefor, the certificate shall be suspended as herein provided. If it appears that such contract has not been so violated, the complaint shall be dismissed and the costs ordered paid as hereinbefore mentioned.

HISTORY: New 1955, p. 583, Act 269, Eff. Jul. 1.

340.863 Suspension of teacher's certificate; appeal to circuit court, procedure.

Sec. 863. Either of the parties may appeal from the decision of the board conducting such hearing to the circuit court of the county in which the hearing was held, in

the following manner: The board desiring to take an appeal shall, within 5 days after a decision has been rendered therein, give notice to the board rendering the decision of an appeal to the circuit court and shall also serve a copy thereof either personally or by registered mail on the board making the complaint. Such board shall, within 10 days thereafter, file the complaint, notice, answer and all other papers filed in the cause with the clerk of the circuit court of that county. The same fee shall be paid and within the same time as is provided by law for appeals from justice court to the circuit court. After the appeal has been completed and the papers filed in the circuit court, the same proceedings shall be had and taken as on appeal of civil cases from justice court.

HISTORY: New 1955, p. 584, Act 269, Eff. Jul. 1.

340.864 Suspension of teacher; circuit court; refusal to appear as witness or answer material question, penalty.

Sec. 864. Any person neglecting or refusing to appear as a witness in response to a subpoena issued as herein provided or neglecting or refusing to answer any material question, except where he is privileged from answering, shall be subject to the same penalties as provided by general law for compelling the attendance and testimony of witnesses before courts of record, commissioners appointed by such courts to take testimony, or before any notary public or a commissioner before whom any affidavit or deposition is to be taken.

HISTORY: New 1955, p. 584, Act 269, Eff. Jul. 1.

CHAPTER 25.

TEACHERS' HOMES.

340.871 Homes for superintendent or teachers; taxation, borrowing powers.

Sec. 871. The school tax electors of any school district, at any annual or special district meeting or election, shall have power to vote such a tax as they shall deem sufficient to purchase or lease a site or sites, and to build, hire or purchase a home for the use of the superintendent of schools, the teachers, or both, employed in the district, and to vote a tax necessary to furnish said home or homes. And any school district may, by a majority vote of the school tax electors of said district voting thereon at an annual or special meeting or election called for that purpose, borrow money and issue bonds of the district therefor, to pay for the erection of such home or homes for the use of teachers or superintendent, or both, to pay for the furnishing of the same, and to buy a site or sites for such home.

HISTORY: New 1955, p. 584, Act 269, Eff. Jul. 1.

340.872 Homes for superintendent or teachers; bonds, issuance, sale.

Sec. 872. Any bonds issued under the provisions of this chapter shall be voted, issued and sold in the same manner as bonds for school buildings and school sites are voted, issued and sold as provided in the act under which said school district is operating.

HISTORY: New 1955, p. 584, Act 269, Eff. Jul. 1.

CHAPTER 26.

TEXTBOOKS.

340.881 Textbooks; purchase by board of education.

Sec. 881. The board of any school district may purchase, at the expense of the district, such textbooks as may be necessary for the use of children when parents are not able to furnish the same, and shall include the amount of such purchase in the report

to the township or city clerk, to be levied in like manner as other district taxes, and such books furnished free shall be and remain the property of the district.

HISTORY: New 1955, p. 585, Act 269, Eff. Jul. 1.

340.882 Textbooks; selection, approval by board of education.

Sec. 882. The board of each district shall select and approve the textbooks to be used by the pupils of the schools of its district on the subjects taught therein.

HISTORY: New 1955, p. 585, Act 269, Eff. Jul. 1.

340.883 Textbooks; change.

Sec. 883. Textbooks once adopted in any district shall not be changed within 5 years without the consent of a majority of the members of the board of education of the district.

HISTORY: New 1955, p. 585, Act 269, Eff. Jul. 1;—Am. 1963, p. 49, Act 47, Eff. Sep. 6.

340.884 Free textbooks; referendum; annual rental fee, maximum.

Sec. 884. The board at any annual or special meeting or election may submit to the school electors of the district the question of free textbooks, and if a majority of the electors voting thereon shall vote in favor of the use of free textbooks the said board shall proceed to purchase from some dealer or publisher the necessary books used in said district at a price not greater than the net wholesale price of such books, and to vote a tax for such purposes: Provided, That when a district furnishes free textbooks to resident pupils, the board of such district may rent district-owned textbooks to nonresident pupils at a rate not to exceed 110% of the average annual cost for textbooks in said district, such average annual cost to be determined by dividing the total costs for textbooks during the preceding fiscal year by the average membership: Provided further, That during the first year following the adoption of free textbooks by a school district, the maximum rental charged nonresident pupils shall not exceed 1/4 of the initial cost thereof. The school electors of any school district may authorize the board to pay the textbook rental for resident pupils in grades not maintained by said district but attending school in other districts. The board of any school district in which the electors have not approved the use of free textbooks as herein provided may purchase the necessary textbooks for pupils enrolled in schools within said district and may rent such textbooks to such pupils at rates not to exceed 110% of the average annual cost for textbooks in said district: Provided, That the annual rental fee for any textbook shall not exceed 25% of the initial cost of such textbook to the district.

HISTORY: New 1955, p. 585, Act 269, Eff. Jul. 1.

340.885 Free textbooks; board to provide.

Sec. 885. The boards of all districts which have heretofore or which may hereafter adopt free textbooks shall furnish 1 copy of each in each schoolhouse in the district.

HISTORY: New 1955, p. 585, Act 269, Eff. Jul. 1.

340.886 Free textbooks; property of district, purchase by pupils.

Sec. 886. The textbooks purchased shall be the property of the district purchasing the same and shall be loaned to pupils free of charge, under such rules and regulations for their careful use and return as said board may establish: Provided, That nothing herein contained shall prevent any person from buying his or her books from the board of the school district in which he or she may attend. Any district having once adopted or rejected free textbooks may take further action on the same at any subsequent annual meeting or election.

HISTORY: New 1955, p. 585, Act 269, Eff. Jul. 1.

340.887 Textbooks; approved lists; contract, terms.

Sec. 887. (1) No board or school official in any school district in this state shall purchase, procure by exchange, adopt or permit to be used in the schools of any such dis-

strict any school textbook which is not listed with the superintendent of public instruction as hereinafter provided. Any person, firm or corporation desiring to offer school textbooks for adoption, sale or exchange in the state of Michigan shall file, when requested, with the superintendent of public instruction, copies of all such textbooks, together with a sworn statement of the usual list price, the lowest net wholesale price and the lowest exchange price at which said book is sold or exchanged for an old book on the same subject of like grade and kind but of a different series. No textbook shall be listed by the superintendent of public instruction unless the person, firm or corporation offering the same shall enter annually into a written contract, which shall become effective as of January 1 and shall remain in effect for a period of 1 year from such date, with the superintendent of public instruction, acting on behalf of the state of Michigan and the school districts thereof, which contract shall embrace the following terms and conditions:

(a) That said person, firm or corporation will furnish any of the books listed in said statement, and in any other statement subsequently filed by him, during the period of the contract, to any such district or any school corporation in the state of Michigan at the lowest price contained in said statement, and that said prices shall be maintained uniformly throughout the state;

(b) That the prices, as set forth in said statement, shall be automatically reduced in the state of Michigan whenever reductions are made elsewhere in the United States, so that at no time shall any book so filed and listed be sold or offered for sale by such person, firm or corporation in the state of Michigan at higher net prices than are received for such book elsewhere in the United States, and regardless of whether such book is so sold or offered for sale elsewhere in accordance with the terms of a contract or otherwise;

(c) That all textbooks offered for sale, adoption, use or exchange in the state of Michigan shall be at least equal in quality to those requested to be deposited in the office of the superintendent of public instruction as regards paper, binding, printing, illustrations, subject matter, and any and all other particulars affecting the value of such textbooks;

(d) That in case any abridged or special edition of any of the books so listed by any person, firm or corporation is prepared thereby and offered for sale elsewhere in the United States at lower wholesale prices than the net wholesale price of said book or books according to the statement filed with the superintendent of public instruction, said person, firm or corporation shall file a copy of such special edition when requested, together with the price therefor, with the superintendent of public instruction, and shall sell and offer the same for sale for use in the public schools of the state of Michigan at the lowest net prices at which said book is sold or offered for sale elsewhere in the United States;

(e) That the person, firm or corporation shall not enter into any understanding, agreement or combination to control the prices of school textbooks or to restrict competition in the sale thereof for use in the public schools in the state of Michigan;

(f) That the superintendent of public instruction may, if he ascertains at any time that any person, firm or corporation listing books with him as herein provided is selling or offering for sale any such book or books elsewhere in the United States at lower prices than those for which said book or books are sold or offered for sale in the state of Michigan, cancel all filings on the part of any such person, firm or corporation, and remove from the list hereafter referred to all books sold or offered for sale by such person, firm or corporation.

(2) Any written contract made between the effective date of this amendatory act

and January 1, 1959, shall be made effective for the period from the date of the contract until January 1, 1960.

HISTORY: New 1955, p. 585, Act 269, Eff. Jul. 1;—Am. 1956, p. 236, Act 195, Eff. Sep. 13.

340.888 Textbooks; bookseller's bond, approval, breach, damages.

Sec. 888. The superintendent of public instruction shall not enter into any contract, as above provided, unless and until the person, firm or corporation seeking to have its books listed hereunder shall enter into a bond to the people of the state of Michigan in the penal sum of \$5,000.00, conditioned for the faithful execution of the terms of the contract. Said bond shall be subject to the approval of the attorney general of the state and shall be executed as surety by some responsible surety company authorized to carry on its business within the state of Michigan. Any school district, board or any person who is aggrieved by any breach of the contract aforesaid may bring suit on said bond to recover the actual damages sustained. Said bond shall also specify that in case of suit thereon in the name of the people of the state of Michigan as hereinafter provided, the amount of said bond shall be regarded as liquidated damages for the breach of the contract secured.

HISTORY: New 1955, p. 586, Act 269, Eff. Jul. 1.

340.889 Textbooks; cancellation of listing of bookseller.

Sec. 889. If any contract executed hereunder or any bond securing the same expires and is not renewed, or if the superintendent of public instruction ascertains and determines at any time that the conditions of said contract have been violated, he shall cancel the listing of any person, firm or corporation so in default; and therefrom and thereafter no textbooks sold or offered for sale by any such person, firm or corporation shall be purchased or taken by exchange or otherwise by any board, school district or school official within this state.

HISTORY: New 1955, p. 587, Act 269, Eff. Jul. 1.

340.890 Textbooks; purchase, adoption, use.

Sec. 890. No school textbook shall be purchased, adopted or used for or in the schools of any school district within the state unless the same is contained in the list filed with the superintendent of public instruction and in effect at the time of the purchase, adoption or exchange.

HISTORY: New 1955, p. 587, Act 269, Eff. Jul. 1.

340.891 Textbooks; violation of contract, notice, investigation, action, bond.

Sec. 891. It shall be the duty of all school superintendents and principals and school officials in the various districts of the state to notify the county superintendent of schools of the county in which such district may be of any violation of any of the terms or conditions of said contract or said bond that shall come to their knowledge. In school districts included in whole or in part within the limits of any incorporated city, such report shall be made to the board of the district and said district shall thereupon inform the county superintendent of schools of the occurrence. If, after investigation, said county superintendent of schools concludes that there is good ground for believing that the contract or bond has been violated, he shall immediately report the matter to the superintendent of public instruction. Said superintendent shall, upon receipt of any such report, cause the same to be investigated and if he finds that such violation has in fact occurred, he shall cancel all listings of the person, firm or corporation in default and shall notify the boards of the various school districts of the state of such cancellation, and that the list of school textbooks is modified by striking therefrom the names of all books sold or offered for sale by such person, firm or corporation. The superintendent of public instruction may, in his discretion, declare the contract entered into with any such person, firm or corporation to be terminated as to future transac-

tions, and he may refuse thereafter to enter into any new contract therewith. In case any contract made hereunder is thus terminated, an action on the bond may be brought in the name of the people of the state of Michigan by the attorney general and the amount of such bond shall be deemed to be liquidated damages sustained by the people of the state for and on account of such breach.

HISTORY: New 1955, p. 587, Act 269, Eff. Jul. 1.

340.892 Textbooks; sale by unlawful inducement; sample copies.

Sec. 892. No person shall secure or attempt to secure the sale of any school textbooks in any school district in this state by rewarding or promising to reward any teacher in any school in the state or by securing for him any position in any other school. No person shall offer or give any emolument, money or other valuable thing, promise of work, or any other inducement to any teacher or school officer in any school district for any vote or promise to vote or for the use of his influence for any school textbooks to be used in this state: Provided, That nothing in this section shall be construed to prevent any person from giving, or any school officer or teacher from receiving, a reasonable number of sample copies of school textbooks for examination with a view to obtaining information as to the book or series of books for which such officer shall give his vote.

HISTORY: New 1955, p. 587, Act 269, Eff. Jul. 1.

340.893 School districts; purchase and sale of textbooks.

Sec. 893. School districts are hereby authorized to purchase textbooks from the publishers at the prices listed with the superintendent of public instruction as hereinbefore provided and to sell said books to the pupils at said listed prices or at such prices as will include the cost of transportation and the cost of handling.

HISTORY: New 1955, p. 588, Act 269, Eff. Jul. 1.

340.894 School districts; retail dealer, sale price.

Sec. 894. School districts are hereby authorized to purchase textbooks from the publishers at the prices listed with the superintendent of public instruction as hereinbefore provided and to designate a retail dealer or dealers to act as the agent of the district in selling textbooks to pupils. The said dealer or dealers shall at stated times make settlement with the district for such books as have been sold up to the stated time. Said dealer or dealers shall not sell textbooks at a price which shall exceed a 10% advance on the net wholesale price as listed with the superintendent of public instruction.

HISTORY: New 1955, p. 588, Act 269, Eff. Jul. 1.

340.895 Textbooks; purchase upon removal of family, price.

Sec. 895. When a family removes from one school district to another within this state, the treasurer shall purchase out of the general fund the textbooks in actual use by the children of said family if said children are attending the public schools in such district. The price to be paid shall be based on the condition of the books and the same may be resold by the school district to other pupils moving into such district.

HISTORY: New 1955, p. 588, Act 269, Eff. Jul. 1.

CHAPTER 27.

LIBRARIES.

340.901 Libraries; township, school, free public libraries; maintenance, legal action, eligibility for privileges.

Sec. 901. A library may be maintained in each organized township or school district which shall be the property of the township or school district and under the control of the township board of said township or the board of the school district. All actions re-

lating to such library for the recovery of any penalties lawfully established in relation thereto shall be brought in the name of the township or the board of said school district. If, in the judgment of said township board, the people of said township will be better served by disposing of said library to the several school districts of the township, said board shall have authority to take such action, or the said board may authorize the merging of the township library into a free public library in accordance with the statutes authorizing the establishment of such free public libraries, and after such merging the free public library so established shall receive all the books of the former township library, and the township library shall be considered abandoned. Whenever any legal action is taken or becomes necessary concerning the township library, the township clerk shall represent the township in all actions concerning said library, and whenever any legal action is taken or becomes necessary concerning the school district library, the president of the board shall represent the school district. All persons who are residents of the township shall be entitled to the privileges of the township library, and all persons who are residents of the city school district shall be entitled to the privileges of the city or school library, subject in each case to such rules and regulations as may be lawfully established in relation thereto.

HISTORY: New 1955, p. 588, Act 269, Eff. Jul. 1.

340.902 Township library; control; treasurer, duties; books, buildings; hearing, notice.

Sec. 902. The township board shall have charge of the township library and the township treasurer shall apply for and receive from the proper authorities all moneys appropriated for the township library and shall keep a separate account of such funds. The township treasurer shall pay out such library moneys on the order of the township clerk, countersigned by the supervisor. The township board shall purchase books and procure the necessary appendages for the township library, and may purchase sites and buildings for libraries, after a public hearing, or lease, construct, remodel, add to and maintain buildings or space for libraries. The notice of a public hearing shall be given by the township board by causing a notice thereof to be published at least once in each week for 2 weeks in succession in some newspaper of general circulation in the township and by posting 5 notices within the township in public and conspicuous places therein. Such posting shall be done and at least 1 publication in the newspaper shall be made not less than 10 days prior to such hearing.

HISTORY: New 1955, p. 588, Act 269, Eff. Jul. 1;—Am. 1963, p. 104, Act 93, Eff. Sep. 6.

340.903 Township library; care, preservation, rules.

Sec. 903. The township board shall be held accountable for the proper care and preservation of the township library and shall have power to provide for the safekeeping of the same, to prescribe the time for taking and returning books, to assess and collect fines or penalties for the loss or injury of such books and to establish all other needful rules and regulations for the management of the library as said board shall deem proper, or the superintendent of public instruction may prescribe.

HISTORY: New 1955, p. 589, Act 269, Eff. Jul. 1.

340.904 Township library; location; librarian.

Sec. 904. The township board shall cause the township library to be kept at some central and suitable place in the township, which it shall determine. Said board shall also, within 10 days after the annual township meeting, appoint a librarian for the term of 1 year to have the care and superintendence of said library, and such librarian shall be responsible to the township board for the impartial enforcement of all rules and regulations lawfully established in relation to said library.

HISTORY: New 1955, p. 590, Act 269, Eff. Jul. 1.

340.905 Township library; tax.

Sec. 905. The qualified voters of each township shall have power at any annual township meeting to vote a tax for the support of libraries established in accordance with the provisions of this act.

HISTORY: New 1955, p. 589, Act 289, Eff. Jul. 1.

340.906 Repealed. 1964, p. 66, Act 59, Imd. Eff. May 12.

Section provided for annual reports by township clerk to superintendent of public instruction relative to operation of township libraries.

340.907 School district library; establishment.

Sec. 907. Any school district, by a majority vote of the school electors voting thereon at an annual or special meeting or election, may establish a school library.

HISTORY: New 1955, p. 589, Act 289, Eff. Jul. 1.

340.908 School district library; control, eligibility for privileges; board of education; power to sell, donate books.

Sec. 908. The board of any school district in which a library may be established in accordance with the provisions of this act shall have charge of such library and shall provide the necessary conveniences for the proper care of such library and said board shall be responsible for and shall use all moneys raised or apportioned for its support in accordance with the provisions of law. All persons residing within the boundaries of any school district in which a library has been established shall be entitled to the privileges of such library. The board of any school district may donate or sell any library book or books belonging to such district.

HISTORY: New 1955, p. 589, Act 289, Eff. Jul. 1.

340.909 School district library; tax.

Sec. 909. The school tax electors of any school district in which a library shall be established shall have power at any annual meeting or election of such district to vote a district tax for the support of said district library. The board, if it deems it necessary, may also vote a tax for the maintenance and support of said library. When any tax authorized by this section shall have been voted, it shall be reported to the supervisor, levied and collected in the same manner as other township and school district taxes are levied and collected.

HISTORY: New 1955, p. 589, Act 289, Eff. Jul. 1.

340.910-340.913 Repealed. 1964, p. 66, Act 59, Imd. Eff. May 12.

Sections provided for annual reports to superintendent of public instruction, provided for a library fund, and for use and disposition of fines.

340.914 School district library books; sale, donation to other libraries.

Sec. 914. The board of any county school district may donate or sell any library book or books belonging to such district to the township board, where there is a township library, or to the city libraries in cities, to a county library board maintaining a county library established under Act No. 138 of the Public Acts of 1917, as amended, being sections 397.301 to 397.305, inclusive, of the Compiled Laws of 1948, or to a library established in the office of a county school superintendent for the use of the schools within the county except in a county where a county library has been established under Act No. 138 of the Public Acts of 1917, as amended, and such books shall thereafter form a part of the township, city or county library or library in the office of the county school superintendent; and such boards are hereby authorized to enter into a contract with any community or body of people outside of the territorial jurisdiction of said board for the use and services of said library whenever the same shall be deemed to be to the best interests of said library and the public.

HISTORY: New 1955, p. 590, Act 289, Eff. Jul. 1.

340.915 Repealed. 1964, p. 66, Act 59, Imd. Eff. May 12.

Section provided for annual statements by superintendent of public instruction to districts entitled to library money.

CHAPTER 28.

FRATERNITIES, SORORITIES AND SECRET SOCIETIES.

340.921 Fraternities, sororities, secret societies; definition; declaration of illegality.

Sec. 921. It shall be unlawful for any pupil of the elementary school and the high school of the public schools or any other public school of the state comprising 1 or all of the 12 grades in any manner to organize, join or belong to any high school fraternity, sorority or any other secret society. A public school fraternity, sorority or secret society, as contemplated by this act, is hereby defined to be any organization whose active membership is composed wholly or in part of pupils of the public schools of this state and perpetuating itself by taking in additional members from the pupils enrolled in the public schools on the basis of the decision of its membership, rather than upon the right of any pupil who is qualified by the rules of the school to be a member of and take part in any class or group exercises designated and classified according to sex, subjects required by the course of study, or program of school activities fostered and promoted by the board and superintendent of schools and by the board and county superintendent of schools for all schools not employing a superintendent of schools. Every such fraternity, sorority and secret society as herein defined is declared an obstruction to education, inimical to the public welfare and illegal.

HISTORY: New 1955, p. 591, Act 269, Eff. Jul. 1.

340.922 Fraternities, sororities, secret societies; board of education prohibition; expulsion of pupils.

Sec. 922. It shall be the duty of each board to prohibit the organization or operation of such fraternity, sorority or other secret society within the school system over which it has jurisdiction and it may suspend or expel from the school or schools under its control any and all pupils who shall be or remain members of, or who shall join or promise to join, or shall become pledged to become members of, or who shall solicit any other person to join or promise to join, or be pledged to join, any public school fraternity, sorority or secret society declared by section 921 hereof to be illegal.

HISTORY: New 1955, p. 591, Act 269, Eff. Jul. 1.

340.923 Fraternities, sororities, secret societies; credit, promotion, or graduation of violator.

Sec. 923. It shall be illegal to give credit for a subject pursued, to promote from grade to grade or to graduate any person who shall knowingly violate the provisions of this chapter, or having violated it shall persist in its violation. Any credit given contrary to the provisions hereof shall not be accepted by any other school or educational institution within this state.

HISTORY: New 1955, p. 591, Act 269, Eff. Jul. 1.

340.924 Fraternities, sororities, secret societies; violation of act, , penalty.

Sec. 924. Any school official or member of any board or other person violating or knowingly permitting or consenting to any violation of the provisions of this chapter shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$25.00 nor more than \$100.00 for each offense.

HISTORY: New 1955, p. 591, Act 269, Eff. Jul. 1.

CHAPTER 29.

TEACHERS' INSTITUTES.

340.931 Teacher's annual fee; collection, receipt.

Sec. 931. The superintendent of intermediate school district shall collect an annual fee from all teachers, superintendents and other persons engaged in teaching in the

public schools. The secretary of any board that employs any teacher who has not paid the fee shall collect, at the time of making contract, an annual fee of \$1.00. All persons paying a fee as required by this section shall be given a receipt for the same, and no person shall be required to pay the fee more than once in any school year. The fees shall be collected only upon the request and direction of the board of education of the intermediate school district.

HISTORY: New 1955, p. 592, Act 269, Eff. Jul. 1;—Am. 1959, p. 117, Act 113, Eff. Mar. 19, 1960;—Am. 1964, p. 454, Act 270, Eff. Aug. 28.

340.932 Teacher's annual fee; accounting; teachers' institute fund.

Sec. 932. All such fees collected by the secretary of any board shall be paid over to the superintendent of the intermediate school district in which they were collected, on or before March 15, June 15, September 15 and December 15, accompanied by a list of those persons from whom they were collected, and all such fees, together with all those collected by the superintendent, shall be paid over by him to the treasurer of the board of education of the intermediate school district in which they were collected, on or before March 31, June 30, September 30 and December 31 in each year, accompanied by a complete list of all persons from whom the fees were collected, and a like list accompanied by a statement from the treasurer that the fees have been paid to him shall be sent by the superintendent to the superintendent of public instruction. All moneys paid over to the treasurer, as provided by this chapter, shall be set apart as a teachers' institute fund, to be used as hereinafter provided.

HISTORY: New 1955, p. 592, Act 269, Eff. Jul. 1;—Am. 1964, p. 455, Act 270, Eff. Aug. 28.

340.933 Intermediate school district teachers' institutes.

Sec. 933. The superintendent of public instruction may appoint a time and place in each intermediate school district for holding a teachers' institute or institutes, make suitable arrangements therefor, and give due notice thereof. When requested by the board of education of the intermediate school district the superintendent may hold an institute for the benefit of 2 or more adjoining intermediate school districts and draw the institute fund from each of the districts thus benefited.

HISTORY: New 1955, p. 592, Act 269, Eff. Jul. 1;—Am. 1964, p. 455, Act 270, Eff. Aug. 28;—Am. 1968, p. 193, Act 131, Imd. Eff. Jun. 11.

340.934 Teachers' institutes; conduct; not to forfeit wages because of attendance.

Sec. 934. The superintendent of public instruction may appoint some suitable person to conduct the institute, who shall be subject to the directions of the superintendent. Any teacher who shall have closed his school, in order to attend the institute, shall not forfeit his wages as teacher during such time as he shall have been in attendance at the institute.

HISTORY: New 1955, p. 592, Act 269, Eff. Jul. 1;—Am. 1964, p. 455, Act 270, Eff. Aug. 28.

340.935 Teachers' institutes; expenses payable from fund.

Sec. 935. The treasurer of the intermediate school district is authorized to pay over to the superintendent or duly appointed conductor, from the teachers' institute fund, such sums as may be needed to defray the expenses for rent, for procuring consultants, for printing and other charges necessary for the conduct of the institute, not to exceed the amount in the fund. The board of education of the intermediate school district may authorize additional sums to be spent to conduct the institute.

HISTORY: New 1955, p. 593, Act 269, Eff. Jul. 1;—Am. 1964, p. 455, Act 270, Eff. Aug. 28.

340.936 Repealed. 1964, p. 455, Act 270, Eff. Aug. 28.

Section provided for state payment of portion of expenses of holding teacher's institute.

340.937 Teachers' institutes; accounting of expenses, unexpended funds.

Sec. 937. The superintendent of public instruction, or the duly appointed conductor, drawing money from the teachers' institute fund under section 935, shall, at the

close of each institute, furnish to the treasurer of the intermediate school district vouchers for all payments from the same, and he shall return to the treasurer all sums not used. The board of education of the intermediate school district shall certify this accounting to the superintendent of public instruction.

HISTORY: New 1955, p. 593, Act 269, Eff. Jul. 1;—Am. 1964, p. 455, Act 270, Eff. Aug. 28.

340.938 Teachers' institutes; first or second class districts.

Sec. 938. The provisions of this chapter shall not apply to teachers in any school district of the first class or second class: Provided, however, That the board of such district or the superintendent of public instruction may authorize the holding of teachers' institutes, the day or days of attendance thereat to be included in the computation of the compensation of attending teachers.

HISTORY: New 1955, p. 593, Act 269, Eff. Jul. 1.

CHAPTER 30.

THE SCHOOL CENSUS.

340.941 School census; time.

Sec. 941. There may be taken in each school district of this state a school census during the month of May for the purpose of correcting and adding to the continuous census record as shall be prescribed by the superintendent of public instruction, and in the manner provided in this chapter.

HISTORY: New 1955, p. 593, Act 269, Eff. Jul. 1;—Am. 1966, p. 63, Act 40, Eff. Mar. 10, 1967;—Am. 1969, p. 8, Act 3, Imd. Eff. Apr. 2.

340.942 School census; districts over 3,000; census taker.

Sec. 942. In all school districts having a population of 3,000 or over, the secretary of the board, or other reputable and capable person or persons employed by the board, may take the school census of said school district as follows:

HISTORY: New 1955, p. 593, Act 269, Eff. Jul. 1;—Am. 1969, p. 8, Act 3, Imd. Eff. Apr. 2.

340.943 School census; areas.

Sec. 943. The census shall be taken and reported for the whole school district or for such divisions of the school district as the superintendent of public instruction may prescribe.

HISTORY: New 1955, p. 593, Act 269, Eff. Jul. 1.

340.944 School census; enumerator, duties; boundary line dwellers, enumeration, school attendance.

Sec. 944. Each enumerator shall make a list in writing of the names and ages of all children who are under 20 years of age, whose parents or legal guardians reside in the school district, division or portion of the division allotted to said enumerator, together with the names of said parents or legal guardians, giving the street and residence number in each case, said list to be in such form as the superintendent of public instruction may prescribe, and it shall be verified by the oath or affirmation of the person making the same, by affidavit appended thereto or endorsed thereon, or in such other form as shall be prescribed, setting forth that the person or persons taking such census made a house-to-house canvass of the entire school district, division or portion thereof canvassed by said enumerator and that it is a correct list of the parents or legal guardians, their street and residence number, the names and ages of all the children of the ages aforesaid residing in the school district, division or part thereof as allotted to him: Provided, however, That where the boundary line of a school district runs through a dwelling, the children of school age living in such dwelling shall be enumerated in the district in which such dwelling according to its official street number shall be included and that pupils living in such dwelling attending public schools shall be required to attend school in the district in which they are enumerated, subject to the right of the

districts, however, to mutually arrange the matter of attendance on a tuition basis as between such districts.

HISTORY: New 1955, p. 593, Act 269, Eff. Jul. 1.

340.945 School census; placing of children in resident homes for school purposes; inadequacy of school facilities.

Sec. 945. Children placed under the order or direction of courts or child placing agencies in licensed homes, and children whose parents or legal guardians are unable to provide a home for them, and who are placed in licensed homes or in homes of relatives in the school district for the purpose of securing a suitable home for said children, and not for an educational purpose, shall be considered residents for educational purposes of the school district where the homes in which they are living are located, and such child or children shall be placed on the school census of said district. The board of a school district where a licensed home is located shall refuse to include in the census list of said district the names of children being cared for in said licensed home and shall refuse the right of any or all children from said licensed home to attend school in said district whenever said board is served with a written notice by the superintendent of public instruction that the schoolroom or rooms of said school district are inadequate for school purposes, and that no greater number of names of such children shall be included in the census list of the district or be permitted to attend school than the number designated by the said superintendent of public instruction.

HISTORY: New 1955, p. 594, Act 269, Eff. Jul. 1.—Am. 1956, p. 485, Act 215, Imd. Eff. May 1.

340.946 School census; districts of 3,000; statistical, financial report.

Sec. 946. In school districts having a population of 3,000 or over, the secretary of the board and the several enumerators shall, immediately after the taking of the census, compare, correct and compile the entire census. The said secretary of the board shall furnish therewith his affidavit that the several enumerators were duly employed by the board and that said census has been properly compared, corrected and compiled; and forthwith, and before the second Monday in September thereafter, transmit to the superintendent of public instruction the entire census, in such form as said superintendent of public instruction shall prescribe, together with his affidavit and the affidavits of the several enumerators, and at the same time he shall transmit to said superintendent of public instruction the annual statistical and financial report of said district.

HISTORY: New 1955, p. 594, Act 269, Eff. Jul. 1.

340.947 School census; other districts; enumeration; verified list, transmission.

Sec. 947. In all other districts of said counties, the census may be taken as follows: The boards of the respective school districts may take the school census of the several districts in the county and make a list in writing of the names and ages of all the children who are under 20 years of age, whose parents or legal guardians reside in the respective districts, the names of the parents or guardians, giving street and residence number in villages and cities, in such form as the superintendent of public instruction may prescribe. The census enumeration may include separate lists of all crippled, physically handicapped and mentally handicapped children from birth to the age of 21 years. The lists shall be verified by the oath or affirmation of the person taking the census, by affidavit furnished therewith, or in such other form as shall be prescribed, setting forth that the person or persons taking the census made a house-to-house canvass of the entire district or portion thereof canvassed by the enumerator and that it is a correct list of the names of all the children of the ages aforesaid residing in the district. The affidavit may be made before any officer authorized by law to take acknowledgments. The verified census list shall be filed in the office of the county superin-

tendent of schools before the third Monday in June thereafter. Immediately after the third Monday in June of each year, the county superintendent of schools and the several enumerators, or such other persons as the county superintendent of schools may appoint, shall compare and correct in his office the entire census forthwith, and, before the second Monday in September thereafter, transmit to the superintendent of public instruction the entire census by districts, together with his affidavit and the affidavits of the several enumerators.

HISTORY: New 1955, p. 594, Act 269, Eff. Jul. 1;—Am. 1956, p. 466, Act 215, Imd. Eff. May 1;—Am. 1968, p. 13, Act 6, Imd. Eff. Mar. 20;—Am. 1969, p. 8, Act 3, Imd. Eff. Apr. 2.

340.948 School census; expenses, child accounting records.

Sec. 948. The actual and necessary expense incurred by the county superintendent of schools, as determined by him or her, in taking the census in his or her own county, including the expense for clerical help in making out the census reports for the various school districts of the county, the keeping of child accounting records for the various school districts in accordance with the rules and regulations adopted by the superintendent of public instruction for the keeping of a continuous school census for each school district and for the continuous accounting of each child of each school district and the cards and filing cabinets for the same, shall be audited and allowed by the board of supervisors or the county board of auditors. The superintendent of public instruction, subject to the approval of the state administrative board, shall incur such expenditure as shall be necessary to keep accurate continuing census and child accounting records.

HISTORY: New 1955, p. 595, Act 269, Eff. Jul. 1.

CHAPTER 31.

PENALTIES AND LIABILITIES.

340.961 Refusal to serve at first meeting; forfeiture.

Sec. 961. Any taxable inhabitant of a newly formed district receiving the notice of the first meeting who shall neglect or refuse duly to serve and return such notice, and every chairman of the first district meeting in any district who shall wilfully neglect or refuse to perform the duties enjoined on him in this act, shall respectively forfeit the sum of \$5.00.

HISTORY: New 1955, p. 595, Act 269, Eff. Jul. 1.

340.962 Township clerks; failure to make or transmit reports; liability.

Sec. 962. If any township clerk shall neglect or refuse to make out and transmit the annual report containing the reports of the several school districts of his township, or any other report which the law may require of him, within the time limited therefor, he shall be liable to pay the full amount lost by the township or any district or districts, by such neglect or refusal, with interest thereon, to be recovered in an action at law.

HISTORY: New 1955, p. 595, Act 269, Eff. Jul. 1.

340.963 County clerk or superintendent of schools; failure to transmit report, liability.

Sec. 963. Any county clerk or county superintendent of schools who shall neglect or refuse to transmit to the superintendent of public instruction the report required by this act or any other reports which the law may require, within the time limited therefor, shall be liable to pay each school district the full amount which such district shall lose by such neglect or refusal, with interest thereon to be recovered in an action at law.

HISTORY: New 1955, p. 595, Act 269, Eff. Jul. 1.

340.964 Liabilities; money collection, apportionment.

Sec. 964. All the moneys collected or received by any township or city treasurer under the provisions of either of the 2 last preceding sections shall be apportioned and distributed to the school district entitled thereto, in the same manner and in the same proportion that the moneys lost by any neglect or refusal therein mentioned would, according to the provisions of this act, have been apportioned and distributed.

HISTORY: New 1955, p. 595, Act 269, Eff. Jul. 1.

340.965 Taxes; failure to certify, liability.

Sec. 965. Any township or city clerk who shall neglect or refuse to certify to the supervisor or proper assessing officer or officers taxes that have been reported to him as required by this act, and any supervisor or assessing officer who shall wilfully neglect to assess any such tax, shall be liable to any district for any damage occasioned thereby, to be recovered by the treasurer in the name of the district, in an action at law.

HISTORY: New 1955, p. 596, Act 269, Eff. Jul. 1.

340.966 Violation of act; penalty.

Sec. 966. Except as otherwise provided in this act, any school official or member of any school board or other person neglecting or refusing to do or perform any act required of him by this act, or violating or knowingly permitting or consenting to any violation of the provisions of this act, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine not exceeding \$500.00, or by imprisonment in the county jail not exceeding 3 months, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1955, p. 596, Act 269, Eff. Jul. 1.

340.967 Neglect to comply with act; superintendent, principal, teacher; dismissal, contract cancellation.

Sec. 967. Any neglect or refusal on the part of any superintendent, principal or teacher to comply with the provisions of this act shall be sufficient cause for dismissal from the school and cancellation of his or her contract by the board.

HISTORY: New 1955, p. 596, Act 269, Eff. Jul. 1.

340.968 Acting as agent; acceptance of gifts, penalty.

Sec. 968. It shall be illegal for any superintendent of public instruction, instructor at teachers' institute, county school superintendent, school officer, superintendent, principal or teacher of schools to act as agent for any author, publisher or seller of school-books or school apparatus, or to receive any gift or reward for his influence in recommending the purchase or use of any schoolbook, apparatus or furniture in the state of Michigan. Any act herein prohibited, if performed by any such school officer, shall be deemed a misdemeanor and he shall be liable to the punishment provided for in this chapter.

HISTORY: New 1955, p. 596, Act 269, Eff. Jul. 1.

340.969 Repealed. 1968, p. 558, Act 317, Eff. Sep. 1.

Section related to school code of 1955; penalties and liabilities; self-dealing by school board member, exceptions.

340.970 School meetings; disorderly conduct, penalty.

Sec. 970. If at any district meeting any person shall conduct himself in a disorderly manner and, after notice from the person presiding, shall persist therein, the person presiding may order him to withdraw from the meeting, and on his refusal may order any constable or other person or persons to take him into custody until the meeting shall be adjourned; and any person who shall refuse to withdraw from such meeting on being so ordered as herein provided, and also any person who shall wilfully disturb such meeting by rude and indecent behavior, or by profane or indecent discourse, or

in any other way make such disturbance, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not less than \$2.00 nor more than \$50.00, or by imprisonment in the county jail not exceeding 30 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: New 1955, p. 596, Act 269, Eff. Jul. 1.

340.971 Illegal voting; penalty.

Sec. 971. Voting or attempting to vote at any school election or meeting by one not legally entitled to vote therefor shall constitute an offense punishable as provided in this chapter.

HISTORY: New 1955, p. 597, Act 269, Eff. Jul. 1.

340.972 Refusal to give census information; false information; enumerator's negligence; penalty.

Sec. 972. Any person who shall refuse to give any census enumerator of school children the necessary information for the compiling of a correct census or who shall intentionally give to such enumerator any false information as to the names or ages of school children or as to the names or residence of the parents or guardians of any school children, or any school census enumerator who shall perform his duties carelessly or negligently or shall include in the list of names of school children any children who are not actually residents of the city or district, shall be guilty of a misdemeanor, and upon conviction thereof in a court of competent jurisdiction shall be liable to a fine of not less than \$5.00 nor more than \$50.00, or imprisonment in the county jail for not more than 20 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: New 1955, p. 597, Act 269, Eff. Jul. 1.

340.973 School buses, uninspected; penalty.

Sec. 973. Any school board member or employee, or any other person who violates, or causes to be violated, any rule or regulation promulgated pursuant to section 594b is guilty of a misdemeanor, and may be fined not to exceed \$100.00 or imprisoned in the county jail for a period not to exceed 30 days, or both.

HISTORY: Add. 1970, p. 658, Act 244, Eff. Apr. 1, 1971.

CHAPTER 32.

MISCELLANEOUS AND REPEALS.

340.981 Saving clause as to pending proceedings; accrued rights and liabilities.

Sec. 981. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this act takes effect are hereby saved. It is the legislative intent that this act shall not be construed to alter or affect the continued organization or operation of the school districts of the state or the rights or liabilities of such districts, except as otherwise specifically provided herein.

HISTORY: New 1955, p. 597, Act 269, Eff. Jul. 1.

340.982 Repeal.

Sec. 982. The following acts and all acts and parts of acts amendatory thereof are hereby repealed: Act No. 319 of the Public Acts of 1927, being sections 341.1 to 386.12, inclusive, of the Compiled Laws of 1948; Act No. 269 of the Public Acts of 1927, being section 388.731 of the Compiled Laws of 1948; Act No. 117 of the Public Acts of 1935, as amended, being sections 388.171 to 388.187, inclusive, of the Compiled Laws of 1948; Act No. 127 of the Public Acts of 1937, being sections 388.301 to 388.303, inclusive, of the Compiled Laws of 1948; Act No. 201 of the Public Acts of 1929, being sections 388.121 to 388.125, inclusive, of the Compiled Laws of 1948; Act

No. 279 of the Public Acts of 1927, being sections 388.141 to 388.142, inclusive, of the Compiled Laws of 1948; Act No. 247 of the Public Acts of 1941, being sections 388.151 to 388.160, inclusive, of the Compiled Laws of 1948; Act No. 214 of the Public Acts of 1949, being sections 388.901 to 388.905, inclusive, of the Compiled Laws of 1948; and Act No. 18 of the Public Acts of 1954, being sections 393.401 to 393.420, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1955, p. 597, Act 200, Eff. Jul. 1.

340.983 Saving clause as to offenses; accrued rights, liabilities, penalties.

Sec. 983. Except as specifically otherwise provided in this act, this act shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

HISTORY: New 1955, p. 597, Act 200, Eff. Jul. 1.

340.984 Effective date.

Sec. 984. Section 255 shall take effect on June 30, 1955, and the remainder of the act shall take effect on July 1, 1955.

HISTORY: New 1955, p. 597, Act 200, Eff. Jul. 1.

CHAPTER 341-386. EDUCATION—THE SCHOOL CODE (1927)

SCHOOL CODE
Act 319 of 1927

341.1-386.12 Repealed.

341.1-386.12 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections related to school code of 1927.

CHAPTER 388. EDUCATION—SCHOOL AID AND MISCELLANEOUS

SCHOOL AID

Act 26 of 1948 (Ex. Ses.)

388.1-388.41 Repealed.

Act 238 of 1955

388.51-388.95 Repealed.

SCHOOL DISTRICT IN INCORPORATED VILLAGE

Act 201 of 1929

388.121-388.125 Repealed.

CONSOLIDATION OF DISTRICTS IN CITY

Act 169 of 1927

388.131 Five or more school districts within city as single school district; designation; members of board, election; furnishing of school facilities.

388.132 Township boards; meeting for division of assets and liabilities.

388.133 Primary school money; distribution; census list, filing.

388.134 Territory not taken into school district.

SCHOOL DISTRICT IN CITIES, 45,000 AND 75,000

Act 279 of 1927

388.141, 388.142 Repealed.

ANNEXATION, THIRD CLASS DISTRICT

Act 247 of 1941

388.151-388.160 Repealed.

COUNTY SCHOOL DISTRICT

Act 117 of 1935

388.171-388.179a Repealed.

DIVISION OF FIRST CLASS SCHOOL DISTRICTS INTO REGIONAL DISTRICTS

Act 244 of 1969

388.171 Repealed.

388.171a First class school districts; board of education, membership.

388.172 Repealed.

388.172a First class school districts; regions, description, establishment, approval; boundary commission, members, appointment, compensation; redetermination of boundary lines.

Regional board; size; election; qualification; term.

Election; chairman; vacancy.

388.173 Repealed.

388.173a First class school district boards; members at large, election, terms.

Officers; recall petitions; term of office. Vacancies.

388.174 Regional boards; qualifications, residency.

388.175 First class school district boards; powers and duties.

388.176 Regional boards; powers.

388.177 Employee rights; unimpaired upon transfer.

388.178 First class school district boards; functions.

388.179 First class school district boards; facilities and accommodations for regional boards, selection; employees, assignment.

COUNTY SCHOOL DISTRICT

Act 117 of 1935

388.180-388.184 Repealed.

Act 244 of 1969

388.180 Regional board members; compensation.

388.181 First class school districts; rights of initiative and referendum.

388.182 First class school district boards; attendance provisions, implementation, policy.

388.183 Severability clause.

COUNTY SCHOOL DISTRICT

Act 117 of 1935

388.185-388.187 Repealed.

LOANS TO COUNTY SCHOOL DISTRICT

Act 44 of 1937

388.191 Loans to county school districts by board of supervisors.

388.192 Loans to county school districts; funding; authority of county board of auditors and county board of education.

EMERGENCY FINANCIAL ASSISTANCE FOR INSOLVENT SCHOOL DISTRICTS

Act 32 of 1968

388.201-388.220 Expired.

DEPUTY COMMISSIONER, SUPERVISORS AND TEACHERS

Act 302 of 1927

388.221 Repealed.

Act 326 of 1925

388.231, 388.232 Repealed.

COUNTY COMMISSIONER OF SCHOOLS

Act 147 of 1891

388.242-388.251 Repealed.

TOWNSHIP SCHOOL DISTRICT

Act 127 of 1937

388.301-388.303 Repealed.

TOWNSHIP DISTRICT BUILDING PROGRAM

Act 323 of 1941

388.311 Repealed.

TOWNSHIP CONTINGENT FUND

Act 238 of 1939

388.321 Township contingent fund; surplus moneys, use for school lunches, retiring indebtedness; election; petition.

388.322 Township contingent fund; vote at election; ballots; transfer of moneys.

SCHOOL HOUSE AND MAIL BOX NAMES

Act 81 of 1931

388.351 Rural school houses; selection of name.

388.352 Rural school houses; certification of selection of name; method.

388.353 Rural school mail boxes; maintenance, notice to postmaster.

CIVICS COURSES

Act 205 of 1931

388.371 Civics course in high school; prerequisite to diploma; exemption for military service.

388.372 Civics, political science, government or public administration courses; prerequisite for diploma or degree.

388.373 Violation of act; misdemeanor.

CRITICAL HEALTH PROBLEMS EDUCATION ACT
Act 226 of 1969

- 388.381 Critical health problems education act; short title.
388.382 Critical health problems education act; definitions.
388.383 Education program; creation, promotion, scope.
388.384 Advisory committee; appointment, purpose; federal agencies; federal funds.
388.385 Rules; promulgation, effective date.

PREGNANT STUDENTS
Act 242 of 1970

- 388.391 Pregnancy not grounds for expulsion.
388.392 Voluntary withdrawal; rules.
388.393 Alternative educational programs; contracts; reimbursement.
388.394 State board of education, regulatory powers.

OATH OF COLLEGE FACULTY
Act 23 of 1935

- 388.401 Oath of college faculty members; filing.
388.402 Unlawful employment; penalties.

RE-EMPLOYMENT HONORABLY DISCHARGED
TEACHERS

Act 145 of 1943

- 388.421 Reemployment of school teachers honorably discharged from military service.
388.422 Restoration without loss of status or seniority; benefits.

VISITING TEACHERS

Act 38 of 1944 (1st Ex. Ses.)

- 388.451-388.455 Repealed.

ADULT EDUCATION

Act 46 of 1944 (1st Ex. Ses.)

- 388.501-388.504 Repealed.

ADULT EDUCATION, COUNTY PROGRAMS
Act 18 of 1946 (Ex. Ses.)

- 388.531 Program of adult education by counties.
388.532 Instructors; training, approval.
388.533 Budget.

PRIVATE AND PAROCHIAL SCHOOLS
Act 302 of 1921

- 388.551 Private, denominational and parochial schools; supervision by superintendent of public instruction; assistants, compensation, removal; intent of act.
388.552 Private, denominational or parochial schools; definition.
388.553 Private, denominational and parochial schools; teachers, qualifications, examinations.
388.554 Violation of act; hearing, closing of school, compulsory attendance.
388.555 School investigation and examination; failure to permit, cause for suspension.
388.557 Construction of act.
388.558 Schools for handicapped children; standards of instruction.

SCHOOL AID

Act 188 of 1956

- 388.561-388.602 Repealed.

PUBLIC SCHOOLS

Act 312 of 1957

CHAPTER 1

- 388.611 School aid appropriation; deficiency.
388.612 School aid appropriation to intermediate school districts.
388.613 Appropriation for deprived children programs; amount; criteria, educational assessment; assignment of points; eligibility for funding; reimbursement; in-service training; evaluation.
388.613a Repealed.
388.614 Appropriation for conceptually-oriented mathematics program; amount; rules; demonstration projects, dissemination of results.
388.615 Vocational training; work-study programs; contracts; rules.
388.616 Repealed.
388.617 School aid appropriation; distribution of balance.
388.618 Repealed.
388.618a Basic allotments to school districts 1970-71; computation.
388.618b Basic allotments to school districts; formula; 1971-72; tax levy.
388.619 Repealed.
388.620 Tuition allotments; special programs.
388.621 Additional allotments to school districts for transportation; computation. District not maintaining school. Mentally handicapped; waiver of restriction. Physically handicapped; state schools for deaf and blind. Emotionally disturbed. Facilities of department of mental health. Board and room allowance for mentally or physically handicapped. Vocational centers; secondary school pupils. Maximum amount distributed. Cities and villages; legislative intent.
388.622 Pupils and membership defined; special education; allocation of funds. Membership, defined; computation; uniform interpretation. Hearing impaired, physically or visually handicapped. Intermediate school districts; trainable programs. Special education; limitations. Remedial reading programs.
388.622a Membership count; alternate day.
388.623 Elementary tuition pupil; definition. High school tuition pupil. Date and formula for charging tuition; nonresident pupils in part time membership, additional allowance.

- Attendance pursuant to assignment or approval of probate court, tuition.
Child placed in state institution by parents.
- 388.624 Per capita operation cost; determination.
388.624a Capital outlay assistance; formula; limitations.
- 388.625 Repealed.
388.626 Repealed.
388.626a Intermediate school districts; apportionment of aid; operating budget; data processing programs.
- 388.627 Valuation of school districts; formula; reductions.
- 388.628 School aid; increase to district for territory attached from dissolved district, formula.
- 388.628 Repealed.
388.628a Additional allotments to school districts for emergency reorganization; amount, computation; payment of debts; annual audit.
- 388.629 Nonresident pupils; certification.
- 388.630 State aid for approved high schools; amount, participation.
- 388.631 Responsibility of county treasurer; statement of assessed school district valuation.
- 388.632 Apportionments; basic dates; full school year; special education.
- 388.633 Apportionments; restrictions, actual payments for tuition and transportation.
- 388.634 Apportionments among school districts; certification of revenues received.
- 388.635 Apportionments; advances for operation; notice to legislatures.
- 388.636 School district board of education; borrowing power.
- 388.637 School district officers; list to county treasurer.
- 388.638 Repealed.
- 388.639 State aid; determination upon defective returns.
- 388.640 Apportionment; deficiency or excess.
- 388.641 State aid; nine month term minimum; exception.
- 388.642 Maximum pupil-teacher ratio; teacher, definition.
- 388.643 School district reports; salary schedule report; failure, forfeiture.
- 388.643a School district reports to legislative fiscal agencies; failure to file, penalty.
- 388.644 State aid; prescribed uses; violations; audits, reports, public inspection.
- 388.645 State aid; requirements; tax levy; payment of tuition, unqualified teachers; copy of enrollment.
- 388.645a Deficit budget prohibited.
- 388.646 Violation of act; penalty.
- 388.647, 388.648 Repealed.
- 388.649 Additional taxes to supplement school aid fund; deposit.
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- 388.650 School code of 1955; definition.
- 388.651 Repealed.
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- 388.656 Legislative declaration of public policy.
- 388.657 Appropriation.
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- 388.664 List of eligible units; preparation; exclusion, appeal.
- 388.665 Certified lay teachers; status.
- 388.666 Severability; advisory opinion on constitutionality.
- 388.666a Effective date; expenditures.
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- 388.681 Reorganization of school districts; definitions.
- 388.682 State committee for reorganization of school districts; appointments, distribution; vacancies, compensation.
- 388.683 State reorganization committee; officers, records, meetings, quorum.
- 388.684 School district reorganization program; surveys, approval of proposals, reports.
- 388.685 Intermediate district committee for reorganization of school districts; membership, election, vacancies, organization.
- 388.686 Intermediate district reorganization committee; meetings, records, district reorganization plan, hearings, approval, revision, dissolution of committee.
- 388.687 Optional election methods for adoption of reorganization plans; conduct.
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- 388.689 Consolidation, annexation or division of districts.
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- 388.693 Final report; termination of act.

THIRD CLASS DISTRICT BOUNDARIES

Act 254 of 1945

- 388.701 Third class school districts; validation of boundaries and organizations.

REORGANIZATION OF SCHOOL DISTRICTS

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- 388.711 Reorganization of school districts; determination of emergency.
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- 388.717 Attachment of territory by annexation; effective date; finality; conclusiveness.
- 388.718 Reorganized school district; bonded indebtedness, levy of taxes.
- 388.719 Reorganized school district; assumption of bonded indebtedness of original school district; effect; certification, levy of taxes; election.
- 388.720 Petitions for emergency reorganization; intermediate district superintendent to furnish; form; who may sign; circulation signatures.
- 388.720a State committee on reorganization of school districts; continuation.
- 388.721 Repealed.

PAYMENT OF CERTAIN BONDS

Act 269 of 1927

- 388.731 Repealed.

REGISTRATION OF SCHOOL ELECTORS

Act 19 of 1946 (Ex. Ses.)

- 388.751 Registration of school electors in certain school districts.

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- 388.801 Federal grants to schools; superintendent of public instruction, sole agent to administer and receive.
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- 388.831 National forest moneys; school and highway aid, distribution.
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- 388.851 School buildings; construction requirements; waiver.
- 388.851a Construction of school buildings; definitions.
- 388.852 Architect or engineer; responsibilities.
- 388.853 Inspection by state fire marshal; notice; exception.
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- 388.882 Referendum on tax levy; notice of election.
- 388.883 Construction and repair of school buildings; referendum, form of ballots; boards to furnish.
- 388.884 Elections; general school law to govern elections not specifically included.

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Act 214 of 1949

- 388.901-388.905 Repealed.

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Act 74 of 1955

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- 388.922 School loan bonds or notes; deposit of proceeds.
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STATE LOANS TO SCHOOL DISTRICTS

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- 388.1061 State board of education; acceptance and expenditure of federal funds for arts and humanities.
- 388.1062 Construction of act; payment of funds.

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- 388.1086 Rules for administration of act.

388.1-388.41 Repealed. 1951, p. 302, Act 212, Imd. Eff. Jun. 14;—1954, p. 533, Act 209, Imd. Eff. May 10;—1955, p. 382, Act 238, Eff. Jul. 1.

Sections made provision for the school aid.

388.51-388.95 Repealed. 1956, p. 359, Act 188, Eff. Jul. 1.

Sections made provisions for the school aid.

388.121-388.125 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections provided for organization of school district within incorporated village and portions of 4 or more districts.

Act 169, 1927, p. 268; Imd. Eff. May 14.

AN ACT to provide for the organization of a school district within any city having within its boundaries portions of 5 or more school districts; to provide for the election of a school board; to provide for the division of the property and debt of districts divided; and to provide for the attaching of certain territory to other districts.

The People of the State of Michigan enact:

388.131 Five or more school districts within city as single school district; designation; members of board, election; furnishing of school facilities.

Sec. 1. Any incorporated city having within its boundaries portions of 5 or more school districts shall be a single school district which boundaries shall be coterminous with the boundaries of said city. Said school district shall be known as the "School District of the City of". Said school district shall be organized and governed as provided for third class districts under the provisions of Act No. 166 of the Public Acts of 1917 and any amendments in force at the time this act takes effect and any amendments that may hereafter be enacted, and by the general school laws of the state not inconsistent herewith. Within 30 days after this act shall take effect, the city clerk of said city shall call an election within said city at a time and place to be designated by him for the election of 7 members of the board of education whose terms, manner of qualifying, organization of the board, and officers shall be as provided for third class districts in said Act No. 166 of the Public Acts of 1917, as amended. Said election shall be called and conducted in the same manner as the school elections for said third class districts are called and conducted. The expense incurred in conducting said election shall be paid by the city in the same manner as other expenses of said city are paid. Thereafter all elections shall be called and conducted as provided for third class districts in said Act No. 166 of the Public Acts of 1917, as amended. If any district or dis-

tricts by reason of the formation of said city district shall be without school facilities, the school district within said city shall annually furnish school facilities to such district or districts on being paid therefor a sum of money equal to the amount such district or districts would raise in taxes for school purposes, if such district or districts were in the city school district.

HISTORY: CL 1929, 7237;—CL 1948, 388.131.

NOTE: Act 166 of 1917, above referred to, was repealed by Act 319 of 1927, CL 1929, 7697. Act 319, 1927, is Compilers' repealed § 341.1 et seq. See § 340.1 et seq.

388.132 Township boards; meeting for division of assets and liabilities.

Sec. 2. Within 30 days after receiving notice of the organization of the board of education, the township clerk of the township where said city is located shall call a meeting of the township board, or boards if fractional districts are included, for the purpose of dividing the assets and liabilities of all of the school districts from which territory has been taken to form the school district within said city. Said division of assets and liabilities shall be made as of the date this act takes effect and in accordance with the provisions of law in sections 5659 and 5660 of the Compiled Laws of 1915: Provided, That if any portion of the district or districts within the formation of said city district shall include school lands or school buildings for which bonds of the district have been issued in the purchase or construction thereof or for the indebtedness created thereby, then in such case the district within said city shall be liable for, and shall assume payment of all such bonded or other indebtedness. The city school district shall take, and have the right to collect all unpaid school taxes of the portion of the districts taken: Provided further, That the city school district shall assume the proper pro rata share of the outstanding indebtedness of the territory of each district within the formation of said city school district and perform all legally binding contracts as shall apply to the territory taken in such formation.

HISTORY: CL 1929, 7238;—CL 1948, 388.132.

NOTE: CL 1915, 5659 and 5660, above referred to, were repealed by Act 319 of 1927, CL 1929, 7697. Act 319, 1927, is Compilers' repealed § 341.1 et seq. See § 340.1 et seq.

388.133 Primary school money; distribution; census list, filing.

Sec. 3. The city school district shall take, based on all school census in which no primary money has been distributed, such part of the primary school money as the number of children of school age in the portions taken bears to the number of children of school age in the whole of each district from which any portion of territory has been taken to form the school district within said city. The school board of the school district of said city shall file with the superintendent of public instruction immediately after its organization a census list of the children living within said district whose names are included in the census list of the several districts, portions of which have been taken to form the school district within said city.

HISTORY: CL 1929, 7239;—CL 1948, 388.133.

388.134 Territory not taken into school district.

Sec. 4. That portion of the territory lying outside of said city district of each and every district from which any territory has been taken by reason of this act shall be attached to the territory of adjoining districts located wholly without said city district. This territory shall be attached by said township board or boards at the meeting provided for in section 2 of this act. The assets and liabilities of any portion so attached shall become the assets and liabilities of the school district to which it is attached.

HISTORY: CL 1929, 7240;—CL 1948, 388.134.

388.141, 388.142 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections provided for organization of certain school districts within city of more than 45,000 and less than 75,000, and provided for distribution of property and debts of such districts.

388.151-388.160 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections provided for annexation of school districts or parts of school districts in unincorporated territory, incorporated cities or villages, annexed to or consolidated with a city having third class school district, provided for referendum of school electors and for division and/or transfer of property and debts of districts affected.

Act 117, 1935, p. 189; Eff. Sep. 21.

AN ACT to require first class school districts to be divided into regions and to provide for regional boards and to define their powers and duties and the powers and duties of the first class district board. Am. 1943, p. 342, Act 212, Eff. Jul. 30;—Am. 1947, p. 411, Act 269, Imd. Eff. Jun. 27;—Am. 1949, p. 241, Act 217, Eff. Sep. 23;—Am. 1953, p. 109, Act 113, Eff. Oct. 2;—Am. 1970, p. 136, Act 48, Imd. Eff. Jul. 7.

The People of the State of Michigan enact:

388.171 Repealed. 1970, p. 140, Act 48, Imd. Eff. Jul. 7.

Section related to division of first class school district into regional school districts.

388.171-388.179a Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections related to salary of county superintendents of schools.

388.171a First class school districts; board of education, membership.

Sec. 1a. On or after January 1, 1971, in any first class school district with more than 100,000 student membership, the board membership of the board of education shall be composed of 8 members determined and elected as provided in section 2a plus 5 members determined and elected as provided in section 3a.

HISTORY: Add. 1970, p. 136, Act 48, Imd. Eff. Jul. 7.

388.172 Repealed. 1970, p. 140, Act 48, Imd. Eff. Jul. 7.

Section related to election of first class school district boards; regional members.

388.172a First class school districts; regions, description, establishment, approval; boundary commission, members, appointment, compensation; re-determination of boundary lines.

Sec. 2a. Immediately following the effective date of this 1970 amendatory act or any date on which a school district becomes a first class school district, 8 regions shall be described in each such first class school district by resolution concurred in by three-fourths of the members elected and serving in each house of the legislature and such regions so described shall be established as regions if and when approved by the superintendent of public instruction. If a concurrent resolution shall not be approved by three-fourths of such members within 7 days of the effective date of this amendatory act or within 30 days of any date on which a school district becomes a first class school district a first class district boundary commission consisting of 3 members appointed by the governor shall determine the boundary lines of such regions within 21 days thereafter if in 1970 or within 30 days thereafter if in any later year. The members of the commission shall receive a compensation of \$100.00 per diem per member from the funds appropriated to the department of education. The boundary lines of such regions shall be redetermined by the respective boards of such first class school districts following each federal decennial census but in no event later than April 15 of the first odd numbered year in which regional board members are to be elected following the federal decennial census. In the event of the failure of such respective boards of such first class school districts to redetermine such regional boundary lines by such April 15, the state board of education shall convene within 10 days to make such redetermination and such redetermination of the state board of education shall be the regional boundary lines until the redetermination is made following the next succeeding fed-

eral decennial census as provided in this section. Regions shall be as compact, contiguous and nearly equal in population as practicable.

Regional board; size; election; qualification; term.

Within each region, there shall be a regional board consisting of 5 members. The members shall be nominated and elected by the registered and qualified electors of each district as is provided by law for the nomination and election of first class school board members except that signatures required on nominating petitions shall be not less than 500 nor more than 1,000. Any candidate properly filed for any educational position in any first class school district as of the effective date of this act shall be considered as a qualified candidate under sections 2a and 3a for the 1970 election provided such candidate makes a request, designation and selection to the election officer empowered by law to accept nominating petitions for such office. No person shall be elected who is not a resident of the region from which he is elected. The members shall be elected in the general election to be held in November, 1970 and November of 1973 and every 2 years thereafter commencing in 1975.

Election; chairman; vacancy.

In the year 1970 regional board members shall be elected in the November general election and candidates for such office shall not be subject to the primary election. In 1970 a person may qualify as a candidate for the election for regional board member by filing the required number of signatures on or prior to 4 p.m., August 18, 1970. In 1970 signatures of registered electors of the first class district shall be valid without regard to the place of residence of such registered elector. In any year the candidate for regional board member receiving the highest number of votes in each region in the November general election shall be chairman of the regional board and a member of the board of education of his first class school district during his term of office. In case a vacancy occurs for any reason in the combined position of chairman of the regional board and member of the first class school district board of education, the regional board member who received the next highest number of votes in the preceding general election shall assume such combined position. The number of members of each regional board shall be maintained at 5 and vacancies shall be filled from among residents of the region by the remaining board members of such region by a majority vote of those serving. No vacancies shall be filled later than 60 days prior to a primary election at which regional board members are to be nominated. The 5 regional board members elected in each region shall commence their terms of office on January 1 following the election and the members shall serve until their successors are elected and qualified.

HISTORY: Add. 1970, p. 136, Act 48, Imd. Eff. Jul. 7.

388.173 Repealed. 1970, p. 140, Act 48, Imd. Eff. Jul. 7.

Section related to election of regional school district board members.

388.173a First class school district boards; members at large, election, terms.

Sec. 3a. Effective January 1, 1971 there shall be 5 members on the boards of first class school districts elected at large. Members of such boards shall be nominated and elected at the primary and general elections of 1972 and 1974 for 3-year terms commencing on January 1 of the subsequent odd numbered year, 2 each to be elected in 1972 and 1974. In the year 1970 1 board member shall be elected in the November general election for a 3-year term commencing January 1, 1971 and candidates shall not be subject to the primary election. In 1970 a person may qualify as a candidate for the election for first class school district board member by filing nominating petitions containing not less than 500 nor more than 1,000 valid signatures on or before 4 p.m., August 18, 1970. Commencing in 1973 and in all subsequent odd numbered years, a

number of board members equivalent to the number of members whose terms expire on December 31 of such year will be nominated and elected at the primary and general election. Such members so elected shall serve 2-year terms commencing on January 1 of the subsequent even numbered year. To accomplish the provisions of this amendatory act the terms of office of any first class district board members whose terms expire prior to December 31, 1971 shall expire December 31, 1970; the terms of office of such board members whose terms expire between January 1, 1972 and December 31, 1973 shall expire December 31, 1972 and the terms of office of such board members whose terms expire between January 1, 1974 and December 31, 1975 shall expire December 31, 1974.

Officers; recall petitions; term of office.

In any year in which one or more board members of a first class district are commencing a term of office on January 1 the board of such first class district shall redetermine its selection of officers during the month of January of such year. Petitions to recall any member or members of the board of education of a first class school district filed and pending before this act becomes effective, or becomes operative in a school district that hereafter becomes a first class school district, may be withdrawn by the person or organization filing or sponsoring such recall petitions within 10 days after this act becomes effective or 20 days after the act becomes operative in any school district that hereafter becomes a first class school district. Board members of first class school districts who are recalled in accordance with law may be candidates for the same office at the next election for such office at which the recalled member is otherwise eligible. In the case of any school district that hereafter becomes a first class school district, the term of office of each of the board members then serving in such school district shall expire on the next succeeding December 31 of an odd numbered year, provided however that if the school district becomes a first class school district later than April 1 of an odd numbered year, the term of office of each of its board members shall expire on December 31 of the next succeeding odd numbered year later than the year in which the district became a first class school district. For any district becoming a first class district 5 school board members shall be elected in the general election of the odd numbered year in which such terms of office expire and the 5 school board members so elected shall commence 2-year terms on January 1 of the even numbered year following such general election.

Vacancies.

In case a vacancy occurs for any reason on the first class district board such vacancy shall be filled by majority vote of all persons serving as regional board and first class district board members at a meeting called by the president of the first class district board for such purpose. No vacancies shall be filled later than 60 days prior to a primary election at which first class district board members are to be nominated. Vacancies which shall occur prior to the effective date of this act or have occurred in 1970, shall be filled for a term ending December 31, 1972 in the same manner as provided in this section for the election of board members at large in the year 1970 and such positions shall then be filled in the primary and general election of 1972 for a 3-year term. In 1970 the candidate receiving the highest number of votes shall be elected for the 3-year term and the candidates receiving the next highest number of votes shall be elected for 2-year terms to fill vacancies.

HISTORY: Add. 1970, p. 137, Act 48, Imd. Eff. Jul. 7.

388.174 Regional boards; qualifications, residency.

Sec. 4. A candidate for a regional board must be 21 years of age at the time of filing and must reside in the region in which he becomes a candidate. If his legal residence is

moved from the region during his term of office, it shall constitute a vacating of office.

HISTORY: New 1969, p. 475, Act 244, Eff. Mar. 20, 1970;—Am. 1970, p. 138, Act 48, Imd. Eff. Jul. 7.

Former section 388.174 (Sec. 4, Act 117, 1935, p. 189, Eff. Sept. 21; as amended) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It provided for the election, term, vacancy, and removal of members of county boards of education.

388.175 First class school district boards; powers and duties.

Sec. 5. The first class school district board shall retain all the powers and duties now possessed by a first class school district except for those given to a regional board under the provisions of this act and such other functions as are delegated to the regional boards by the first class school district board.

HISTORY: New 1969, p. 475, Act 244, Eff. Mar. 20, 1970;—Am. 1970, p. 138, Act 48, Imd. Eff. Jul. 7.

Former section 388.175 (Sec. 5, Act 117, 1935, p. 189, Eff. Sept. 21) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It provided for organization and meetings of county boards of education.

388.176 Regional boards; powers.

Sec. 6. Effective upon the commencement of its term of office, the regional board, subject to guidelines established by the first class district board, shall have the power to:

(1) Employ a superintendent for the schools in the region from a list or lists of candidates submitted by the first class district board and to discharge any such regional superintendent.

(2) Employ and discharge, assign and promote all teachers and other employees of the region and schools therein subject to review by the first class school district board, which may overrule, modify or affirm the action of the regional board.

(3) Determine the curriculum, use of educational facilities and establishment of educational and testing programs in the region and schools therein.

(4) Determine the budget for the region and schools therein based upon the allocation of funds received from the first class school district board.

HISTORY: New 1969, p. 476, Act 244, Eff. Mar. 20, 1970;—Am. 1970, p. 138, Act 48, Imd. Eff. Jul. 7.

Former section 388.176 (Sec. 6, Act 117, 1935, p. 289, Eff. Sept. 21) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It provided for compensation of county boards of education.

388.177 Employee rights; unimpaired upon transfer.

Sec. 7. The rights of retirement, tenure, seniority and of any other benefits of any employee transferred to a region or schools therein from the first class district or transferred between regions shall not be abrogated, diminished or impaired.

HISTORY: New 1969, p. 476, Act 244, Eff. Mar. 20, 1970;—Am. 1970, p. 139, Act 48, Imd. Eff. Jul. 7.

Former section 388.177 (Sec. 7, Act 117, 1935, p. 289, Eff. Sept. 21, as amended) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It provided for powers and duties of county boards of education.

388.178 First class school district boards; functions.

Sec. 8. The first class school district board shall perform the following functions for the regions and schools therein:

(1) Central purchasing.

(2) Payroll.

(3) Contract negotiations for all employees, subject to the provisions of Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Compiled Laws of 1948, and subject to any bargaining certification and to the provisions of any collective bargaining agreement pertaining to affected employees.

(4) Property management and maintenance.

(5) Bonding.

(6) Special education programs.

(7) Allocation of funds for capital outlay and operations for each region and schools therein.

(8) Establish or modify guidelines for the implementation of the provisions of section 6. Such guidelines shall include but not be limited to the determination and speci-

fication of each regional board's jurisdiction and may provide for regional board's jurisdiction over schools not geographically located within their respective regions.

HISTORY: Add. 1970, p. 139, Act 48, Imd. Eff. Jul. 7.

Former section 388.178 (Sec. 8, Act 117, 1935, p. 289, Eff. Sept. 21, as amended) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It provided for qualifications of county superintendents of schools.

388.179 First class school district boards; facilities and accommodations for regional boards, selection; employees, assignment.

Sec. 9. Facilities and accommodations provided by the first class school district board for regional boards shall be selected with due consideration for accessibility, economy and utilization of existing facilities. Employees assigned by the first class school district board to regional boards at the time of commencement of their functions shall be drawn, to the extent feasible, from persons employed at such time by the first class school district.

HISTORY: Add. 1970, p. 139, Act 48, Imd. Eff. Jul. 7.

Former section 388.179 (Sec. 9, Act 117, 1935, p. 289, Eff. Sept. 21) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It provided for execution of surety bond by county superintendents of schools.

388.180 Regional board members; compensation.

Sec. 10. Regional board members shall be paid a per diem allowance of \$20.00 for each meeting of their board attended and first class district board members shall be paid a per diem allowance of \$30.00 for each meeting of their board attended, but in neither case shall such payments be for meetings in excess of 52 meetings per annum. The chairman of each regional board shall be paid for up to 52 regional board meetings attended and up to 52 first class district board meetings attended.

HISTORY: Add. 1970, p. 139, Act 48, Imd. Eff. Jul. 7.

Former section 388.180 (Sec. 10, Act 117, 1935, p. 289, Eff. Sept. 21, as amended) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It provided for powers and duties of county superintendents of schools.

388.180-388.184 Repealed. 1949, p. 246, Act 217, Eff. Sep. 23;—1955, p. 597, Act 269, Eff. Jul. 1.

Sections related to consolidation of adjoining counties; school district referendum.

388.181 First class school districts; rights of initiative and referendum.

Sec. 11. First class school districts with 100,000 student membership or more shall have the same rights for initiative petition and referendum now granted by law to second and third class districts.

HISTORY: Add. 1970, p. 139, Act 48, Imd. Eff. Jul. 7.

Former section 388.181 (Sec. 11, Act 117, 1935, p. 289, Eff. Sept. 21, as amended) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It was a repeal section.

388.182 First class school district boards; attendance provisions, implementation, policy.

Sec. 12. The implementation of any attendance provisions for the 1970-71 school year determined by any first class school district board shall be delayed pending the date of commencement of functions by the first class school district boards established under the provisions of this amendatory act but such provision shall not impair the right of any such board to determine and implement prior to such date such changes in attendance provisions as are mandated by practical necessity. In reviewing, confirming, establishing or modifying attendance provisions the first class school district boards established under the provisions of this amendatory act shall have a policy of open enrollment and shall enable students to attend a school of preference but providing priority acceptance, insofar as practicable, in cases of insufficient school capacity, to those students residing nearest the school and to those students desiring to attend the school for participation in vocationally oriented courses or other specialized curriculum.

HISTORY: Add. 1970, p. 139, Act 48, Imd. Eff. Jul. 7.

Former section 388.182 (Sec. 12, Act 117, 1935, p. 289, Eff. Sept. 21) was repealed by P.A. 1949, No. 217, p. 246, Eff. Sept. 23; P.A. 1955, No. 269, p. 597, Eff. July 1. It related to inapplicability of act in certain counties.

388.183 Severability clause.

Sec. 13. If any portion of this act or the application thereof to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of this act which can be given effect without the invalid portion or application, and to this end this act is declared to be severable.

HISTORY: Add. 1970, p. 140, Act 48, Imd. Eff. Jul. 7.

Former section 388.183 (Sec. 13, Act 117, 1935, p. 289, Eff. Sept. 21, as added and amended) was repealed by P.A. 1955, No. 269, p. 597, Eff. July 1. It related to procedure for consolidation of two or more adjoining counties to form a single county school district.

388.185-388.187 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections related to county school district act, consolidated district, treasurer, budget, allocation, and county share report.

Act 44, 1937, p. 57; Imd. Eff. May 13.

AN ACT to authorize county boards of supervisors in certain counties to grant or to loan money to primary school districts within the county and to all other school districts within the county not employing a superintendent of schools and to accept notes therefor in anticipation of current or delinquent taxes, to terminate the restriction of such loans by any state authority, and to provide for the power of establishing terms and procedures in such cases.

The People of the State of Michigan enact:

388.191 Loans to county school districts by board of supervisors.

Sec. 1. The board of supervisors of any county organized as a county school district under the provisions of Act No. 117 of the Public Acts of 1935 shall have the power to grant or to loan money to any primary school district within the county and to all other school districts within the county not employing a superintendent of schools, to be used for improving health, sanitary, and safety conditions of such schools and for the construction of school buildings or additions to school buildings, and to accept notes therefor in anticipation of current or delinquent taxes: Provided, That such grants or loans may be made without the approval of the state loan board, the public debt commission, or any other state authority: Provided further, That such grant or loan may be made irrespective of the amount of tax delinquency in the school district receiving the grant or loan, as provided in Act No. 28 of the Public Acts of the first extra session of 1932.

HISTORY: CL 1948, 388.191.

NOTE: Act 117, 1935, above referred to, is Compilers' § 388.171 et seq. Act 28, 1932, 1st Ex. Ses., above referred to, has been repealed and superseded by Act 202, 1943. See Compilers' § 131.1 et seq.

388.192 Loans to county school districts; funding; authority of county board of auditors and county board of education.

Sec. 2. Grants or loans to school districts under the provisions of this act may be made by the county board of supervisors, by creating a fund for these purposes. This fund shall be under the control of the board of county auditors in counties having such board, otherwise under the control of the county board of supervisors, and loaned or granted to certain school districts upon the recommendation of the county board of education: Provided, That the conditions of all grants or loans shall be in accordance with the terms and procedures as determined by the county board of supervisors.

HISTORY: CL 1948, 388.192.

388.201-388.220. Expired June 30, 1970.

Sections (Secs. 1-20, Act 32, 1968, p. 59, Imd. Eff. May 17) provided for emergency financial assistance for insolvent school districts. Sections expired June 30, 1970 by the terms of the act (388.220). But section 388.218 provided that the state committee on reorganization of school districts "shall continue in existence for purposes of this act, notwithstanding any expiration date otherwise provided by law."

388.221 Repealed. 1949, p. 245, Act 217, Eff. Nov. 7.

Section authorized county commissioner of schools to appoint deputy commissioner of schools and supervisors of education and to prescribe their duties, and provided for their salaries.

388.231, 388.232 Repealed. 1949, p. 245, Act 217, Eff. Nov. 7.

Sections authorized county commissioner of schools in counties of 500,000 or over to recommend teachers for several school districts of county employing less than 6 teachers; to appoint deputy commissioner; to appoint 1 or more supervisors and other assistants; to prescribe their duties, and authorized county board of supervisors to fix their salaries.

388.242-388.251 Repealed. 1949, p. 245, Act 217, Eff. Nov. 7.

Sections provided for election of county commissioner of schools, appointment of assistants, defined duties and fixed compensation for same.

388.301-388.303 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections authorized certain school districts to adopt, by referendum, provisions of township school district organization law.

388.311 Repealed. 1956, p. 39, Act 33, Eff. Aug. 11.

Section constituted township school building program act.

Act 238, 1939, p. 446; Eff. Sep. 29.

AN ACT to authorize the use of surplus moneys in the contingent fund of townships for school purposes in certain cases.

The People of the State of Michigan enact:

388.321 Township contingent fund; surplus moneys, use for school lunches, retiring indebtedness; election; petition.

Sec. 1. In any township, the electors of such township by majority vote at the general township election or at a special township election are hereby authorized to vote any surplus moneys in the contingent fund, after all township obligations have been provided for, to the several school districts, on the basis of the last school census, for use by such districts in furnishing lunches to pupils, in retiring outstanding indebtedness of the districts, in paying tuition for resident pupils to high school in case there is no high school in any of the districts or in the construction and equipment of school buildings: Provided, That the township board shall present the question at a special election when a petition signed by not less than 10% of the registered and qualified electors of the township is filed with the township board or shall present the question at the general township election upon receipt of such petition filed with the township board at a date not less than 60 days before the general township election.

HISTORY: Am. 1947, p. 636, Act 338, Imd. Eff. Jul. 3;—CL 1948, 388.321;—Am. 1949, p. 232, Act 210, Eff. Sep. 23.

388.322 Township contingent fund; vote at election; ballots; transfer of moneys.

Sec. 2. In the case of the filing of the petition provided for in section 1 of this act, the township clerk shall cause separate ballots to be printed submitting the special question, and in case a majority of the electors of the township voting thereon at such election shall vote in favor thereof, the township treasurer is hereby authorized to transmit to the treasurer of the school districts the surplus moneys in the contingent fund voted by the electors of the township to be transferred to the school districts.

HISTORY: Am. 1947, p. 636, Act 338, Imd. Eff. July 3;—CL 1948, 388.322.

388.351 Rural school houses; selection of name.

Sec. 1. Within 30 days from the effective date of this act the board of each school district may select a name for each school house in such district which is located outside of an incorporated city or village, which name, except as hereinafter provided, shall be the official name of such school.

HISTORY: CL 1948, 388.351.

Act 81, 1931, p. 129; Eff. Sep. 18.

AN ACT to provide for the selection of a name for rural school houses and the maintenance of mail boxes therefor.

The People of the State of Michigan enact:

388.352 Rural school houses; certification of selection of name; method.

Sec. 2. Within the time above limited the board shall certify to the school commissioner of such county the name so selected. In the event that the same name shall have been selected for 2 or more schools, the same shall be the official name of the school, the board of which first certifies its selection, unless the commissioner finds that another school for which the same name has been selected has been known by such name for a long period, in which case it shall be the official name of the latter school. In the event of the certification of a name which, for the reasons above stated, is not the official name of such school, the commissioner shall forthwith, following the expiration of such period, notify the director or secretary of said board to that effect and said board shall within 15 days following such notification select another name and certify the same to the commissioner. Said process shall be followed until each school house has an official name. Such name may be changed in the same manner at any time by majority vote of the board. In the event the board fails to certify a name within the time limited in this section the commissioner shall select the name. Names for schools hereafter established shall be selected in the above manner before such school is opened.

HISTORY: CL 1948, 388.352.

388.353 Rural school mail boxes; maintenance, notice to postmaster.

Sec. 3. Within 15 days following such certification by the commissioner, the board may provide a mail box for each school and maintain the same thereafter. The board shall forthwith notify the postmaster of the appropriate postoffice of the adoption of such name.

HISTORY: Am. 1933, p. 352, Act 223, Eff. Oct. 17;—CL 1948, 388.353.

Act 205, 1931, p. 356; Eff. Sep. 18.

AN ACT to require the teaching of civics and political science in high schools, county normals and colleges, to prohibit the granting of diplomas, and degrees to students not successfully completing said courses, and to provide penalties for the violation thereof.

The People of the State of Michigan enact:

388.371 Civics course in high school; prerequisite to diploma; exemption for military service.

Sec. 1. In all Michigan high schools, offering 12 grades of work, a 1 semester course of study of 5 recitation periods per week or the equivalent thereof shall be given in civics, said course covering the form and functions of our federal and state governments and of county, city, township and village governments. Throughout the course the rights and responsibilities of citizens shall be stressed. No diploma shall be issued by any high school to any student unless such student shall have successfully com-

pleted said course: Provided, That such civics course shall not be a graduation requirement for any high school student who has enlisted or been inducted into military service.

HISTORY: Am. 1945, p. 276, Act 203, Imd. Eff. May 17;—CL 1948, 388.371;—Am. 1951, p. 334, Act 224, Eff. Sep. 28;—Am. 1957, p. 32, Act 27, Eff. Sep. 27.

388.372 Civics, political science, government or public administration courses; prerequisite for diploma or degree.

Sec. 2. In all county normal schools a course of 4 term hours shall be given in civics, and in all colleges receiving public money, courses of not less than 3 semester hours, or equivalent, shall be given in political science, or in government and public administration, covering the form and functions of our federal and state governments, and of counties, cities and villages. Throughout said course the rights and responsibilities of citizenship shall be stressed. No baccalaureate degree or diploma shall be granted after June 30, 1958, to any student of such normal school or college unless such student shall have successfully completed said courses.

HISTORY: Am. 1945, p. 276, Act 203, Imd. Eff. May 17;—CL 1948, 388.372;—Am. 1954, p. 131, Act 106, Eff. Aug. 13;—Am. 1957, p. 289, Act 229, Eff. Sep. 27.

388.373 Violation of act; misdemeanor.

Sec. 3. The recommending for graduation by any principal or school superintendent of a student who has not complied with the provisions of this act, shall be deemed a misdemeanor.

HISTORY: CL 1948, 388.373.

Act 226, 1969, p. 420; Eff. Mar. 20, 1970.

AN ACT to create a critical health problems education program in the state department of education; and to define the powers and duties of the department.

The People of the State of Michigan enact:

388.381 Critical health problems education act; short title.

Sec. 1. This act may be cited as the "critical health problems education act".

HISTORY: New 1969, p. 420, Act 226, Eff. Mar. 20, 1970.

388.382 Critical health problems education act; definitions.

Sec. 2. As used in this act:

(a) "Critical health problems education program" means a systematic and integrated program designed to provide appropriate learning experiences based on scientific knowledge of the human organism as it functions within its environment and designed to favorably influence the health, understanding, attitudes and practices of the individual child which will enable him to adapt to changing health problems of our society. The program shall be designed to educate youth with regard to critical health problems and shall include, but not be limited to, the following topics as the basis for comprehensive education curricula in all elementary and secondary schools: drugs, narcotics, alcohol, tobacco, mental health, dental health, vision care, nutrition, disease prevention and control, accident prevention and related health and safety topics.

(b) "Superintendent" means the superintendent of public instruction of the state department of education.

HISTORY: New 1969, p. 420, Act 226, Eff. Mar. 20, 1970.

388.383 Education program; creation, promotion, scope.

Sec. 3. A critical health problems education program is created in the state department of education. The superintendent is authorized to promote, support and conduct

programs to carry out the purposes of this act. These programs shall include, but not be limited to:

- (a) Establishing guidelines to help local school districts develop comprehensive health education programs.
- (b) Establishing special inservice programs to provide professional preparation in health education for teachers throughout the state.
- (c) Providing leadership for institutions of higher education to develop and extend curricula in health education for professional preparation in both inservice and preservice programs.
- (d) Developing cooperative programs between school districts and institutions of higher education whereby the appropriate health personnel of such institutions would be available to guide the continuing professional preparation of teachers and the development of curricula for local programs.
- (e) Adding to the staff of the department of education competent specialists in the field of school health education to work with local school districts in the development of curricula and the preparation of teachers in health education.
- (f) Employing, on a contractual basis, authorities in health education to provide assistance to the department of education in its inservice programs for teachers.
- (g) Assisting in the development of plans and procedures for the evaluation of health education curricula and determining that a program of comprehensive health education is being carried out which meets the needs of the children and youth within the local school district.

HISTORY: New 1969, p. 421, Act 226, Eff. Mar. 20, 1970.

388.384 Advisory committee; appointment, purpose; federal agencies; federal funds.

Sec. 4. (1) The department of education may appoint an advisory committee from universities and colleges, the various fields of education, the voluntary health agencies, the department of public health, the department of mental health, the professional health associations and other groups or agencies it deems appropriate to advise it on the implementation of this act, including teachers, administrators and local boards of education.

(2) The department of education shall cooperate with agencies of the federal government and receive and use federal funds for the purposes of this act.

HISTORY: New 1969, p. 421, Act 226, Eff. Mar. 20, 1970.

388.385 Rules; promulgation, effective date.

Sec. 5. The department of education shall promulgate, prior to the effective date of this act, rules to implement this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, but such rules shall not become effective until approved by concurrent resolution of the legislature.

HISTORY: New 1969, p. 421, Act 226, Eff. Mar. 20, 1970.

Act 242, 1970, p. 655; Imd. Eff. Dec. 30.

AN ACT to provide for the education of pregnant students.

The People of the State of Michigan enact:

388.391 Pregnancy not grounds for expulsion.

Sec. 1. A person, who has not completed high school, may not be expelled or excluded from a public school because of being pregnant.

HISTORY: New 1970, p. 655, Act 242, Imd. Eff. Dec. 30.

388.392 Voluntary withdrawal; rules.

Sec. 2. A pregnant person who is under the compulsory school age may withdraw from a regular public school program in accordance with rules promulgated by the state board of education.

HISTORY: New 1970, p. 655, Act 242, Imd. Eff. Dec. 30.

388.393 Alternative educational programs; contracts; reimbursement.

Sec. 3. A local school district may develop and provide an accredited alternative educational program for persons who are pregnant and voluntarily withdraw from the regular public school program or a local school district may contract with the nearest intermediate school district offering an educational program required by this act. A local school district shall be reimbursed for these programs in accordance with section 12 of Act No. 312 of the Public Acts of 1957, as amended, being sections 388.622 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 655, Act 242, Imd. Eff. Dec. 30.

388.394 State board of education, regulatory powers.

Sec. 4. The state board of education shall promulgate rules to implement this act in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 655, Act 242, Imd. Eff. Dec. 30.

Act 23, 1935, p. 34; Imd. Eff. Apr. 19.

AN ACT to require all teachers, instructors and professors in educational institutions, junior colleges, colleges and universities to take and subscribe an oath or affirmation to support the constitution of the United States and the constitution of the state of Michigan, to provide the manner for the taking of such oath or affirmation, and to repeal all acts or parts of acts in conflict with the provisions of this act. Am. 1939, p. 96, Act 55, Eff. Sep. 29.

The People of the State of Michigan enact:

388.401 Oath of college faculty members; filing.

Sec. 1. From and after September 1, 1935, it shall be unlawful for any citizen of the United States to serve as a teacher, instructor or professor in any state educational institution or any educational institution supported in whole or in part by public funds, or in any junior college, college or university of this state or any junior college, college or university whose property, or any part thereof, is exempt from taxation unless and until he or she shall have taken and subscribed the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the state of Michigan, and that I will faithfully discharge the duties of my position, according to the best of my ability."

The oath required by this section shall be notarized and transmitted to the superintendent of public instruction, who shall file it in his office, where it shall be subject to public inspection. It shall be unlawful for an officer, person or board having control of the employment, dismissal or suspension of teachers, instructors or professors in any

such educational institution, junior college, college or university to permit a person to serve in any such capacity therein in violation of the provisions of this section. This section shall not be construed to require a person to take such oath more than once during the time he or she is employed in the educational institutions in this state, though there be a change in the title or duties of the position: Provided, however, That this requirement shall not be construed as prohibiting such officer, person or board from employing for limited periods instructors or lecturers who are citizens of foreign countries.

HISTORY: Am. 1939, p. 96, Act 55, Eff. Sept. 29;—CL 1948, 388.401.

388.402 Unlawful employment; penalties.

Sec. 2. Any educational institution, junior college, college or university which shall employ any such person in violation of the terms of this act shall, during the continuance of such unlawful employment

(a) If such be an institution supported wholly or in part by state funds, not receive any state moneys for any purpose whatsoever.

(b) If such institution be a private, charitable and/or denominational college or university whose property, or any part thereof, is exempt from taxation, immediately forfeit all right to such tax exemption.

HISTORY: Am. 1939, p. 97, Act 55, Eff. Sept. 29;—CL 1948, 388.402.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 145, 1943, p. 186; Eff. Jul. 30.

AN ACT to provide for the reemployment by school districts of teachers who are honorably discharged from military service.

The People of the State of Michigan enact:

388.421 Reemployment of school teachers honorably discharged from military service.

Sec. 1. Any teacher who has left or leaves a teaching position, other than a temporary teaching position, in any school district in Michigan in order to serve in any branch of the armed services of the United States and who upon termination of such services (1) receives an honorable discharge from the armed forces; (2) is still qualified and competent to perform the duties of such teaching position; and (3) makes application to said school district for reemployment within 90 days after he is relieved from such military service shall be restored at the beginning of the semester or term following the application to such teaching position or to a position of like nature, seniority, status, and pay unless circumstances have so changed as to make it impossible or unreasonable to do so.

HISTORY: CL 1948, 388.421.

388.422 Restoration without loss of status or seniority; benefits.

Sec. 2. Any teacher who is restored to a position in accordance with the provisions of this act shall be considered as having been on leave of absence during his period of training and service in the military forces of the United States, shall be restored without loss of status or seniority, shall be entitled to participate in any benefits under the established rules and regulations of the school district and shall not be discharged from such position without cause within 1 year after such restoration.

HISTORY: CL 1948, 388.422.

388.451-388.455 Repealed. 1958, p. 158, Act 145, Eff. Sep. 13.

Sections provided program to prevent and treat behavior problems of children.

388.501-388.504 Repealed. 1966, p. 63, Act 39, Eff. Mar. 10, 1967.

Sections provided for experimental program of adult education.

Act 18, 1946 (1st Ex. Ses.), p. 40; Imd. Eff. Feb. 25.

AN ACT to authorize counties to provide a program of adult education; to provide personnel and equipment; to require approval of the superintendent of public instruction; and to authorize county appropriations therefor.

The People of the State of Michigan enact:

388.531 Program of adult education by counties.

Sec. 1. The county board of supervisors, through the office of the county commissioner of schools, may establish a program of adult education and may employ the necessary teachers and other personnel, and may purchase such equipment and instructional supplies as shall be required to provide an adequate program for the education of adults residing within the county: Provided, That the board of supervisors of any county proposing to establish such a program shall first furnish evidence concerning local or county needs for adult education satisfactory to the superintendent of public instruction.

HISTORY: CL 1948, 388.531.

388.532 Instructors; training, approval.

Sec. 2. All persons appointed as instructors or employed in any other capacity in the program established under this act shall have special training for such work. The proposed program and the qualifications of the personnel shall be approved by the superintendent of public instruction upon the basis of such reports and other information as he shall require.

HISTORY: CL 1948, 388.532.

388.533 Budget.

Sec. 3. Any county board of supervisors operating a program under this act shall include in its annual budget a sufficient sum to operate the program.

HISTORY: CL 1948, 388.533.

Act 302, 1921, p. 560; Eff. Aug. 18.

AN ACT to provide for the supervision of private, denominational and parochial schools; to provide the manner of securing funds in payment of the expense of such supervision; to provide the qualifications of the teachers in such schools; and to provide for the endorsement of the provisions hereof.

The People of the State of Michigan enact:

388.551 Private, denominational and parochial schools; supervision by superintendent of public instruction; assistants, compensation, removal; intent of act.

Sec. 1. The superintendent of public instruction is hereby given supervision of all the private, denominational and parochial schools of this state in such matters and manner as is hereinafter provided. He shall employ such assistants and employees as may be necessary to comply with the provisions hereof and fix the compensation thereof; the number of assistants and employees and the compensation payable thereto

being subject to the approval of the state administrative board. Such salaries and expenses shall be paid by the treasurer of the state of Michigan upon the warrant of the auditor general from the fund as herein designated, at such time and in such manner as other state officers and employes are paid. The superintendent of public instruction shall have the authority to remove any appointee under this act at any time that he may deem such removal advisable. It is the intent of this act that the sanitary conditions of such schools, the courses of study therein, and the qualifications of the teachers thereof shall be of the same standard as provided by the general school laws of the state.

HISTORY: CL 1929, 8151;—CL 1948, 388.551.

CITED IN OTHER SECTIONS: Sections 388.551 to 388.558 are cited in § 340.590a.

388.552 Private, denominational or parochial schools; definition.

Sec. 2. A private, denominational or parochial school within the meaning of this act shall be any school other than a public school giving instruction to children below the age of 16 years, in the first 8 grades as provided for the public schools of the state, such school not being under the exclusive supervision and control of the officials having charge of the public schools of the state.

HISTORY: CL 1929, 8152;—CL 1948, 388.552.

388.553 Private, denominational and parochial schools; teachers, qualifications, examinations.

Sec. 3. No person shall teach or give instruction in any of the regular or elementary grade studies in any private, denominational or parochial school within this state who does not hold a certificate such as would qualify him or her to teach in like grades of the public schools of the state: Provided, however, That any person who shall have taught in any elementary school or schools of the standard specified in this act for a period of 10 years or more preceding the passage of this act, shall, upon filing proof of service with the superintendent of public instruction, be entitled to a certificate by said superintendent of public instruction in such form as he shall prescribe, to teach in any of the said schools within the state: Provided further, That teaching in such schools shall be equivalent to teaching in the public schools for all purposes in obtaining a certificate: Provided further, That the teachers affected by this act may take any examination as now provided by law and that the superintendent of public instruction may direct such other examinations at such time and place as he may see fit. In all such examinations 2 sets of questions shall be prepared in subjects ordinarily written on Saturday, 1 of which sets shall be available for use on Wednesday by applicants who observe Saturday as their Sabbath: Provided further, That any certificate issued under or by virtue of this act shall be valid in any county in this state for the purpose of teaching in the schools operated under this act: Provided further, That any person holding a certificate issued by the authorities of any recognized or accredited normal school, college or university of this or other state shall be entitled to certification as now provided by law: Provided, however, That teachers employed in such private, denominational or parochial schools when this act takes effect shall have until September first, 1925, to obtain a legal certificate as herein provided.

HISTORY: CL 1929, 8153;—CL 1948, 388.553.

388.554 Violation of act; hearing, closing of school, compulsory attendance.

Sec. 4. In event of any violation of this act the superintendent of public instruction shall serve the person, persons, corporation, association or other agencies who operate, maintain and conduct a private, denominational or parochial school within the meaning of this act with a notice, time and place of hearing, such hearing to take place within 15 days after the date of said notice and at a place located in or conveniently

near the county where such violation took place, accompanied by a copy of the complaint stating the substance of said violation: Provided, That no person shall be called to attend any such hearing on any day observed by him as the Sabbath. If at such hearing the superintendent of public instruction shall find that the violation complained of has been established he shall then serve said person, persons, corporation, association or other agencies with an order to comply with the requirements of this act found to have been violated within a reasonable time not to exceed 60 days from the date of such order: Provided, That in the event that such order refers to sanitary conditions that the said person, persons, corporation, association or other agencies shall have 6 months in which to remedy the defect. If the order of the superintendent of public instruction as specified in said notice shall not have been obeyed within the time specified herein said superintendent of public instruction may close said school and prohibit the said person, persons, corporation, association or other agencies operating or maintaining such private, denominational or parochial school from maintaining said school or from exercising any of the functions hereunder until said order of the superintendent of public instruction has been complied with. The children attending a private, denominational or parochial school refusing to comply with the requirements hereof after proceedings herein set forth shall be compelled to attend the public schools or approved private, denominational or parochial school under the provisions of the compulsory education act, the same being Act No. 200 of the Public Acts of 1905, as amended. And it shall be the duty of the person or persons having charge of the enforcement of the said compulsory education act, upon notice from the superintendent of public instruction that said private, denominational or parochial school has not complied with the provisions hereof, to compel the attendance of the children of said school or schools at the public schools or approved private, denominational or parochial school.

HISTORY: CL 1929, 8154;—CL 1948, 388.554.

NOTE: Act 200 of 1905, above referred to, was repealed by Act 319 of 1927, see CL 1929, 7697. For present law on compulsory education, see Compilers' § 340.731 et seq.

388.555 School investigation and examination; failure to permit, cause for suspension.

Sec. 5. The superintendent of public instruction by himself, his assistants, or any duly authorized agent, shall have authority at any time to investigate and examine into the conditions of any school operating under this act as to the matters hereinbefore set forth and it shall be the duty of such school to admit such superintendent, his assistants or authorized agents and to submit for examination its sanitary condition, the records of enrollment of pupils, its courses of studies as set forth in section 1 of this act and the qualifications of its teachers. Any refusal to comply with provisions herein on the part of such school or teacher shall be considered sufficient cause to suspend the operation of said school after proceedings taken as stated in section 4 of this act.

HISTORY: CL 1929, 8155;—CL 1948, 388.555.

Sec. 6. (This was an appropriation and tax clause section.)

HISTORY: CL 1929, 8156;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

388.557 Construction of act.

Sec. 7. Nothing in this act contained shall be construed so as to permit any parochial, denominational, or private school to participate in the distribution of the primary school fund.

HISTORY: CL 1929, 8157;—CL 1948, 388.557.

388.558 Schools for handicapped children; standards of instruction.

Sec. 8. Any private, denominational or parochial school which maintains classes for the instruction of children below the age of 16 years who are physically or mentally handicapped or who are socially maladjusted shall be required to meet the standards

prescribed for instruction of handicapped children in the public schools under the provisions of section 2 of chapter 19 of part 2 of Act No. 319 of the Public Acts of 1927, as amended, in addition to standards required of private, denominational and parochial schools under sections 1 and 3 of this act.

HISTORY: Add. 1943, p. 180, Act 140, Eff. July 30;—CL 1948, 388.558.

NOTE: Sec. 2, ch. 19, pt. 2, Act 319, 1927, above referred to, is Compilers' repealed § 369.2. See § 340.772.

388.561-388.602 Repealed. 1957, p. 614, Act 312, Eff. Jul. 1.

Sections made provisions for school aid.

Act 312, 1957, p. 601; Imd. Eff. Jul. 11.

AN ACT to make appropriations for the purpose of aiding the public schools, the intermediate school districts and the secular education of children enrolled in nonpublic schools; to provide for the disbursement of the appropriations; and to supplement the school aid fund by the levy and collection of certain excise taxes. Am. 1970, p. 331, Act 100, Imd. Eff. Jul. 20.

The People of the State of Michigan enact:

CHAPTER 1

PUBLIC SCHOOLS

388.611 School aid appropriation; deficiency.

Sec. 1. There is hereby appropriated from the school aid fund established by section 11 of article 9 of the constitution of the state for the fiscal year ending June 30, 1965, and for each fiscal year thereafter, the sum necessary to fulfill the requirements of this act, with any deficiency to be appropriated from the general fund by the legislature.

HISTORY: New 1957, p. 601, Act 312, Imd. Eff. Jul. 1;—Am. 1958, p. 19, Act 22, Eff. Jul. 1;—Am. 1959, p. 425, Act 267, Imd. Eff. Sep. 18;—Am. 1964, p. 556, Act 285, Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 388.611 to 388.652 are cited in §§ 388.672 and 390.1054.

388.612 School aid appropriation to intermediate school districts.

Sec. 2. From the total amount appropriated in section 1 there is appropriated to intermediate school districts as established under sections 291a to 328a of the school code of 1955, the sum necessary but not to exceed \$4,500,000.00 to provide state aid to such districts under the provisions of section 16a.

HISTORY: New 1957, p. 602, Act 312, Eff. Jul. 1;—Am. 1962, p. 471, Act 221, Imd. Eff. Jun. 27;—Am. 1964, p. 556, Act 285, Eff. Jul. 1;—Am. 1965, p. 343, Act 199, Imd. Eff. Jul. 16;—Am. 1966, p. 385, Act 271, Imd. Eff. Jul. 12;—Am. 1968, p. 40, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 43, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 332, Act 100, Imd. Eff. Jul. 20.

388.613 Appropriation for deprived children programs; amount; criteria, educational assessment; assignment of points; eligibility for funding; reimbursement; in-service training; evaluation.

Sec. 3. (1) From the amount appropriated in section 1, there is appropriated \$17,500,000.00 to carry out the provisions of this section, not less than 5% of which shall be allocated to rural schools as defined by the department for educational assessment purposes.

(2) The state board of education shall use the following criteria in determining the degree of cultural, economic and educational deprivation of children living within attendance areas of individual schools within a school district. Terms used in these criteria shall be defined by the state board of education.

(a) Criterion—There is enrolled a high percentage of students with socio-economic deprivation

Percent of SED Score	Points Allowable
1-3	10
4-6	9
7-9	8
10-12	7
13-15	6
16-18	5
19-21	4
22-24	3
25-27	2
28-30	1

(b) Criterion—There is enrolled a high percentage of students with low achievement levels

Percentile	Points Allowable
1	25
2	24
3	23
4	22
5	21
10	16
15	11
20	6
25	1

Percentile ratings between 1 and 25 not listed shall be allowed proportionate points.

By January 30 of every year the department of education shall conduct an educational assessment in grade 4 of regular public elementary schools. The department of education shall report to the school districts statewide composite percentile rank scores for each such school in a school district. All pupils assigned to and receiving instruction in special schools or classes for the handicapped shall not be included in the educational assessment for purposes of determining which schools shall be eligible for additional funds under this section or for purposes of actually receiving funds under this section.

In the case of schools offering only grades K-3, the determination for assigning points shall be made on the basis of the receiving school housing grade 4 if at least 70% of the pupils enrolled in the K-3 school normally attend the receiving school.

(3) Points for each of the criteria shall be added together for each school. School districts having schools which receive at least 13 points under criterion (b) or a total of 18 points under criteria (a) and (b) shall be eligible for funding. Any school funded during 1969-70 shall be funded at the rate of \$100.00 per student for grades funded in 1969-70 regardless of such school's point score in 1970-71. Eligible schools with the highest number of points shall be funded in descending order at the rate of \$170.00 per student in grades K-6. When funds are insufficient to fully fund all eligible schools with the same point scores, the available amount shall be prorated on the basis of enrollments among the schools having the same point score. Any school funded under this section shall not be funded for remedial reading programs under section 12.

(4) For a school to be eligible for assistance under this section, a school district shall verify that its anticipated expenditure of this section funds in the applicant school is in addition to the per-pupil expenditure for elementary instruction from state and local sources other than this section and section 12 for the previous year for the applicant school.

(5) School districts receiving moneys as a result of subsection (3) shall demonstrate to the state board of education that such moneys will be used for improving pupil

achievement through a reduction of pupil-adult classroom ratios in schools identified under subsection (3) and through the purchase of instructional, technological and curriculum materials.

(6) The state shall reimburse 75% of direct salary costs of paraprofessional personnel to be used as home-community coordinators, attendance aides, tutors and others in schools qualifying under this section.

(7) Schools participating in this program under this section shall maintain an in-service training program to achieve higher qualifications for the assignment and may finance such in-service training programs.

(8) Not more than 0.5% of a school's total allocation under this section shall be deducted and retained by the department of education for the purpose of its evaluating the programs conducted under this section. The state board of education shall report to the governor and the legislature not later than October 1 of each year the results of the evaluation studies including a report on exemplary programs which promote academic achievement.

(9) The department of education shall approve programs within the funds provided herein. All appropriations under this section are to cover a full year, September 1 through August 31, operation and include summer school programs.

(10) School districts having schools that received aid under this section in 1969-70 for grades K-8 shall be funded for grades K-8 for those schools if the schools are otherwise eligible under the provisions of subsections (2) and (3). If a K-8 school has no grade 4, the determination for assigning points shall be made on a similar basis to that used in subsections (2) and (3).

HISTORY: Add. 1968, p. 40, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 43, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 7, Act 1, Imd. Eff. Feb. 10;—Am. 1970, p. 332, Act 100, Imd. Eff. Jul. 20;—Am. 1970, p. 677, Act 252, Imd. Eff. Dec. 31.

Former section 388.613 (Sec. 3, Act 312, 1957, p. 602, Eff. July 1) was repealed by P.A. 1966, No. 271, p. 394, Imd. Eff. July 12. It provided an appropriation for vocational education.

388.613a Repealed. 1964, p. 567, Act 285, Eff. Jul. 1.

Section made appropriation to public school employees' retirement system.

388.614 Appropriation for conceptually-oriented mathematics program; amount; rules; demonstration projects, dissemination of results.

Sec. 4. (1) From the amount appropriated in section 1 there is appropriated to the department of education the sum of \$350,000.00 to establish and supervise, with or without contractual arrangements, a statewide program of abstract conceptually-oriented mathematics utilizing the discovery method to improve the basic skills of educationally needy children attending elementary schools.

(2) The department of education, pursuant to rules promulgated by the state board of education, shall establish and supervise such a program. The rules shall:

(a) Determine the number and education, training and experience background of mathematics specialists providing the actual teaching of abstract conceptually-oriented mathematics and fix the number of class sessions per week that the mathematics specialists shall teach.

(b) Provide for the mathematics specialists to participate in consulting and in-service training of the local school teacher staff.

(c) Provide for approval by the local school district superintendent, following consultation with the principal of the local school in which specialist teaching will take place, before the department of education carries on any program in a public school in the school district.

(d) Prescribe requirements for the teaching mathematics specialist which may be different from those requirements normally demanded of teachers under the teacher certification code.

(e) Include any other provisions necessary to carry out the intent of this program.

(3) Upon completion of demonstration projects, results and techniques shall be disseminated to school districts by the department of education for possible assimilation in the public school program.

HISTORY: Add. 1965, p. 343, Act 199, Imd. Eff. Jul. 16;—Am. 1966, p. 385, Act 271, Imd. Eff. Jul. 12;—Am. 1968, p. 41, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 44, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 333, Act 100, Imd. Eff. Jul. 20.

388.615 Vocational training; work-study programs; contracts; rules.

Sec. 5. (1) From the amount appropriated in section 1 there is appropriated the sum of \$750,000.00 to aid districts in the establishment of skills training in summer months, vocational counseling, guidance and placement services in area vocational centers, mobile counseling units and inservice training programs for vocational teachers. The definition of what constitutes such programs and students shall be according to rules promulgated by the state department of education. Districts participating under this section shall file applications in the form prescribed by the department of education.

(2) From the amount appropriated in section 1 there is appropriated the sum of \$1,000,000.00 to aid school districts operating work-study programs for students. The definition of what constitutes such programs shall be in accordance with rules promulgated by the state department of education. Districts participating in this program shall file applications in the form prescribed by the department of education.

(3) From the amount appropriated in section 1 there is appropriated \$1,350,000.00 to enable school districts to enter into contractual arrangements with business and industrial firms to provide secondary vocational education programs. The definition of what constitutes such programs shall be according to rules promulgated by the state department of education. Districts participating under this subsection shall file applications in the form and content prescribed by the department of education. Documented evaluation of all funded programs shall be required by the department of education.

(4) From the total amount appropriated in section 1 there is appropriated the sum of \$12,500,000.00 to reimburse school districts and area vocational centers for vocational education programs on an added cost basis. The definition of what constitutes such programs and reimbursement shall be in accordance with rules promulgated by the state department of education. Applications for participation in such programs shall be filed in the form prescribed by the department of education.

(5) This section shall take effect July 1, 1971.

HISTORY: Add. 1970, p. 334, Act 100, Imd. Eff. Jul. 20, 1971.

388.616 Repealed. 1968, p. 49, Act 21, Imd. Eff. Apr. 30.

Section related to school aid to districts experiencing financial hardship.

388.617 School aid appropriation; distribution of balance.

Sec. 7. The balance remaining in the appropriation provided for in section 1 of this act shall be distributed to school districts as provided in sections 8 et seq. of this act.

HISTORY: New 1957, p. 602, Act 312, Imd. Eff. Jul. 1.

388.618 Repealed. 1968, p. 49, Act 21, Imd. Eff. Apr. 30.

Section related to school aid fund; apportionment; teachers for special education programs.

388.618a Basic allotments to school districts 1970-71; computation.

Sec. 8a. (1) To every district in the state, except as otherwise provided in this act, there shall be appropriated where required to meet the provisions of this act, a sum determined as provided in subsection (2) plus the amount allocated for tuition and transportation. No school district shall receive a smaller net allowance per membership pupil for 1970-71 than was received by the district in 1969-70. The apportionment of the school aid fund to the several school districts shall be governed and limited by the provisions of section 35. Whenever 2 or more districts are reorganized into

a single district, either through a procedure of annexation or consolidation, the amount of state aid to be received by such new district during the 2 years immediately subsequent to the annexation or consolidation shall not be less than the total sum of state aid which was received by all of the districts forming the new district during the last fiscal year in which the districts received aid as separate districts.

(2) The sum allocated to each school district shall be computed from the following table:

State equalized valuation behind each child	Gross Allowance	Deductible Millage
(a) \$15,500.00 or more	\$530.50	14
(b) Less than \$15,500.00	\$623.50	20

HISTORY: Add. 1966, p. 42, Act 24, Imd. Eff. Apr. 22;—Am. 1968, p. 42, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 45, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 334, Act 100, Imd. Eff. Jul. 20.

388.618b Basic allotments to school districts; formula; 1971-72; tax levy.

Sec. 8b. (1) Except as otherwise provided in this act, beginning with the 1971-72 school year there is appropriated to every school district where required to meet the provisions of this act a sum computed in the manner prescribed in this section plus the amount allocated for tuition and transportation.

(2) Each school district shall have a minimum deductible millage of 10 mills which shall be multiplied by the state equalized valuation behind each pupil in membership in the school district. This amount shall be deducted from \$420.00 which is the gross allowance per membership pupil in the school district. When valuation increases are placed on property the existing operational millages shall be decreased by the same percentage as the increase in valuations, provided, however, that the school board by its own resolution may continue the same levy.

(3) For each 1/10 mill levied by a school district beyond 10 mills up to and including 20 mills, there shall be allocated a sum equal to \$3.00 less the amount produced by each additional 1/10 mill levied by the school district multiplied by the state equalized valuation behind each pupil in membership in the school district.

(4) A school district which levies a personal income tax as provided by law shall receive from the educational tax fund an amount equal to \$15.00 per membership pupil for every 1/10 of 1% personal income tax levied.

(5) For the 1971-72 school year only, each school district which levies at least the amount of operational millage levied in 1970-71 or 20 mills for operational purposes shall receive a net allowance of at least \$5.00 per membership pupil more than it received during 1970-71. The apportionment of the school aid fund to the several school districts shall be governed and limited by the provisions of section 35. Whenever 2 or more districts are reorganized into a single district, either through a procedure of annexation or consolidation, the amount of state aid to be received by such new district during the 2 years immediately subsequent to the annexation or consolidation shall be not less than the total sum of state aid which was received by all of the districts forming the new district during the last fiscal year in which the districts received aid as separate districts.

(6) In 1971-72, a school district shall not receive more revenue per membership pu-

pil from this section and the local property tax levy than it received from section 8a and the local property tax levy in 1970-71 plus the increase authorized in this subsection which increase shall not exceed the per membership pupil revenue for the next higher grouping. Every school district shall reduce its operating tax levy to comply with the limitations on per pupil revenue prescribed in the following table:

Per Pupil Revenue 1970-71	Permitted Percent	Increase Dollars	Maximum Per Pupil Revenue 1971-72
\$900.00 or more	5 %	\$45.00	\$945.00
890.00 to 899.99	5.2%	46.28	936.28
880.00 to 889.99	5.4%	47.52	927.52
870.00 to 879.99	5.6%	48.72	918.72
860.00 to 869.99	5.8%	49.88	909.88
850.00 to 859.99	6 %	51.00	901.00
840.00 to 849.99	6.4%	53.76	893.76
830.00 to 839.99	6.8%	56.44	886.44
820.00 to 829.99	7.2%	59.04	879.04
810.00 to 819.99	7.6%	61.56	871.56
800.00 to 809.99	8 %	64.00	864.00
790.00 to 799.99	8.4%	66.36	856.38
780.00 to 789.99	8.8%	68.64	848.64
770.00 to 779.99	9.2%	70.84	840.84
760.00 to 769.99	9.6%	72.96	832.96
750.00 to 759.99	10 %	75.00	825.00
740.00 to 749.99	10.4%	76.96	816.96
730.00 to 739.99	10.8%	78.84	808.84
720.00 to 729.99	11.2%	80.64	800.64
710.00 to 719.99	11.6%	82.38	792.36
700.00 to 709.99	12 %	84.00	784.00
690.00 to 699.99	12.4%	85.56	775.56
680.00 to 689.99	12.8%	87.04	767.04
670.00 to 679.99	13.2%	88.44	758.44
660.00 to 669.99	13.6%	89.76	749.76
650.00 to 659.99	14 %	91.00	741.00
640.00 to 649.99	14.4%	92.16	732.16
630.00 to 639.99	14.8%	93.24	723.24
620.00 to 629.99	15.2%	94.24	714.24
610.00 to 619.99	15.6%	95.16	705.16
600.00 to 609.99	16 %	96.00	696.00
590.00 to 599.99	16.4%	96.76	686.76
580.00 to 589.99	16.8%	97.44	677.44
570.00 to 579.99	17.2%	98.04	668.04
560.00 to 569.99	17.6%	98.56	658.56
550.00 to 559.99	18 %	99.00	649.00
540.00 to 549.99	18.4%	99.36	639.36
530.00 to 539.99	18.8%	99.64	629.64
520.00 to 529.99	19.2%	99.84	619.84
510.00 to 519.99	19.6%	99.96	609.96
500.00 to 509.99	20 %	100.00	600.00

HISTORY: Add. 1970, p. 335, Act 100, Imd. Eff. Jul. 20.

388.619 Repealed. 1970, p. 346, Act 100, Imd. Eff. Jul. 20.

Section provided appropriation for special educational programs.

388.620 Tuition allotments; special programs.

Sec. 10. (a) Any district not maintaining school within the district may participate in the school aid fund under this subsection. The total amount which shall be apportioned to any such district shall be the sum which, when taken with a sum equal to 5.86 mills on the valuation of the property within the district, will make an amount sufficient to pay the tuition charged the district in excess of \$50.00 per pupil but less than \$81.00 per pupil and all over \$150.00 per pupil of the minimum rate which must be charged in accordance with subsection (c) of section 13, plus any sum which such school district shall be apportioned under other sections of this act. Districts sending pupils to other states shall be allowed an amount sufficient to pay the tuition charged the district in excess of \$50.00 per pupil but less than \$275.00 per pupil and all over \$300.00 based on tuition rates computed in accordance with section 14.

(b) Additional allotments for tuition shall be made to school districts maintaining school in part only, according to law, and to school districts having high school pupils attending school in another district in amounts sufficient to pay the tuition charged the district in excess of \$50.00 per pupil but less than \$81.00 per pupil and all over \$150.00 per pupil of the minimum rate which must be charged in accordance with subsection (c) of section 13. If at any time part of a school district has been annexed to another district and the part remaining unannexed shall be without school facilities by reason thereof, the tuition allotments shall not exceed \$50.00 for each elementary tuition pupil or \$275.00 for each high school tuition pupil. Districts sending pupils to other states shall be allowed an amount sufficient to pay the tuition charged the districts in excess of \$50.00 per pupil but less than \$275.00 per pupil and all over \$300.00 based on tuition rates computed in accordance with section 14.

(c) Any district paying tuition for pupils being educated under the provisions of sections 771, 772, 773, 774, 778, 779 and 780 of the school code of 1955 shall be allowed an amount sufficient to pay the tuition charged the district in excess of \$50.00 per pupil but less than \$81.00 per pupil and all over \$150.00 per pupil plus any sums which such district shall be apportioned under other sections of the act. No allowances for such pupils shall be given under subsections (a) and (b).

(d) Any district paying tuition for pupils being educated under the provisions of sections 775 to 778 of the school code of 1955 shall be allowed an amount sufficient to pay the tuition not exceeding the amounts allowed for tuition under subsections (a) and (b), plus any sums which such district shall be apportioned under other sections of this act. No allowances for such pupils shall be given under subsections (a) and (b).

(e) Any district operating summer school programs for the physically handicapped and/or speech defectives, emotionally disturbed and mentally handicapped as approved by the superintendent of public instruction shall be allowed up to 75% of the actual cost of the programs as determined by the superintendent of public instruction.

(f) Any district having American Indian children in attendance, who reside within the district and upon a United States government Indian reservation, shall be allowed in addition to the allowances provided by the other sections of this act an amount equal to the number of such children in attendance times 1/2 the tuition rate as computed in accordance with sections 13a and 14 and in accordance with section 582 of the school code of 1955. No district receiving federal assistance under Public Law 874, 81st Congress, as amended, shall share in the provisions of this subsection.

(g) No allowance for tuition shall be made to districts levying less than 16 mills for operating purposes. Not more than \$150,000.00 shall be used from the school aid fund for the payment of tuition, except that this limitation shall not apply to tuition reimbursement to sending school districts for children enrolled in approved special education classes in other districts.

HISTORY: New 1957, p. 603, Act 312, Imd. Eff. Jul. 1;—Am. 1959, p. 426, Act 267, Imd. Eff. Sep. 18;—Am. 1962, p. 472, Act 221, Imd. Eff. Jun. 27;—Am. 1964, p. 557, Act 285, Eff. Jul. 1;—Am. 1965, p. 344, Act 199, Imd. Eff. Jul. 16;—Am. 1966, p. 396, Act 271, Imd. Eff. Jul. 12;—Am. 1966, p. 632, Act 341, Eff. Mar. 10, 1967;—Am. 1968, p. 42, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 45, Act 22, Imd. Eff. Jun. 20.

388.621 Additional allotments to school districts for transportation; computation.

Sec. 11. (a) Additional allotments for transportation of school children shall be made to districts in which school is not maintained in part according to law and to districts which were organized as township and rural agricultural school districts prior to July 1, 1955, and to primary or fourth class school districts transporting eighth grade graduates to high schools in other districts, transporting school children within the district but living outside the village or city limits and more than 1 ½ miles from the school they attend, or living within the corporate limits of a municipality when the area in which the children are living is a fraction of the municipality and the major portion of such municipality is contained in another single school district, and no school is operated in the fraction of the municipality where the children can attend and where the children live more than 1 ½ miles from the school they attend, and to fourth class school districts which do not contain within their boundaries a city or village and which transport resident school children living more than 1 ½ miles from the school they attend, and to any school district containing 2 or more incorporated municipalities, or parts of 2 or more municipalities, operating 1 high school and 1 junior high school, or 1 combination junior-senior high school, for the transportation of those children enrolled in grades 7 through 12 who are resident in one of the municipalities and who live more than 1 ½ miles from the school which they attend, when the school building in which those grades are taught is situated outside the corporate limits of the municipality in which the child resides, from the school aid fund in amounts determined by the superintendent of public instruction, but not to exceed 75% of the actual cost of transporting children to and from school. Allotments for transportation shall be made to school districts for children living within the city or village limits within the district boundaries and more than 1 ½ miles from the school they attend by the nearest traveled public highway when such highway is routed outside of the city or village limits, before reaching the school the children attend. Transportation distances shall be measured along public streets and highways. The superintendent of public instruction shall have authority upon investigation by him, or someone designated by him, to review, confirm, set aside or amend the action, order or decision of the board of education or school board of any school district with reference to the routes over which school children shall be transported, a distance they shall be required to walk, and the suitability and number of vehicles and equipment for the transportation of the school children.

No allotment for transportation shall be allowed any school district which operates a bus route disapproved by the superintendent of public instruction.

District not maintaining school.

(b) Any school district not maintaining school within the district may participate in the school aid fund under this subsection. The total amount which shall be apportioned to any such district shall be an amount determined by the superintendent of public instruction but not to exceed 75% of the actual cost of transportation, less a

sum equal to 5.86 mills on the valuation of the property within the district reported and determined as hereinafter provided. If the amounts deducted herein have been used to determine the aid to any such district under any other section of this act, the amount herein allotted for transportation shall be in addition to such other amounts allotted.

Mentally handicapped; waiver of restriction.

(c) Any school district providing transportation for mentally handicapped children being educated under the provisions of sections 775 to 778 of the school code of 1955 shall be allowed an amount determined by the superintendent of public instruction but not to exceed 75% of the actual cost of transportation or more than \$200.00 per pupil living more than 1 ½ miles from the school they attend unless the superintendent of public instruction determines from the best evidence available that the pupil cannot safely walk that distance in which case the limit of 1 ½ miles may be waived. No allowance for such pupils shall be given under subsections (a) and (b).

Physically handicapped; state schools for deaf and blind.

(d) Any school district providing transportation for physically handicapped children being educated under the provisions of sections 771 to 774 of the school code of 1955, or any school district providing daily transportation for children being educated at the Michigan school for the deaf or at the Michigan school for the blind and who cannot safely walk to the school they attend shall be allowed an amount determined by the superintendent of public instruction but not to exceed 75% of the actual cost of transportation or more than \$200.00 for each pupil transported. No allowance for such pupils shall be given under subsections (a) and (b).

Emotionally disturbed.

(e) Any school district providing transportation for emotionally disturbed children being educated under section 775a of the school code of 1955, as amended, shall be allowed an amount determined by the superintendent of public instruction but not to exceed 75% of actual cost of transportation or more than \$200.00 per pupil living more than 1 ½ miles from the school they attend. No allowance for such pupils shall be given under subsections (a) and (b).

Facilities of department of mental health.

(f) Any school district providing daily transportation for children being educated or being provided day care services at facilities under the direction of the department of mental health shall be allowed an amount determined by the superintendent of public instruction but not to exceed 75% of the actual cost of transportation or more than \$200.00 for each pupil transported. No allowance for such pupils shall be given under subsections (a) and (b).

Board and room allowance for mentally or physically handicapped.

(g) Any school district providing board and room for children being educated under sections 771 to 780 of the school code of 1955 shall be allowed an amount sufficient to pay the board and room up to an amount approved by the superintendent of public instruction.

Vocational centers; secondary school pupils.

(h) Beginning in 1971-1972 any school district providing transportation for secondary school pupils to centers designated and approved as secondary area vocational centers by the department of education shall be allowed an amount determined by the department of education but not to exceed 75% of the actual current year cost of such transportation. Not more than \$1,250,000.00 shall be distributed for transportation under this subsection.

Maximum amount distributed.

(i) Not more than \$29,000,000.00 shall be distributed for transportation.

Cities and villages; legislative intent.

(j) It is the intent of the legislature that beginning with the school year 1971-72, transportation costs within cities and villages will be reimbursed.

HISTORY: New 1957, p. 805, Act 312, Eff. Jul. 1;—Am. 1959, p. 428, Act 267, Imd. Eff. Sep. 18;—Am. 1962, p. 474, Act 221, Imd. Eff. Jun. 27;—Am. 1964, p. 559, Act 285, Eff. Jul. 1;—Am. 1965, p. 346, Act 199, Imd. Eff. Jul. 16;—Am. 1966, p. 388, Act 271, Imd. Eff. Jul. 12;—Am. 1968, p. 43, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 46, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 336, Act 100, Imd. Eff. Jul. 20.

388.622 Pupils and membership defined; special education; allocation of funds.

Sec. 12. (a) As used in this act a "pupil" is defined as a child in membership in a public school, and school children are defined as children in membership in any school.

All pupils to be counted in membership shall be at least 5 years of age on December 1 and under 20 years of age on September 1 of the school year except that all pupils regularly enrolled and working toward a high school diploma may be counted in membership regardless of age. Any former member of the armed services in attendance in the public schools, the cost of whose instruction is not paid for by other state funds or by the federal government, shall be counted in membership regardless of age. Handicapped children enrolled under the provisions of sections 771 to 780 of the school code of 1955 may be counted in membership for the ages provided in those sections.

"Elementary pupils" are defined as pupils in school membership in grades from the kindergarten to the eighth grade in districts not maintaining classes above the eighth grade and in grades from the kindergarten to the sixth grade in districts maintaining classes above the eighth grade.

"High school pupils" are defined as pupils in school membership in grades 7 to 12 except in districts not maintaining grades above the eighth.

Membership, defined; computation; uniform interpretation.

(b) "Membership" as used in this act shall be construed as registration plus receipts by transfer, plus returns, minus losses, as defined by the superintendent of public instruction in the Michigan child accounting system.

"Full-time membership" shall be construed as all membership in kindergarten to twelfth grade for those actually enrolled in regular daily attendance on the fourth Friday following Labor Day of each year. The superintendent of public instruction shall give a uniform interpretation of such full-time memberships.

No pupils enrolled in school programs organized under federal or state supervision and in which the teaching costs are fully subsidized from federal or state funds shall be eligible to be counted in membership.

Any child under court jurisdiction who is placed in a private home or in a private or public institution located outside the school district in which his parents or legal guardians reside may be counted as a resident of the school district he attends if other than the district of his parents or legal guardian and shall be counted as 1 ½ memberships.

The total membership of such children shall be computed by adding the membership days attended by all such children up to April 1 of the current school year and dividing the total by the number of days in the school year of the district up to April 1 of the current school year. The membership thus obtained shall be certified by the district to the superintendent of public instruction who shall adjust the total membership of the district accordingly in determining the school aid to be paid during the current fiscal year.

Any child whose parents or guardians live on land in this state over which the federal government has taken exclusive jurisdiction and which has not been attached to a school district for educational purposes may be included in membership by the school district which he attends and for the purpose of this act be considered a tuition pupil.

The superintendent of public instruction shall give a uniform interpretation and evaluation of memberships other than full-time memberships.

Hearing impaired, physically or visually handicapped.

(c) School districts conducting programs for the hearing impaired, physically handicapped and visually handicapped shall be allocated an additional amount not to exceed 75% of the cost for equipment, for teachers who teach others to transcribe books into braille or books for visually handicapped students at all levels and for expenses incurred in transcribing and recording educational materials, including machines, paper and binding.

Intermediate school districts; trainable programs.

(d) Each intermediate school district shall be entitled to additional funds from the total amount appropriated in section 1 for the purpose of establishing programs for trainable individuals up to the age of 21 who are not currently eligible for mentally handicapped programs type A or B. The amount appropriated for these programs shall not exceed 75% of the actual cost of operating the program including the cost of transportation. Each intermediate school district is authorized to use moneys in its general fund or special education fund not otherwise restricted or contributions from local school districts or individuals for the support of such programs.

Special education; limitations.

(e) The amounts appropriated herein for special programs under the provisions of sections 771 to 780a and 307a to 324a of the school code of 1955, and for school social workers, school diagnosticians, physical therapists and occupational therapists, shall not exceed 75% of the actual cost of salaries, exclusive of administrative and clerical salaries, not to exceed \$8,100.00 for any individual salary for such programs as determined by the superintendent of public instruction. The salaries of directors and supervisors of special education programs whose full-time activities are devoted solely to special education programs shall be reimbursed under the provisions of this subsection. From the total amount appropriated in section 1 there is appropriated a sum not to exceed \$50,000,000.00 for special education programs.

Remedial reading programs.

(f) School districts offering remedial reading programs approved by the superintendent of public instruction shall be entitled to 75% of the actual cost of the salary, not to exceed \$8,100.00 for any individual salary, of each remedial reading teacher approved by the superintendent of public instruction. The superintendent of public instruction may provide by rules for the maximum number of pupils per teacher to be counted. From the total amount appropriated in section 1 there is appropriated a sum not to exceed \$5,000,000.00 for remedial reading programs to be used for teachers' salaries only. Any school funded under this subsection shall not receive funds under section 3 of this act.

HISTORY: New 1957, p. 606, Act 312, Eff. Jul. 1;—Am. 1958, p. 19, Act 22, Eff. Jul. 1;—Am. 1959, p. 429, Act 267, Imd. Eff. Sep. 18;—Am. 1962, p. 475, Act 221, Imd. Eff. Jun. 27;—Am. 1964, p. 560, Act 285, Eff. Jul. 1;—Am. 1965, p. 347, Act 199, Imd. Eff. Jul. 16;—Am. 1966, p. 390, Act 271, Imd. Eff. Jul. 12;—Am. 1966, p. 634, Act 341, Eff. Mar. 10, 1967;—Am. 1968, p. 45, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 48, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 338, Act 100, Imd. Eff. Jul. 20.

388.622a Membership count; alternate day.

Sec. 12a. Notwithstanding any other provision of this act for the school year 1969-1970 only, where a school district is not holding classes on the fourth Friday after Labor Day but is holding classes by the next following Monday, membership for purposes of this act shall be counted as of the fifth Friday after Labor Day.

HISTORY: Add. 1969, p. 764, Act 337, Imd. Eff. Dec. 8.

388.623 Elementary tuition pupil; definition.

Sec. 13. (a) An "elementary tuition pupil" is a child of school age attending school in grades kindergarten to sixth in a district other than of his residence and whose tuition is paid by the school board of the district of his residence. If the district in which such child is in attendance does not operate grades above the eighth, elementary tuition pupils shall also include pupils enrolled in the seventh and eighth grades.

High school tuition pupil.

(b) A "high school tuition pupil" is a child of school age attending school in grades seventh and eighth in a district other than that of his residence and in which grades above the eighth are being maintained, and in grades ninth to twelfth in a district other than that of his residence and whose tuition is paid by the school board of the district of his residence.

Date and formula for charging tuition; nonresident pupils in part time membership, additional allowance.

(c) Every school district having tuition pupils in membership on the fourth Friday following Labor day of each year, shall charge the school district, in which such tuition pupil resides, tuition in at least the amount of the differences between the per capita cost as determined in section 14 and the per pupil membership allowance provided in sections 8 and 10. Except that in the case of nonresident pupils in part time membership, an additional allowance for such child shall be made to the school district in an amount equal to the difference between the prorated per capita cost as determined in section 14 and the prorated per pupil membership allowance as provided in sections 8 and 10.

Attendance pursuant to assignment or approval of probate court, tuition.

(d) Notwithstanding the provisions of subsections (a), (b) and (c), a child residing in a juvenile or detention home operated by a probate court and attending school by direction of the court in the school district of residence of his parent or legal guardian shall not be counted as a tuition student but shall be counted in resident membership in that school district. A child residing in the home of his parent or legal guardian but who, by assignment of a probate court, attends school in another school district, which school is operated for juveniles under court jurisdiction, shall not be counted as a tuition student but shall be counted in resident membership in the school operated for juveniles; and a child residing in the home of his parent or legal guardian or juvenile home but who, by direction of local school authorities and approval of the probate court, may be enrolled in school in another school district shall not be counted as a tuition student but shall be counted in resident membership.

Child placed in state institution by parents.

(e) Any child placed in a state institution by parents shall be counted in resident membership of the school district in which the child is enrolled, and an additional allowance for such child shall be made to the school district in the amount equal to the difference between the per capita cost as determined in section 14 and the per pupil membership allowance as provided in sections 8 and 10.

HISTORY: New 1957, p. 807, Act 312, Imd. Eff. Jul. 1;—Am. 1958, p. 20, Act 22, Eff. Jul. 1;—Am. 1959, p. 430, Act 267, Imd. Eff. Sep. 18;—Am. 1962, p. 476, Act 221, Imd. Eff. Jun. 27;—Am. 1964, p. 562, Act 285, Eff. Jul. 1;—Am. 1965, p. 349, Act 199, Imd. Eff. Jul. 16.

388.624 Per capita operation cost; determination.

Sec. 14. The board of education of each school district enrolling tuition pupils shall determine the actual per capita operation cost for the preceding fiscal year. For the purpose of making determination of the actual operation cost of school districts there shall be excluded moneys expended for sites, school buildings, equipment, payment of bonded indebtedness, and moneys expended for such other purposes as shall be determined by the superintendent of public instruction not properly included in operation costs: Provided, That such excluded items are applied uniformly in the determination of such operation cost to all the school districts affected. The per capita operation cost shall be determined by dividing the total expenditures for each school district, less the amount spent for such items as are excluded from the actual operation cost of the district as defined in this section, by the membership in grades kindergarten to 12, inclusive. For the purpose of determining the amount of tuition to be charged for nonresident pupils enrolled in grades kindergarten to 6, inclusive, the per capita cost thus obtained shall be used. For nonresident pupils enrolled in grades 7 to 12, inclusive, the per capita cost shall be the amount of the elementary per capita cost increased by 15%.

HISTORY: New 1957, p. 607, Act 312, Imd. Eff. Jul. 1.

388.624a Capital outlay assistance; formula; limitations.

Sec. 14a. (1) Beginning in 1971-72 from the total amount appropriated in section 1 there is appropriated to every school district operating a kindergarten through twelfth grade program an amount to be computed by the following formula:

$$\left\{ \begin{array}{l} \text{State equalized} \\ \text{valuation of the} \\ \text{district} \end{array} \right\} \times \left\{ \begin{array}{l} \text{Annual local millage rate} \\ \text{necessary to pay debt service} \\ \text{and building and site require-} \\ \text{ments if total debt service} \\ \text{and building and site require-} \\ \text{ments were raised locally} \end{array} \right\} \times \left\{ \begin{array}{l} \text{District} \\ \text{state} \\ \text{1-equalized} \\ \text{valuation} \\ \text{per child} \\ \hline \$30,000.00 \end{array} \right\}$$

All funds received under the provisions of this section shall be used to assist the district in paying debt service obligations incurred as the result of borrowing for capital outlay projects and in meeting building and site fund requirements.

(2) All reimbursements under this section will be based on prior year expenditures by a district for debt service and prior year taxes collected from building and site levies. Not more than \$40,000,000.00 shall be distributed under this section. Any law or school board action to the contrary notwithstanding, the school debt service and building and site millage authorized and levied by a school district which levies at least 7 mills for either or both of such purposes shall be reduced in any year funds are received under this section by an amount equal to that necessary to be levied in the district in that year to produce the amount of funds which the district receives under this section. This requirement shall in no way prohibit the eligibility of the district to elect to borrow from the state under Act No. 108 of the Public Acts of 1961, as amended, being sections 388.951 to 388.963 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 339, Act 100, Imd. Eff. Jul. 20.

388.625 Repealed. 1968, p. 49, Act 21, Imd. Eff. Apr. 30.

Section related to districts experiencing financial hardship; conditions for additional aid; formula.

388.626 Repealed. 1964, p. 567, Act 285, Eff. Jul. 1.

Section prescribed conditions and limitations on school aid to county school districts.

388.626a Intermediate school districts; apportionment of aid; operating budget; data processing programs.

Sec. 16a. (1) There shall be apportioned to each intermediate school district an amount equal to the operating budget of the district multiplied by the percentage that the total state aid received by all of the constituent districts of the intermediate district under the provisions of the state school aid act in effect during the preceding school year was of the total current operating expenditures of all the constituent districts of the preceding year, except that no intermediate district shall receive aid on a basis of less than 50% of its approved budget.

(2) The operating budget of the intermediate unit shall be the budget finally adopted by the board of education in accordance with all constitutional and statutory hearings and after the allocation of millage has been made by the county tax allocation board. The budget total shall be reduced by the amounts allocated for building and site expenditures, cooperative educational programs, and any program not approved by the superintendent of public instruction.

(3) The current operating expenditures of the constituent districts shall be in accordance with the classification of expenditures used in reporting receipts, expenditures and other financial data to the superintendent of public instruction.

(4) Intermediate districts formed by the consolidation of 2 or more county or intermediate school districts shall be entitled to an additional allotment of \$3,500.00 for each county included in the new district for a period of 3 years following consolidation.

(5) Beginning in 1971-72 from the amount appropriated in section 1 there is appropriated a separate fund of \$400,000.00 for the purpose of providing funds to intermediate districts which operate data processing programs, using a service fee method of financing on a cooperative basis with local school districts.

HISTORY: Add. 1964, p. 563, Act 285, Eff. Jul. 1;—Am. 1968, p. 46, Act 21, Imd. Eff. Apr. 30;—Am. 1970, p. 340, Act 100, Imd. Eff. Jul. 20.

388.627 Valuation of school districts; formula; reductions.

Sec. 17. The valuation of any whole district shall be the total assessed value of the property contained therein as fixed by the local assessing officer or officers, township or city board of review, which in turn shall be proportionately increased or decreased to the basis of the valuation of the township or city containing said district, as fixed by the county board of equalization, and the result in turn proportionately increased or decreased to the basis of the valuation of the county containing said district as last fixed by the state board of equalization.

The valuation of a fractional school district shall be the sum of the valuations of the fractions thereof, each of which shall be computed in the same manner as a whole school district.

The valuations of property assessed under the provisions of Act No. 189 of the Public Acts of 1953, as amended, being sections 211.181 and 211.182 of the Compiled Laws of 1948, shall be deducted from the total valuation of a district in cases where school taxes levied against such property are not collected from the lessee or user of the property. The credit so obtained by a district in the application of the formula provided in section 8a shall forever be a lien against the district and shall be paid by the district to the school aid fund at such time only as the taxes referred to above are collected.

The valuation of property located on land over which the federal government has exclusive jurisdiction and upon which school taxes have been levied in accordance with federal law shall be deducted from the total valuation of a district if credits against such taxes, as permitted by federal law, result in a payment to the district of an

amount less than the product of the valuation of such property, times the millage referred to in section 8a. Any amount of such taxes collected shall be deducted from the school aid to which the district is entitled under sections 8, et seq., up to an amount equal to the above product.

Whenever taxes levied for operating purposes against property constituting at least 10% of the valuation of a district are paid under protest and are thus unavailable to the district, the total valuation of the district for the purposes of this act shall be reduced by the valuation of such property. The credits so obtained by a district in the application of the formula provided in section 8a shall forever be a lien against the district and shall be paid by the district to the school aid fund at such time only as the taxes referred to above are collected.

The valuation of any district shall be reduced under the following conditions and in the following manner:

(a) An application may be filed by the school district in form and content as described by the superintendent of public instruction showing the total taxes levied on property located within the school district by all taxing agencies including the school district but excluding taxes levied for school operating purposes.

(b) The superintendent of public instruction shall subtract such total taxes from the total of such taxes as last reported by the state tax commission for the entire state.

(c) The superintendent of public instruction shall determine the tax rates resulting from dividing the figure obtained in subdivision (b) by the comparable valuations.

(d) If the resulting tax rate for the applicant school district is 125% or more of the resulting tax rate for the balance of the school districts of the state, the valuation of the applicant school district shall be reduced by the percent by which the resulting tax rates on property located within the applicant school district exceeds 125% of the resulting tax rates on property located in all other school districts of the state. Any district qualifying for state aid under 1 of the formulas provided in subsection (2) of section 8a shall not qualify for state aid under a different formula in that subsection solely as a result of the reduction in valuation under the provisions of this section. Not more than \$20,000,000.00 shall be paid as the result of reduction of valuation under this section.

HISTORY: New 1957, p. 608, Act 312, Eff. Jul. 1;—Am. 1958, p. 21, Act 22, Eff. Jul. 1;—Am. 1958, p. 158, Act 144, Imd. Eff. Apr. 18;—Am. 1964, p. 563, Act 285, Eff. Jul. 1;—Am. 1965, p. 350, Act 199, Imd. Eff. Jul. 16;—Am. 1966, p. 391, Act 271, Imd. Eff. Jul. 12;—Am. 1966, p. 635, Act 341, Eff. Mar. 10, 1967;—Am. 1968, p. 47, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 49, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 340, Act 100, Imd. Eff. Jul. 20.

388.628 School aid; increase to district for territory attached from dissolved district, formula.

Sec. 18. Whenever a school district, in whole or in part, is attached to another district by an intermediate board of education acting under the provisions of section 3 or section 441 of the school code of 1955, the amount of state aid to be paid to the district to which territory is attached during the fiscal year of attachment and the following 6 fiscal years shall be increased when the district already is eligible for state aid beyond primary money, and the state equalized valuation per resident membership child in grades kindergarten through 12, in the territory attached, is less than the state equalized valuation per resident membership child in grades kindergarten through 12 in the district to which territory is attached.

The amount of the increase shall be computed by multiplying the number of children in resident membership in kindergarten through 12 in the territory attached by the difference between the state equalized valuation per resident membership child in kindergarten through 12 in the receiving district and the state equalized valuation per resident membership child in kindergarten through 12 in the territory attached and the product thus obtained by the millage levied for operating purposes over and above

4-1/4 mills in the receiving district. The increase shall be 3/4 of this product for the second year, and 1/2 of this product for the third year, and 1/4 of this product for each of the fourth through the seventh years.

The amount of the increase shall be computed each year on the basis of the facts at the date of attachment except that the millage levied for operating purposes shall be the actual millage spread each year.

HISTORY: Add. 1962, p. 477, Act 221, Imd. Eff. Jun. 27;—Am. 1964, p. 564, Act 285, Eff. Jul. 1;—Am. 1965, p. 702, Act 356, Eff. Mar. 31, 1966.

Former section 388.628 (Sec. 18, Act 312, 1957, p. 609, Imd. Eff. July 1) was repealed by Act 267, 1959, p. 433, Imd. Eff. Sept. 18. It provided for state aid allotments to first class districts maintaining university.

388.628 Repealed. 1959, p. 433, Act 267, Imd. Eff. Sep. 18.

Section increased school aid to district attached from dissolved district.

388.628a Additional allotments to school districts for emergency reorganization; amount, computation; payment of debts; annual audit.

Sec. 18a. (1) Whenever a school district, in whole or in part, was attached to another district prior to January 1, 1969, as authorized by Act No. 239 of the Public Acts of 1967, as amended, being sections 388.711 to 388.720a of the Compiled Laws of 1948, the amount of state aid to be paid in the year 1970-71 to the district to which territory was attached shall be increased by \$200.00 per pupil added as a result of such attachment in the year 1968-69 for the purpose of bringing about uniformity of educational opportunity for all the pupils of the district. The number of student residents of the attached areas and counted as resident students on September 27, 1968 shall serve as the basis for the payment of these funds.

(2) School districts receiving students under the provisions of Act No. 239 of the Public Acts of 1967, as amended, and divided and attached between January 1, 1969 and July 1, 1969, shall be granted the sum of \$150.00 per student resident of the area received as a direct result of the attachment. This money is to be deposited in the general fund account of the districts receiving the students and used for the purposes of bringing about uniformity of educational opportunity for all the pupils of the enlarged school district. The number of students each school district receives under the provisions of Act No. 239 of the Public Acts of 1967, as amended, shall be determined by a membership count as made by the state department of education on September 26, 1969. A report of the membership audit shall be sent to the state treasurer who shall pay the required amounts from the school aid fund prior to December 31, 1970. Not more than \$600,000.00 is appropriated for the purposes of this subsection.

(3) Any funds owed to the attached school district including but not limited to any overpayment of bills paid by the attached district, delinquent property taxes for operating purposes, reimbursement due the attached school district from the state for transportation and tuition or any funds due the district from federal or other state sources, or gifts received by or in behalf of the attached school district shall be placed in the school aid fund.

(4) Prior to March 1 each year, the department of treasury shall conduct an audit to cover all past and future financial costs to the receiving districts as a result of action taken under Act No. 239 of the Public Acts of 1967, as amended, and report to the department of education. The department of education shall make recommendations to the legislature by March 30 of each year concerning the additional past and future financial costs to the receiving districts under Act No. 239 of the Public Acts of 1967, as amended.

HISTORY: Add. 1969, p. 50, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 341, Act 100, Imd. Eff. Jul. 20.

388.629 Nonresident pupils; certification.

Sec. 19. The secretary of the board of education of each district enrolling nonresident pupils shall certify to the superintendent of public instruction on forms furnished

by the superintendent of public instruction, the number of nonresident pupils enrolled in each grade on the fourth Friday following Labor Day of each year, the districts in which the nonresident pupils reside, the amount of tuition charged for the current year, and any other information required by the superintendent of public instruction.

HISTORY: New 1957, p. 609, Act 312, Imd. Eff. Jul. 1;—Am. 1958, p. 22, Act 22, Eff. Jul. 1;—Am. 1959, p. 431, Act 267, Imd. Eff. Sep. 18.

388.630 State aid for approved high schools; amount, participation.

Sec. 20. No school district maintaining an approved high school shall be paid less state aid under the provisions of this act than a sum obtained by multiplying the number of high school tuition pupils in membership in such district in grades 9 to 12, inclusive, by \$190.00.

HISTORY: New 1957, p. 609, Act 312, Imd. Eff. Jul. 1.

388.631 Responsibility of county treasurer; statement of assessed school district valuation.

Sec. 21. The county treasurer of each county shall furnish to the superintendent of public instruction, on or before May 1 following the receipt of assessment rolls, a statement of the assessed valuations of each school district and fraction of a school district within his county on forms furnished by the superintendent of public instruction.

HISTORY: New 1957, p. 609, Act 312, Imd. Eff. Jul. 1.

388.632 Apportionments; basic dates; full school year; special education.

Sec. 22. The apportionments, and limitations thereof, made under this act shall be made on the membership and number of teachers employed as of the fourth Friday following Labor day of each year, on the number of pupils for whom transportation is allowed for the preceding fiscal year, elementary or high school tuition payments for the current fiscal year, per capita cost of pupils for the preceding year, and on the state equalized valuation of each school district for the calendar year. In addition, those districts maintaining school during the entire year, as provided under section 731 of the school code of 1955, shall count memberships and teachers in accordance with rules established by the state board of education. The membership in the programs for the physically and mentally handicapped and the number of instructors and teachers in speech correction, visiting teacher programs and professional employees other than classroom teachers approved by the superintendent of public instruction as necessary to carry on approved programs under the provisions of sections 771 to 780 of the school code of 1955 shall be counted as of December 15 of each year.

HISTORY: New 1957, p. 609, Act 312, Imd. Eff. Jul. 1;—Am. 1958, p. 22, Act 22, Eff. Jul. 1;—Am. 1959, p. 431, Act 267, Imd. Eff. Sep. 18;—Am. 1968, p. 48, Act 21, Imd. Eff. Apr. 30.

388.633 Apportionments; restrictions, actual payments for tuition and transportation.

Sec. 23. Notwithstanding the allowance made herein for pupils attending school in any other districts, for tuition, or transportation of school children, or both, no district shall receive more allowance therefor than such actual amounts paid by the district, and if any district shall have received in any apportionment more than it paid, such excess shall be deducted from its next apportionment.

HISTORY: New 1957, p. 609, Act 312, Imd. Eff. Jul. 1.

388.634 Apportionments among school districts; certification of revenues received.

Sec. 24. The superintendent of public instruction shall, on or before March 15 of each fiscal year, make the apportionment among the public school districts of the state as required in sections 8 et seq. Before March 1 of each year, each school district shall certify to the superintendent of public instruction the amount of revenue received for school operating purposes during the previous calendar year as a result of Act No. 243 of the Public Acts of 1959, as amended, being sections 125.1001 to 125.1097 of the

Compiled Laws of 1948 and the superintendent of public instruction shall deduct a like amount from the payment due June 1 to each school district.

HISTORY: New 1957, p. 610, Act 312, Eff. Jul. 1;—Am. 1970, p. 342, Act 100, Imd. Eff. Jul. 20.

388.635 Apportionments; advances for operation; notice to legislatures.

Sec. 25. On or before August 1, October 1, December 1, February 1, April 1 and June 1, the superintendent of public instruction shall prepare a statement of the amount to be distributed in such installment under the provisions of this act to the school districts, and shall deliver the same to the state treasurer, who shall thereupon draw his warrant in favor of the treasurer of each school district for the amount payable to such school district according to the statement and forthwith deliver the warrants to the treasurer of each school district. If at any time during the last 2 months of any fiscal year or during the first 6 months of any fiscal year, a school district has insufficient funds on hand to meet its operating expenditures, the superintendent of public instruction, when proof of such need has been furnished to him, may advance an amount to meet operating expenditures. In no case shall such payment in the first instance be greater than 1/4 of the total amount allotted to a district for the following school year under the terms of this act as near as such an amount can be determined when the advance payment is requested, and in no case shall such payment in the second instance be greater than 2/5 of the total amount allotted to a district for the current school year under the terms of this act as near as such an amount can be determined when the advance payment is requested. The superintendent of public instruction shall inform in writing each legislator, prior to the warrants being delivered, of the amount of money each school district in the legislator's district will receive.

HISTORY: New 1957, p. 610, Act 312, Imd. Eff. Jul. 1;—Am. 1958, p. 22, Act 22, Eff. Jul. 1;—Am. 1959, p. 432, Act 267, Imd. Eff. Sep. 15;—Am. 1962, p. 478, Act 221, Imd. Eff. Jun. 27;—Am. 1968, p. 48, Act 21, Imd. Eff. Apr. 30.

388.636 School district board of education; borrowing power.

Sec. 26. Subject to the restrictions herein prescribed, the board of education of any school district in this state is authorized to borrow money for school operations, to issue its note or notes therefor, and to pledge for the payment thereof state appropriations available to the school district under this act. Such notes shall be the full faith and credit obligations of the school district. Notes issued under the provisions of this section shall become due and payable on or before the first day of September immediately following the fiscal year for which state appropriations were pledged. The notes shall bear interest at not to exceed 4% per annum and may be made redeemable prior to maturity on such terms and conditions as shall be provided by the resolution of the board of education of the school district. No school district shall issue its notes pledging state appropriations under this act for any school year in an aggregate amount exceeding 100% of the undistributed balance of its share of the appropriation for the school year. Not more than 15% of a school district's share of the appropriation for the next succeeding fiscal year shall be borrowed prior to the beginning of that fiscal year. The issuance of notes under this section shall not be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948. No notes shall be issued for borrowing under the provisions of this section without the prior approval of the superintendent of public instruction, for which approval application shall be made by the school district. The superintendent of public instruction shall issue a certificate of approval which shall show the amount of state appropriation allocated to the school district for the present and, if applicable, for the next succeeding fiscal year and any payments distributed to the school district prior to the date of the certificate. A school district may make more than one borrowing under this act during any school year. No school district shall contest the validity of any note issued by it under this act if it has received permission from the su-

perintendent of public instruction to issue the same and has received the principal amount of the note.

NOTE: House Bill No. 187 of the 1962 session became Act No. 217.

HISTORY: New 1957, p. 610, Act 312, Imd. Eff. Jul. 1;—Am. 1958, p. 23, Act 22, Eff. Jul. 1;—Am. 1959, p. 432, Act 267, Imd. Eff. Sep. 18;—Am. 1962, p. 478, Act 221, Imd. Eff. Jun. 27.

CITED IN OTHER SECTIONS: The above section is cited in § 340.567a.

388.637 School district officers; list to county treasurer.

Sec. 27. The superintendent of each intermediate school district, between August 20 and August 30 of each year, and at any other times upon the request of the treasurer of said county, shall furnish to the said county treasurer the names and post office addresses of the treasurers and of the presidents and secretaries of the boards of education of all school districts in his county.

HISTORY: New 1957, p. 611, Act 312, Imd. Eff. Jul. 1;—Am. 1964, p. 565, Act 285, Eff. Jul. 1.

388.638 Repealed. 1969, p. 52, Act 22, Imd. Eff. Jun. 20.

Section required county treasurers receiving money apportioned to their counties, to notify each school district secretary as to amount apportioned his district and to pay such money to district treasurer.

388.639 State aid; determination upon defective returns.

Sec. 29. Whenever the returns from any county or district upon which a statement of the amount to be disbursed or paid to any school district shall be so far defective as to render it impracticable to ascertain the share of the appropriation to be disbursed or paid to the district under this act, the superintendent of public instruction shall ascertain by the best evidence in his power the facts upon which the ratio and amount of such apportionment shall depend, and shall make the apportionment accordingly.

HISTORY: New 1957, p. 611, Act 312, Imd. Eff. Jul. 1.

388.640 Apportionment; deficiency or excess.

Sec. 30. Whenever any school district shall fail to receive its proper share of the appropriation due under the provisions of this act, the superintendent of public instruction, upon satisfactory proof that said district was justly entitled to the same, shall apportion such deficiency in the next apportionment. When any district has received more than its proper share of the appropriation the superintendent of public instruction, upon satisfactory proof, shall deduct such excess in the next apportionment.

HISTORY: New 1957, p. 611, Act 312, Imd. Eff. Jul. 1.

388.641 State aid; nine month term minimum; exception.

Sec. 31. No school district shall share in any apportionment of the appropriation contained in sections 8 et seq. unless school shall be taught in said district for the minimum term of 9 months: Provided, however, That whenever it shall appear to the satisfaction of the superintendent of public instruction that any district has failed to have the full-time of school required by law through no fault or negligence of the district or its officers, he may, in his discretion, include such district in his apportionment.

HISTORY: New 1957, p. 611, Act 312, Imd. Eff. Jul. 1.

388.642 Maximum pupil-teacher ratio; teacher, definition.

Sec. 32. No district having a membership of more than 350 shall be allotted or paid any sum under the provisions of this act for the number of pupils in membership in excess of a ratio of 34 pupils in membership to 1 teacher. The superintendent of public instruction may include all pupils in membership regardless of the provisions of this section if in his judgment the district could not maintain the ratio because of lack of funds or facilities or qualified teachers. For the purpose of this section, a teacher is defined as any employee of the school district holding a valid Michigan teacher's certificate.

HISTORY: New 1957, p. 611, Act 312, Imd. Eff. Jul. 1;—Am. 1958, p. 23, Act 22, Eff. Jul. 1;—Am. 1959, p. 433, Act 267, Imd. Eff. Sep. 18.

388.643 School district reports; salary schedule report; failure, forfeiture.

Sec. 33. Before the first Monday in November of each year each school district of this state shall furnish to the superintendent of public instruction such reports as he shall deem necessary for the determination of the allotment of funds under the terms of sections 8 et seq. of this act. Each school district employing 25 teachers or more shall furnish to the superintendent of public instruction a copy of its salary schedule and a statement to what extent the schedule is being observed. Any school district which fails through the negligence of its officers to file reports in accordance with this section shall forfeit such proportion of funds to which said district would otherwise be entitled under the terms of sections 8 et seq. of this act as the delay in said reports bears to the school term as required by law for such district.

HISTORY: New 1957, p. 612, Act 312, Imd. Eff. Jul. 1.

388.643a School district reports to legislative fiscal agencies; failure to file, penalty.

Sec. 33a. On or before the first Monday in November of each year each school district or intermediate district of this state shall furnish to the legislative fiscal agency of the state legislature such information as the agency shall require on forms prepared and furnished by such agency, relative to the expenditures of funds appropriated under this act by the legislature, including information relative to past budgets of the district and contemplated budget expenditures for such years as the agency may request. The department of education shall, on or before October 1 of each year, furnish to the agency a list of the name of each district and intermediate district, the mailing address and the name of the chief administrative officer of the district. Any school district or intermediate district which fails through the negligence of its officers to file reports in accordance with this section shall forfeit such proportion of funds to which said district or intermediate school district would otherwise be entitled under the terms of this act as the delay in said reports bears to the school term as required by law for such district.

HISTORY: Add. 1965, p. 351, Act 190, Imd. Eff. Jul. 16;—Am. 1966, p. 392, Act 271, Imd. Eff. Jul. 12.

388.644 State aid; prescribed uses; violations; audits, reports, public inspection.

Sec. 34. Except as provided in sections 3 to 6 each school district shall apply the moneys received by it under the terms of this act on salaries of teachers, and other employees, on tuition, on transportation, lighting, heating and ventilation and water service and on the purchase of textbooks and other supplies: Provided, That an amount equal to not more than 5% of the total amount received by any school district under sections 8 et seq. of this act may be expended by the board of education of said district for capital costs or debt service for debts contracted after December 8, 1932; and no part of said money shall be applied or taken for any purpose whatsoever except as above provided. The superintendent of public instruction shall determine the reasonableness of such expenditures and may withhold from any school district which violates the provisions of this section, the apportionment otherwise due such school district under this act for the fiscal year following the discovery by said superintendent of public instruction of such violation or violations by said school district. For the purpose of determining the reasonableness of such expenditures and whether any violation of the provisions of this act has occurred, the superintendent of public instruction shall require that school districts have audits of their financial and child accounting records at least once every 3 years at the expense of said districts by certified public accountants or by intermediate school district superintendents, as may be required by the superintendent of public instruction, or in the case of school districts of the first class by a certified public accountant, the intermediate school district superintendent

or the auditor general of the city. Such audits shall be for such period or periods as the superintendent of public instruction shall specify, and shall be subject to such regulations as the superintendent, in consultation with the auditor general of the state may prescribe. Copies of the reports of such audits shall be filed as required by the superintendent of public instruction and shall be available at all reasonable times for public inspection.

HISTORY: New 1957, p. 612, Act 312, Imd. Eff. Jul. 1;—Am. 1964, p. 565, Act 285, Eff. Jul. 1.

388.645 State aid; requirements; tax levy; payment of tuition, unqualified teachers; copy of enrollment.

Sec. 35. If a school district, except those coming under the provisions of section 20, does not levy at least a 12 mill tax in the current fiscal year and 10 mills for the fiscal years beginning July 1, 1971 on the state equalized valuation of the property within the district for the purposes included in the operation cost of the district as defined in section 14 and certify such fact to the superintendent of public instruction, the amount allotted or paid shall be reduced to an amount which bears the same proportion to the total amount allotted or paid as the actual levy bears to 12 mills during the current fiscal year and 10 mills for the fiscal years beginning July 1, 1971. No school district shall be allotted or paid any sum under the provisions of sections 8a et seq. in any year, if the superintendent of public instruction shall determine that, at the end of the preceding fiscal year, the amount of funds on hand in the district available for the payment of the operation cost in the district exceeded the amount of moneys expended for such operation cost in the district during the preceding fiscal year. No school district shall be allotted or paid any sum under the provisions of this act unless the district charges the legal amount of tuition, as provided in this act, for all tuition pupils enrolled on the fourth Friday following Labor day of each year from the school districts in which the tuition pupils reside, and has certified such fact to the superintendent of public instruction. If no school district is legally liable for the payment of the tuition and the tuition has not been collected from the parents or guardians of such tuition pupils on or before May 1 of each year, the number of such pupils shall be deducted from the membership of the district and the allowances as provided in section 10 shall be recomputed accordingly.

No school district shall be allotted or paid any sum under the provisions of this act after April 1 of each year unless the district pays the legal amount of tuition for tuition pupils on or before such date to the school districts in which the tuition pupils are in school membership on the preceding fourth Friday following Labor day of each year, and has certified such fact to the superintendent of public instruction.

As provided in the school code, the board of any district shall not permit any unqualified teacher to teach in any grade or department of the school. Any district employing teachers not legally qualified shall have deducted the sum equal to $\frac{1}{2}$ the amount paid such teachers. The superintendent of each intermediate school district shall notify the superintendent of public instruction of the name of the unqualified teacher and the district employing him and the amount of salary the unqualified teacher was paid with respect to districts within his school district.

In order to be eligible to receive state aid under the provisions of this act each school district shall, by the superintendent of each district through the secretary of each board, on or before the seventh Friday after Labor day of each year, file with the intermediate school district superintendent a certified and sworn copy of the enrollment for the current school year. In addition, those school districts maintaining school during the entire year, as provided under section 731 of the school code of 1955, shall file with the intermediate school district superintendent a certified and sworn copy of the enrollment for the current school year in accordance with rules established by the

state board of education. In case of failure to file such sworn and certified copy on or before the seventh Friday after Labor day, or in accordance with rules established by the state board of education, state aid under the provisions of this act shall be withheld from the defaulting school district. Any person who shall wilfully falsify any figure or statement in the certified and sworn copy of such enrollment shall, upon conviction thereof, be punished in the manner prescribed by the laws of this state.

HISTORY: New 1957, p. 612, Act 312, Eff. Jul. 1;—Am. 1958, p. 24, Act 22, Eff. Jul. 1;—Am. 1959, p. 433, Act 267, Imd. Eff. Sep. 18;—Am. 1962, p. 479, Act 221, Imd. Eff. Jun. 27;—Am. 1964, p. 565, Act 285, Eff. Jul. 1;—Am. 1965, p. 351, Act 199, Imd. Eff. Jul. 16;—Am. 1966, p. 393, Act 271, Imd. Eff. Jul. 12;—Am. 1966, p. 636, Act 341, Eff. Mar. 10, 1967;—Am. 1968, p. 48, Act 21, Imd. Eff. Apr. 30;—Am. 1969, p. 51, Act 22, Imd. Eff. Jun. 20;—Am. 1970, p. 342, Act 100, Imd. Eff. Jul. 20.

388.645a Deficit budget prohibited.

Sec. 35a. School districts receiving moneys under this act shall not adopt or operate under a deficit budget.

HISTORY: Add. 1968, p. 52, Act 22, Imd. Eff. Jun. 20.

388.646 Violation of act; penalty.

Sec. 36. Any school official or member of any board of education, or other person, neglecting or refusing to do or perform any act required by him by this act, or violating or knowingly permitting or consenting to the violation of the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not exceeding 3 months, or both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1957, p. 613, Act 312, Imd. Eff. Jul. 1.

388.647, 388.648 Repealed. 1964, p. 567, Act 285, Eff. Jul. 1.

Sections contained saving clause and provision for total membership allowance for year specified.

388.649 Additional taxes to supplement school aid fund; deposit.

Sec. 39. (1) For the purpose of supplementing the school aid fund established by section 23 of article 10 of the state constitution, there shall be levied and collected, and there is hereby imposed, in addition to any and all taxes now imposed by law an excise tax equivalent to 4% of the retail selling price of spirits, as defined in section 2 of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being section 436.2 of the Compiled Laws of 1948, other than those containing an alcoholic content of less than 22%. The tax shall be collected by the state liquor control commission at the time of sale by the commission. In the case of sales to licensees, the tax shall be computed on the retail selling price established by the commission without allowance of discount.

Deposit to credit of state school aid fund.

(2) Upon collection the state liquor commission shall deposit the entire proceeds in the state treasury to the credit of the state school aid fund established by section 23 of article 10 of the state constitution.

HISTORY: New 1957, p. 613, Act 312, Imd. Eff. Jul. 1;—Am. 1961, p. 221, Act 155, Eff. Jul. 1.

388.650 School code of 1955; definition.

Sec. 40. As used in this act, the term school code of 1955 means Act No. 269 of the Public Acts of 1955, as amended, being sections 340.1 to 340.984 of the Compiled Laws of 1948.

HISTORY: New 1957, p. 614, Act 312, Imd. Eff. Jul. 1.

388.651 Repealed. 1964, p. 567, Act 285, Eff. Jul. 1.

Section was a repealer of sections 388.561-388.602.

388.652 Short title; state school aid act.

Sec. 42. This act shall be known and may be cited as the "state school aid act".

HISTORY: New 1957, p. 614, Act 312, Imd. Eff. Jul. 1;—Am. 1964, p. 566, Act 285, Eff. Jul. 1.

CHAPTER 2

PRIVATE SCHOOLS

388.655 Definitions.

Sec. 55. As used in this chapter:

(a) "Superintendent" means the state superintendent of public instruction or any successor to the powers, duties and functions of that office.

(b) "Certified lay teacher" means a teacher who holds a valid certificate or permit issued by the state to teach in the public schools of this state and is not a member of a religious order, who by vow or promise has chosen the religious life of poverty as a vocation or who wears any distinctive habit, or both.

(c) "Eligible unit" means a board of education, association or corporation operating a nonpublic school or system of nonpublic schools, which is complying with all educational standards as required by law, has filed with the state department of education a certificate that it complies with section 2 of article 8 of the state constitution and title VI of the civil rights act of 1964 (Public Law 88-352) in effect on December 1, 1969, has applied on a form provided by the superintendent for aid provided by this chapter for the fiscal year 1970-71 by August 15, 1970 and for each succeeding fiscal year by October 1 prior to the beginning of the fiscal year for which such aid is sought and is certified by the superintendent as having substantially complied with all state laws concerning evaluation of pupils and other laws applicable to nonpublic schools. If an application is not made it shall be conclusive evidence that an eligible unit does not desire to participate in the provisions of this chapter for that year.

(d) "Secular subjects" means those courses of instruction commonly taught in the public schools of this state including but not limited to language skills, mathematics, science, geography, economics, history, as defined by the state department of education, which shall expressly not include any course of instruction in religious or denominational tenets, doctrine or worship or the primary purpose of which is to inculcate such tenets, doctrine or worship. Textbooks used in such secular subjects shall meet the same criteria as required of textbooks used in the public schools.

HISTORY: Add. 1970, p. 343, Act 100, Imd. Eff. Sep. 1.

388.656 Legislative declaration of public policy.

Sec. 56. The legislature finds that large numbers of children are being educated in nonpublic elementary and high schools in this state and further finds that increasing costs of education are impairing the quality of secular education of children enrolled in nonpublic schools lawfully selected by their parents. These schools perform, in addition to their sectarian function, the task of secular education. The legislature declares as public policy of the state that the public good and general welfare require that state appropriations now provided to public school districts under this act for the purpose of furnishing opportunities for public school children to secure a quality secular education be extended to assist in providing opportunities for quality secular education to children attending nonpublic elementary and high schools, as part of a general program to foster and encourage knowledge so as to provide a mature citizenry capable of contributing to good government, and to the safety and the economic and civil well-being of all the people of this state.

HISTORY: Add. 1970, p. 344, Act 100, Imd. Eff. Sep. 1.

388.657 Appropriation.

Sec. 57. A sum necessary to fulfill the requirements of this chapter is appropriated from the general fund to the department of education for the fiscal year ending June 30, 1971, and for each fiscal year thereafter.

HISTORY: Add. 1970, p. 344, Act 100, Imd. Eff. Sep. 1.

388.658 Appropriation; limitation; maximum for 1970-71.

Sec. 58. The sum so appropriated shall not exceed 2% of the total expenditures from state and local sources for the support of the free public elementary and secondary public education system in this state in the last preceding fiscal year, as determined or estimated when necessary, by the superintendent from records available to him and financial accounting records of public school units maintained in accordance with rules promulgated by the state department of education. For the purpose of such limitation, total expenditures shall not include the amounts expended for bus transportation and auxiliary services for public and nonpublic school students. This appropriation shall not exceed \$22,000,000.00 during the 1970-71 school year beginning July 1, 1970.

HISTORY: Add. 1970, p. 344, Act 100, Imd. Eff. Sep. 1.

388.659 Appropriation; purchase of educational services.

Sec. 59. The sum so appropriated shall be used by the department of education to purchase from eligible units educational services in secular subjects for the benefit of pupils attending eligible units.

HISTORY: Add. 1970, p. 344, Act 100, Imd. Eff. Sep. 1.

388.660 Appropriation; payment for salaries of certified lay teachers, percentage, limitation.

Sec. 60. Within the limit of the appropriation under this chapter for a particular fiscal year, the superintendent shall pay to an eligible unit, in quarterly installments, a sum not to exceed in the fiscal years 1970-71 and 1971-72, 50% of the salaries of certified lay teachers within such unit teaching secular subjects and in the fiscal years thereafter 75% of such salaries. If the state board of education determines that if the total actual costs of such educational service rendered by such individual is in excess of the total actual cost of comparable educational service rendered in approximately like circumstances of geographical area and economic condition in the public schools, the state board of education shall disapprove the total actual cost of such educational service rendered by such individual and no further payment shall be made to such individual until the state board of education makes a redetermination that the total actual cost for such educational service does not exceed the total actual cost of comparable educational service in such public schools. When a statewide budget system becomes operational, the amounts paid for such salaries shall not exceed 75% of the salary allowances adopted by the legislature for the purpose of determining such allowances for comparable professionals in local school district budgets in a particular fiscal year.

HISTORY: Add. 1970, p. 344, Act 100, Imd. Eff. Sep. 1.

388.661 Certified lay teachers; list, certification; allocation of salaries, payment.

Sec. 61. Prior to the first day of the quarter for which payments are due, an eligible unit shall certify to the superintendent on a form prepared by him, a list of certified lay teachers teaching secular subjects employed by such unit, the salaries and certification of each. Where the superintendent finds that a certified lay teacher is providing less than a full schedule of instruction in secular subjects, he shall allocate that part of the salary due such teacher for such instruction in secular subjects and shall prepare a voucher for payment to the eligible unit for the allocated portion of the salary of such teacher as provided in section 60. The superintendent shall prepare appropriate vouchers and the state treasurer shall pay to the eligible units the aggregate allowance for the salaries for the teachers employed by the unit.

HISTORY: Add. 1970, p. 345, Act 100, Imd. Eff. Sep. 1.

388.662 Eligible units; accounting systems required.

Sec. 62. As an express condition of continued certification, the eligible units shall maintain such accounting systems as will enable the department at all times to ascertain that the allowances by the state were in fact used to pay the certified lay teachers teaching secular subjects and not for any other purpose.

HISTORY: Add. 1970, p. 345, Act 100, Imd. Eff. Sep. 1.

388.663 Administration of chapter; rules.

Sec. 63. This chapter shall be administered by the department of education which shall promulgate rules to carry out the provisions of this chapter in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 345, Act 100, Imd. Eff. Sep. 1.

388.664 List of eligible units; preparation; exclusion, appeal.

Sec. 64. Prior to the beginning of each fiscal year the superintendent shall prepare a list of eligible units. Anyone aggrieved by not having been declared an eligible unit may proceed as in a contested case within the meaning of Act No. 306 of the Public Acts of 1969 to have his status determined.

HISTORY: Add. 1970, p. 345, Act 100, Imd. Eff. Sep. 1.

388.665 Certified lay teachers; status.

Sec. 65. It is understood that certified lay teachers who receive payment under this chapter are not employees of the state and therefore are not eligible for membership in any public school employee retirement system under the provisions of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.357 of the Compiled Laws of 1948 nor shall they be under the provisions of Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Compiled Laws of 1948, nor subject to the provisions of Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 345, Act 100, Imd. Eff. Sep. 1.

388.666 Severability; advisory opinion on constitutionality.

Sec. 66. (1) If any portion of this act or the application thereof to any person or circumstances shall be found invalid by a court, such invalidity shall not affect the remaining portions or application of this act which can be given effect without the invalid portion or application if the court so indicates.

(2) It is the intent of the legislature that an advisory opinion upon the constitutionality of chapter 2 of this amendatory act be sought pursuant to article 3, section 8, of the state constitution from the supreme court, after it has been enacted into law but before its effective date.

HISTORY: Add. 1970, p. 345, Act 100, Imd. Eff. Sep. 1.

388.666a Effective date; expenditures.

Sec. 66a. The provisions of this chapter shall take effect September 1, 1970, except that it is the intent of the legislature that no expenditures of state funds be made pursuant to the provisions of chapter 2 until the Michigan supreme court renders such advisory opinion.

HISTORY: Add. 1970, p. 345, Act 100, Imd. Eff. Sep. 1.

Act 230, 1964, p. 305; Imd. Eff. May 22.

AN ACT to provide for appropriating from the school aid fund to school districts pending the settlement of taxes paid under protest and held in escrow; to provide for recomputations and application for such aid.

*The People of the State of Michigan enact:***388.671 School aid fund; appropriation.**

Sec. 1. There is hereby appropriated from the school aid fund established by section 11 of article 9 of the constitution of the state, a sum necessary to fulfill the requirements of this act.

HISTORY: New 1964, p. 305, Act 230, Imd. Eff. May 22.

388.672 School district taxes paid under protest; credit obtained by district lien; payment to school aid fund.

Sec. 2. Whenever taxes levied by a board of education of a school district for operating purposes against property constituting at least 10% of the district's valuation, as defined and computed in accordance with the provisions of Act No. 312 of the Public Acts of 1957, as amended, being section 388.611 to section 388.652 of the Compiled Laws of 1948, are paid under protest and are placed in escrow and are thus unavailable to the district, the total valuation of the district for the purposes of the above act shall be reduced by the valuation of such property. The credit so obtained by a district in the application of the school aid formula provided in the above act shall forever be a lien against the district and shall be immediately paid by the treasurer of the school district to the state school aid fund from the taxes referred to above at such time as the taxes are collected by the district.

HISTORY: New 1964, p. 305, Act 230, Imd. Eff. May 22.

388.673 School aid for 1962, 1963, 1964; recomputation.

Sec. 3. The school aid determined and paid to school districts under Act No. 312 of the Public Acts of 1957, as amended, for the fiscal years ending June 30, 1962, June 30, 1963 and June 30, 1964, shall be recomputed in accordance with the provisions of section 2 and the additional aid due the districts shall be paid immediately in the manner provided by law for the payment of school aid.

HISTORY: New 1964, p. 308, Act 230, Imd. Eff. May 22.

388.674 School aid; applications, reports.

Sec. 4. Any district coming under the provisions of this act shall make application to the superintendent of public instruction on forms provided for that purpose and shall furnish such reports and information as is deemed necessary by the superintendent of public instruction for the proper determination of aid.

HISTORY: New 1964, p. 308, Act 230, Imd. Eff. May 22.

Act 289, 1964, p. 584; Eff. Aug. 28.

AN ACT to provide for the study and development of plans for the reorganization of school districts and for elections to accomplish same; to provide for the creation of state and intermediate reorganization committees; to prescribe their powers and duties; to provide for hearings and elections on reorganization plans; and to prescribe the powers and duties of the superintendent of public instruction.

*The People of the State of Michigan enact:***388.681 Reorganization of school districts; definitions.**

Sec. 1. As used in this act:

(a) "Reorganization of school districts" means the formation of new school districts, the alteration of boundaries of established school districts, and the dissolution or disorganization of established school districts through or by means of any one or combination of the methods as set forth in this act.

(b) "State committee" means the state committee for the reorganization of school districts created in this act.

(c) "Intermediate committee" means the committee for the reorganization of school districts created in this act.

(d) "Plan of reorganization" means a concrete proposal for readjustment and realignment of the boundaries of school districts within an intermediate school district area.

(e) "Non-high school district" means a school district presently operating less than a kindergarten through twelfth grade program.

(f) "School code" means Act No. 269 of the Public Acts of 1955, as amended, being sections 340.1 to 340.984 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 584, Act 289, Eff. Aug. 28.

CITED IN OTHER SECTIONS: Sections 388.681 to 388.683 are cited in §§ 340.352a and 388.711.

388.682 State committee for reorganization of school districts; appointments, distribution; vacancies, compensation.

Sec. 2. There is created, for the term of time necessary to complete the requirements of this act, a state committee for the reorganization of school districts, appointed by the governor, and composed of 7 members, at least 1 of whom shall represent the Upper Peninsula, 1 the area above the Bay City-Muskegon line, and 5 shall be appointed in such manner as to represent fairly the remainder of the state. The superintendent of public instruction shall be the nonvoting chairman of the committee. Vacancies shall be filled by appointment of the governor. Members of the state committee shall serve without compensation. The members of the committee shall be appointed within 60 days after the effective date of this act.

HISTORY: New 1964, p. 585, Act 289, Eff. Aug. 28.

388.683 State reorganization committee; officers, records, meetings, quorum.

Sec. 3. Within 90 days after the effective date of this act, the state committee shall organize by electing a vice-chairman and a secretary. The vice-chairman shall act as chairman at the request of the superintendent of public instruction. The secretary shall keep the records of official committee meetings and prepare and distribute materials as requested by the state committee. Meetings of the committee shall be held upon the call of the chairman or any 3 of the members thereof. Five members, which may include the superintendent of public instruction, constitute a quorum.

HISTORY: New 1964, p. 585, Act 289, Eff. Aug. 28.

388.684 School district reorganization program; surveys, approval of proposals, reports.

Sec. 4. The state committee shall:

(a) Within 12 months after the effective date of this act, develop policies, principles and procedures for a statewide school district reorganization program planned so that all areas may become part of a school district operating or designed to operate at least 12 grades. In no case can an intermediate district committee plan be submitted under this act which would require the merger of 2 or more school districts of the third class or higher. There shall be created no less than 500 school districts operating 12 grades.

(b) Direct area surveys and develop a manual of procedure to be printed and distributed to all intermediate district superintendents of schools.

(c) Perform either by itself or by its authorized representative any or all of the duties required by this act to be performed by the intermediate school district superintendent, the intermediate district board of education, the intermediate district committee, or the probate judge or judges, in case of failure by any or all of them to perform these duties.

(d) Review and approve or reject intermediate district plans within 60 days after receipt of plans from the intermediate district committees.

(e) Report to each intermediate district the acceptance or rejection of the proposed plans with recommendations for changes.

(f) Present a progress report on reorganization under this act to the state legislature on or before March 1 of each year.

HISTORY: New 1964, p. 585, Act 289, Eff. Aug. 28.

388.685 Intermediate district committee for reorganization of school districts; membership, election, vacancies, organization.

Sec. 5. (1) A committee shall be organized in each intermediate district in the state to be known as the intermediate district committee for the reorganization of school districts. The intermediate district superintendent of schools shall be nonvoting chairman of the intermediate district committee, and he shall preside over all meetings of the intermediate district committee. The intermediate district committee shall complete the requirements of this act and comply with the requests made by the state committee.

There shall be 18 members on the intermediate district committee each of whom shall be a registered resident elector. In intermediate districts containing no district operating 12 grades or more and in intermediate districts containing no non-high school districts the committee shall consist of 13 members.

(2) Members of the intermediate district committee shall be chosen as follows:

(a) The intermediate board of education shall appoint 3 of its members to serve on the committee.

(b) The intermediate district superintendent of schools, by notice sent by mail, shall call a meeting of the boards of education of all school districts operating a program of 12 grades or more in the intermediate district. The meeting shall be held at some convenient place within the intermediate district within 60 days after the effective date of this act. The intermediate district superintendent shall act as chairman of this meeting, and the board members shall elect by ballot 5 persons to serve on the intermediate district committee not more than 2 of whom shall be from any one constituent district, unless there are fewer districts than there are positions to fill. The 5 persons receiving the highest number of votes shall be declared elected. No person may be elected to or serve on the committee who is an employee of any constituent school district or of the intermediate school district. The chairman shall appoint 3 or more tellers to conduct the election and to canvass the vote. Whenever not more than 2 of the 5 members fail to serve on the committee, the remaining members shall fill the vacancy from the same constituent district in which the vacancy occurs. Whenever 3 or more vacancies occur at the same time, the vacancies shall be filled in the same manner as the original committee members were elected.

(c) The intermediate district superintendent of schools, by notice sent by mail, shall call a meeting of the boards of education of all school districts operating less than a twelve-grade program in the intermediate district. The meeting shall be held at some convenient place within the intermediate district within 60 days after the effective date of this act. The intermediate district superintendent shall act as chairman of this meeting, and the board members shall elect by ballot 5 persons to serve on the intermediate district committee not more than 2 of whom shall be from any one constituent district, unless there are fewer districts than there are positions to be filled. The 5 persons receiving the highest number of votes shall be declared elected. No person may be elected to or serve on the committee who is an employee of any constituent school district or of the intermediate school district. The chairman shall appoint 3 or more tellers to conduct the election and to canvass the vote. Whenever not more than

2 of the 5 members fail to serve on the committee, the remaining members shall fill the vacancy from the same constituent district in which the vacancy occurs. Whenever 3 or more vacancies occur at the same time, the vacancies shall be filled in the same manner as the original committee members were elected.

(d) The intermediate district superintendent of schools, by notice sent by letter, shall notify the probate judge of the area, who, within 60 days after the effective date of this act, shall appoint 5 members to the committee fairly representing all areas of the intermediate district. The qualifications of these members shall be the same as those of the other members of the committee. The probate judge shall fill all vacancies that may occur among his appointees. In any intermediate district where there are 2 or more probate judges the judges acting jointly shall make the appointments.

(3) Organization of the intermediate district committee shall be completed in each district within 6 months after the effective date of this act. If an intermediate district committee has not been organized within 6 months, the state committee shall appoint the members within 60 days thereafter. In which event the same limitations shall apply as provided in this section.

HISTORY: New 1964, p. 585, Act 289, Eff. Aug. 28.

388.686 Intermediate district reorganization committee; meetings, records, district reorganization plan, hearings, approval, revision, dissolution of committee.

Sec. 6. Each intermediate district committee shall elect a secretary who shall keep the minutes and records of all official meetings. Meetings shall be held upon the call of the chairman or any 3 members of the committee. A majority of the committee shall constitute a quorum. The intermediate district committee shall follow the procedure guide provided by the state committee and prepare a district reorganization plan, which shall be submitted to the state committee for its approval or disapproval. The plan shall provide for the reorganization of school districts within the intermediate district so that all areas of the district may become a part of a school district operating or designed to operate at least 12 grades. The intermediate district committee shall hold at least 1 public hearing regarding the plan but may hold as many more as it deems necessary. Hearings shall be advertised by publication at least once in a newspaper of general circulation in the districts 10 days or more before the scheduled hearing. The intermediate district plan for reorganization shall be submitted to the state committee for its consideration within 9 months after receiving the manual of procedure from the state committee. If the intermediate district plan is approved by the state committee, the plan shall be submitted to the electors as provided in section 7 of this act. If an intermediate district plan is rejected by the state committee, a revised plan shall be submitted by the intermediate district committee within 90 days after receipt of the rejection of the original plan. If the revised plan is not accepted by the state committee, the state committee shall submit a plan for the reorganization of the school districts in the intermediate school district and the intermediate committee shall also submit a plan for the reorganization of the school districts in the intermediate school district. The intermediate school district board shall submit both plans to the electors of the intermediate school district and the plan receiving the larger number of votes shall be submitted to the qualified electors of the intermediate school district in accordance with the requirements of method 2 provided in section 7 of this act. Following this election, the intermediate committee shall be dissolved and the requirements of this act shall have been met and no further plans shall be re-submitted for 5 years by either the state

committee or the intermediate district. The intermediate district committee shall also be dissolved on completion and acceptance of the plan by the state committee and the vote or votes on the plan by the electors of the proposed school district.

HISTORY: New 1964, p. 586, Act 289, Eff. Aug. 28.

388.687 Optional election methods for adoption of reorganization plans; conduct.

Sec. 7. Not less than 90 days nor more than 6 months following approval of an intermediate district plan as provided in section 6 of this act elections shall be held according to one of 2 methods. The intermediate district committee shall determine which election method shall be used.

Method 1. The entire area encompassed by the intermediate district plan shall vote as a unit on the question: "Shall the approved reorganization plan for the intermediate district be adopted?"

Yes ()

No ()"

If a majority of the qualified electors present and voting approve the plan it shall be declared adopted and shall become effective throughout the area on the date of the election if the election is held after April 30 but before September 1. The effective date shall be July 1 following if the election is held after August 31 but before May 1.

Method 2. The proposed districts provided for in the approved plan shall vote by proposed districts on the question: "Shall the approved reorganization plan for a proposed local district within the intermediate district of be adopted?"

Yes ()

No ()"

If a majority of the qualified electors present and voting in a proposed district approve the plan for that proposed district it shall be declared adopted and shall become effective throughout the proposed district on the date of the election if the election is held after April 30 but before September 1. The effective date shall be July 1 following if the election is held after August 31 but before May 1.

If election method number 1 is adopted by the intermediate district committee and if the question voted on fails to obtain an affirmative majority, then another election using method number 2 shall be held not less than 90 days nor more than 6 months after the date of the first election. The results of this election using method number 2 shall be final and the requirements of this act shall have been met.

If the intermediate district plan provides that the boundaries of an existing school district shall remain the same such district shall not participate in an election held under either method number 1 or method number 2.

If the election is held under method number 1, the plan to be voted on shall not cause an existing school district to be divided between 2 intermediate districts but property transfers may be made later according to the provisions of chapter 5, part 2 of the school code. The plan may provide for division of districts within an intermediate district.

If and when voting method number 2 is used, the plan shall not cause an existing school district to be divided between 2 proposed local districts within the intermediate unit but property transfers may be made later according to chapter 5, part 2 of the school code.

No property transfers shall be made after the approval of the intermediate district plan by the state committee until after the elections provided for in this section have been held.

The question of assumption of bonded indebtedness shall not be included in any election held under the provisions of this act but the provisions of sections 412 and 413 of the school code regarding assumption of debt shall apply.

The qualifications of electors shall be the same as now provided in the statutes for votes on consolidation and annexation and the provisions of the general election laws shall apply.

The board of education of the intermediate school district shall conduct the election or elections provided for in this section according to the general election laws and according to chapters 7 and 8 of part 2 of the school code.

HISTORY: New 1964, p. 587, Act 289, Eff. Aug. 28.

388.688 Classification of districts formed.

Sec. 8. Districts formed under the provisions of this act shall be classified as second, third or fourth class districts depending upon the school census as provided for in chapters 3, 4 and 5, part 1 of the school code.

HISTORY: New 1964, p. 588, Act 289, Eff. Aug. 28.

388.689 Consolidation, annexation or division of districts.

Sec. 9. After the effective date of this act, the superintendent of public instruction, when requested to approve a consolidation, annexation or division of a district, shall give careful consideration to the progress of the implementation of the requirements of this act.

HISTORY: New 1964, p. 588, Act 289, Eff. Aug. 28.

388.690 School aid; apportionment.

Sec. 10. School districts formed under the provisions of this act shall be entitled to and receive financial aid from the state in the manner provided by legislative appropriation for school aid purposes except that the apportionments of state aid due any school district formed under this act in the 2 fiscal years next following reorganization shall not be less than the aggregate of state aid which would have been due proportionately to the component districts prior to the reorganization. It shall be the duty of the superintendent of public instruction in making apportionments of state aid to adjust the amount of state aid due each such school district accordingly.

HISTORY: New 1964, p. 588, Act 289, Eff. Aug. 28.

388.691 Board of education of newly-formed district.

Sec. 11. Where the proposed district involves expansion of the boundaries of an existing twelve-grade district by addition of non-twelve-grade territory the board of education of the twelve-grade district shall continue as the board of the enlarged district.

Where the proposed district involves the merger of 2 or more twelve-grade districts with or without the addition of non-twelve-grade territory, or where the proposed district involves merger of non-twelve-grade districts into a new twelve-grade district a board of education fairly representing all areas of the new district shall be appointed by the intermediate district board to serve until a new board is elected as provided in section 410 of the school code.

HISTORY: New 1964, p. 588, Act 289, Eff. Aug. 28.

388.692 Board of education of district losing identity; records, property.

Sec. 12. The boards of education of any district which lose identity shall turn over their books, records, funds and property to the new board within 10 days after the effective date of the reorganization. If any existing district is divided, the intermediate district board, or boards, shall specify the division of assets and liabilities.

HISTORY: New 1964, p. 589, Act 289, Eff. Aug. 28.

388.693 Final report; termination of act.

Sec. 13. The state commission shall make a final report to the state legislature on or before September 1, 1968, and this act shall expire on the date of filing the final report.

HISTORY: New 1964, p. 589, Act 289, Eff. Aug. 28.

Act 254, 1945, p. 361; Eff. Sep. 6.

AN ACT to validate boundaries and organizations of certain third class school districts.

The People of the State of Michigan enact:

388.701 Third class school districts; validation of boundaries and organizations.

Sec. 1. Where organized school districts or parts of organized school districts lying within the limits of a city containing a third class school district, which third class school district has been organized and existing for a period of 10 years or more, have been heretofore annexed to or consolidated with said third class school district, and said third class school district has exercised jurisdiction over and has furnished school facilities to the territory formerly served by said annexed district and parts of districts for a period of 6 months or more previous to the effective date of this act, the said third class school district after such annexation shall be deemed to be a lawfully established school district and all of said annexed territory shall be deemed to be lawfully incorporated into said district of the third class.

HISTORY: CL 1948, 388.701.

Act 239, 1967, p. 352; Imd. Eff. Jul. 12.

AN ACT to provide recognition of a state of emergency in certain school districts in the state; to provide for continuance of the state committee on reorganization of school districts; and to provide certain powers and duties of the state board of education in connection therewith.

The People of the State of Michigan enact:

388.711 Reorganization of school districts; determination of emergency.

Sec. 1. The state committee for the reorganization of school districts, created by Act No. 289 of the Public Acts of 1964, being sections 388.681 to 388.693 of the Compiled Laws of 1948 shall determine the existence of an emergency warranting immediate reorganization within any primary school district or school district of the fourth class not reorganized under the provisions of Act No. 289 of the Public Acts of 1964.

HISTORY: New 1967, p. 352, Act 239, Imd. Eff. Jul. 12.

CITED IN OTHER SECTIONS: Sections 388.711 to 388.720a are cited in § 388.628a.

388.712 Emergency school district; reorganization; applicability; determination of emergency.

Sec. 2. This act applies only to school districts lying wholly in, or the major part of the territory of which lies wholly in, a county having a population of more than 1,000,000. The board of education or 5% of the school electors, but not less than 5 electors in a primary school district or less than 25 electors in a school district of the fourth class, of any primary school district or school district of the fourth class not reorganized under the provisions of Act No. 289 of the Public Acts of 1964, may petition the state

board of education to determine if an emergency warranting immediate reorganization exists within the district.

HISTORY: New 1967, p. 352, Act 239, Imd. Eff. Jul. 12;—Am. 1968, p. 192, Act 130, Imd. Eff. Jun. 11.

388.713 Determination of emergency; hearing.

Sec. 3. Upon receipt of the petition, the state committee shall conduct, or cause to be conducted, an impartial study to determine if an emergency exists. Within 20 days following publication of the results of the study, a member of the state committee, or the secretary designated by the committee, shall hold a hearing in the district. Notice of the time and place of the hearing shall be given the voters of the district and the superintendent of the intermediate school district to which the district is constituent.

HISTORY: New 1967, p. 352, Act 239, Imd. Eff. Jul. 12.

388.714 Reorganization committee; findings, contents.

Sec. 4. Within 20 days following receipt of a transcript of the hearing, the state committee shall make a finding relative to the existence of a condition or conditions warranting immediate reorganization of the district. The finding shall include consideration of the adequacy of the district to provide the following:

(a) An educational program meeting standards established by the state department of education or by accrediting agencies.

(b) A physical plant which can contain an acceptable school program.

(c) Transportation for students.

(d) Necessary tax base.

(e) Pupil services, administrative and teaching staff, and auxiliary services in compliance with rules prescribed by the department of education.

HISTORY: New 1967, p. 353, Act 239, Imd. Eff. Jul. 12.

388.715 Need for immediate reorganization; report and recommendations.

Sec. 5. Upon a finding by the state committee that conditions in a school district warrant immediate reorganization, the state committee shall transmit its report with recommendations to the state board of education.

HISTORY: New 1967, p. 353, Act 239, Imd. Eff. Jul. 12.

388.716 State committee report and recommendations; publication; filing of objections and recommendations; determination of state board.

Sec. 6. The state board of education shall publish the report and recommendations of the state committee and shall invite objections or comments to be filed with it within 20 days following publication of the report. The state board then shall consider the report of the state committee, together with the comments and objections filed, and make a determination as to endorsement of the finding of the state committee.

HISTORY: New 1967, p. 353, Act 239, Imd. Eff. Jul. 12.

388.717 Attachment of territory by annexation; effective date; finality; conclusiveness.

Sec. 7. The state board of education, upon the finding that an emergency warrants immediate reorganization of a school district, shall attach the district by annexation or division to such other district or districts as will provide the most equitable educational opportunity for all of the students of the reorganized district and shall determine the effective date of attachment. Action of the state board of education shall be final. For the 4 fiscal years immediately subsequent to the annexation, the receiving district may elect to compute and receive state aid for that portion of the district annexed based upon the per pupil state equalized valuation of the annexed portion.

HISTORY: New 1967, p. 353, Act 239, Imd. Eff. Jul. 12;—Am. 1968, p. 193, Act 130, Imd. Eff. Jun. 11.

388.718 Reorganized school district; bonded indebtedness, levy of taxes.

Sec. 8. If a district attached under the provisions of this act at the time of reorganization, has a bonded indebtedness incurred after December 8, 1932, its identity shall not be lost and its territory shall remain as an assessing unit for purposes of such bonded indebtedness until the indebtedness has been retired or the outstanding bonds refunded by the reorganized district. The board of the reorganized district, or the board of the district which has succeeded to the largest share of the state equalized valuation of the attached district, shall constitute the board of trustees for the original district having bonded indebtedness and the officers of the reorganized or successor district shall be the officers for the original district. The board of the reorganized or successor district shall certify and order the levy of taxes for the bonded indebtedness in the name of the original district, shall not commingle the debt retirement funds of the original district with funds of the reorganized or successor district and shall do all things relative to such bonded indebtedness required by law and by the terms under which the issue and sale of the bonds were originally authorized. All other tax levies for purposes of the reorganized district shall be spread over the entire area of the reorganized district.

HISTORY: New 1967, p. 353, Act 239, Imd. Eff. Jul. 12.

388.719 Reorganized school district; assumption of bonded indebtedness of original school district; effect; certification, levy of taxes; election.

Sec. 9. Any time after 3 years following reorganization, the reorganized district, or that district which has succeeded to the largest share of the attached district's state equalized valuation, may assume the obligation of the bonded indebtedness incurred after December 8, 1932, of the original district which has become a part of the reorganization and pay the same from the proceeds of a debt retirement tax levy spread uniformly over the territory of the reorganized or successor district whenever the electors of the reorganized or successor district shall have approved an increase in the limitation on taxes for that purpose and the school tax electors of the district have approved the assumption of such bonded indebtedness. Assumption of the bonded indebtedness of an original school district shall not release the territory of the original district from the final responsibility of paying the obligation or rescind the increase in the limitation on taxes pledged to the bond issue or available to it in the original district, nor be construed as so doing. When the bonded indebtedness of an original district has been so assumed, the board of the reorganized or successor district shall certify and order the levy of taxes for the bonded indebtedness equivalent in terms of money to those required by the terms under which the indebtedness was originally incurred and carry out all provisions of the original bond contract. The election to assume the bonded indebtedness of an attached district may be held at any time after 3 years following the effective date of reorganization when a proposal is placed before the school tax electors to increase the bonded indebtedness of the combined district.

HISTORY: New 1967, p. 354, Act 239, Imd. Eff. Jul. 12.

388.720 Petitions for emergency reorganization; intermediate district superintendent to furnish; form; who may sign; circulation signatures.

Sec. 10. The intermediate district superintendent upon request shall furnish any school district with petitions. The petitions shall be printed or duplicated and the first page shall be in the following form:

Petition no. consisting of pages.

(Signed)

Superintendent of intermediate district of

To the state committee on reorganization of school districts, Lansing, Michigan.

We, the undersigned, qualified (here insert "registered" in the case of a registration district) electors of
(name of school district)

declare that in the following school district there does exist an emergency calling for immediate reorganization, and we do call upon the state board of education to reorganize the district:

Name of school district to be reorganized to be listed here

Signatures of petitioners

Name

Address

Date of signing

Each additional page of any such petition shall have at or near the top of the page the following:

Official petition

No.

Page no.

Signature of intermediate district superintendent

Each page shall have printed or duplicated the following statement below the space for signature for petitioners:

The undersigned certifies that he is a qualified (here insert "registered" in the case of a registration district) elector of
(name of school district)

and that each signature appearing on this page is the genuine signature of the person signing the same and that to his best knowledge and belief each such person was at the time of signing a qualified (here insert "registered" in the case of a registration district) elector of the school district.

Dated this day of 19.....

Each petition shall be signed by the intermediate district superintendent as indicated in the foregoing form before being issued to any person for circulation.

Only qualified school electors of the districts in which signatures to the petitions are being sought shall circulate such petitions and the statement appearing below the signatures of petitioners shall be dated or signed on each page before returning to the state committee.

HISTORY: New 1967, p. 354, Act 239, Imd. Eff. Jul. 12.

388.720a State committee on reorganization of school districts; continuation.

Sec. 10a. The state committee on reorganization of school districts shall continue in existence for purposes of this act, notwithstanding any expiration date otherwise provided by law.

HISTORY: Add. 1968, p. 193, Act 130, Imd. Eff. Jun. 11.

388.721 Repealed. 1968, p. 193, Act 130, Imd. Eff. Jun. 11.

Section related to termination of school aid act July 1, 1968.

388.731 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Section provided for payment of certain school bonds where a portion of district has been annexed to city school district with population of 250,000 or over.

Act 19, 1946 (1st Ex. Ses.), p. 41; Imd. Eff. Feb. 25.

AN ACT relative to registration of electors in school districts the boundaries of which are coterminous with the boundaries of cities.

The People of the State of Michigan enact:

388.751 Registration of school electors in certain school districts.

Sec. 1. In any school district the boundaries of which are coterminous with the boundaries of a city, and the city and school district elections are held on the same date conducted by the city election officials, the registration records of the electors in such city may be used as the registration records of the school district. Such registration records shall be considered a registration of school electors in compliance with the laws of this state.

HISTORY: CL 1948, 388.751.

Act 16, 1942 (1st Ex. Ses.), p. 28; Imd. Eff. Jan. 28.

AN ACT to designate the superintendent of public instruction as the state agency to apply to and receive from the federal government, or any agency thereof, grants in aid of the public schools of this state and educational activities in this state; and to provide for the disbursement thereof. Am. 1949, p. 283, Act 233, Eff. Sep. 23.

The People of the State of Michigan enact:

388.801 Federal grants to schools; superintendent of public instruction, sole agent to administer and receive.

Sec. 1. Whenever the federal government or any agency thereof shall provide grants of general federal aid for the use and benefit of the public schools of the state, the superintendent of public instruction is hereby designated as the sole state agency to apply to and receive from the federal government, or any agency thereof, such grants which may now or hereafter be available to the state of Michigan or any school district therein: Provided, however, That funds made available through the provisions of Act No. 149 of the Public Acts of 1919, and Act No. 211 of the Public Acts of 1921 are excepted: Provided further, That the superintendent of public instruction shall enter into no agreement with any agency of the federal government whereby any such agency shall directly or indirectly control the administration of the state public schools or the courses of study therein.

HISTORY: CL 1948, 388.801;—Am. 1949, p. 284, Act 233, Eff. Sep. 23.

388.802 Superintendent of public instruction; powers and duties.

Sec. 2. To these ends and purposes the superintendent of public instruction is authorized, directed and empowered:

(a) To originate the documentary data prerequisite to the disbursement of all funds made available at any time by the federal government to the state of Michigan for said purposes in accordance with existing and usual procedures covering disbursements from the state treasury.

(b) To adopt, carry out and administer a plan or plans for any such purposes not contrary to or inconsistent with the laws of this state. Such plan or plans so adopted shall be made statewide in application insofar as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the federal government, or any of its agencies.

HISTORY: CL 1948, 388.802.

388.803 Deposit and disbursement of funds received.

Sec. 3. Such grant or grants from the federal government as may be received by the state of Michigan under the provisions of this act shall be paid in to the state treasurer. Disbursement of such funds from the state treasury shall be by warrant of the auditor general.

HISTORY: CL 1948, 388.803.

388.804 Other acts inapplicable to educational grants.

Sec. 4. Section 1 of Act No. 145 of the Public Acts of 1901 and an act of the Public Acts of the First Extra Session of 1942, entitled "An act to authorize the acceptance of federal equipment, supplies, materials and funds," shall not apply to grants described in section 1 hereof.

HISTORY: CL 1948, 388.804.

NOTE: Sec. 1, Act 145, 1901, above referred to, is Compilers' § 21.161. The Act of 1942, above referred to, is Compilers' repealed § 3.151.

388.805 Grants for vocational education and rehabilitation.

Sec. 5. All funds made available to the state by federal appropriations for the purpose and operation of vocational education and vocational rehabilitation, including vocational training for defense workers, shall be received and administered by the state board of control for vocational education.

HISTORY: CL 1948, 388.805.

Sec. 6.

HISTORY: Rep. 1947, p. 79, Act 69, Eff. Oct. 11.

This section provided for expiration of the act 6 months after termination of the state of war.

Act 37, 1933, p. 38; Imd. Eff. Mar. 27.

AN ACT to provide for the acceptance and use for the benefit of the public schools and roads of the state of Michigan of the grant of moneys from the United States by act of congress, approved May 23, 1908, being an act providing for the payment to the states of 25 per centum of all money received from the national forest reserves in the states, to be expended as the legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated.

The People of the State of Michigan enact:

388.831 National forest moneys; school and highway aid, distribution.

Sec. 1. All sums of money heretofore received or that may hereafter be received from the United States under an act of congress, approved May 23, 1908, being an act providing for the payment to the states of 25 per centum of all money received from the national forest reserves in the states to be expended as the legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated, shall be expended as follows: 75 per cent for the public schools and 25 per cent for roads in the counties in which national forests are situated. The distribution to each county from the proceeds received on account of a national forest within its boundaries shall be in proportion that the area of such national forest in such county bears to the total area of such forest in the state, as of June thirtieth of the fiscal year for which the money is or was received.

HISTORY: CL 1948, 388.831.

NOTE: The act of Congress, approved May 23, 1908, above referred to, is 16 U.S.C.A. § 500.

388.832 National forest moneys; appropriations, accounting of funds.

Sec. 2. It shall be the duty of the auditor general, within a reasonable time after receipt of the money from the federal government, to draw his warrant on the state trea-

suror in the amount and to the county treasurer of the respective county as set forth in section 1 of this act, which sum or sums are hereby appropriated out of the state treasury from the amounts received from the federal government pursuant to said act of congress. The county treasurer shall credit such funds in a special account, to be expended as provided in section 3 of this act.

HISTORY: CL 1948, 388.832.

388.833 National forest moneys; payment by county treasurer.

Sec. 3. The county treasurer of each county receiving any such moneys shall pay the 25% to the county road commission and shall allocate and pay the 75% to the school districts in the county containing national forest acreage in the proportion which such acreage bears to the total national forest acreage in the county, as of the June 30 immediately preceding the payment.

HISTORY: CL 1948, 388.833;—Am. 1962, p. 136, Act 142, Imd. Eff. May 7.

Act 306, 1937, p. 584; Imd. Eff. Jul. 23.

AN ACT to promote the safety, welfare and educational interests of the people of the state of Michigan by regulating the construction, reconstruction and remodeling of certain public or private school buildings or additions thereto, by regulating the construction, reconstruction and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of the superintendent of public instruction, the state fire marshal, architects, engineers and school board members with respect thereto; to prescribe penalties for the violation of this act; and to repeal all acts and parts of acts, general, local and special, inconsistent with or contrary to the provisions of this act. Am. 1941, p. 192, Act 148, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

388.851 School buildings; construction requirements; waiver.

Sec. 1. No school building, public or private, or additions thereto, shall be erected, remodeled or reconstructed in the state except it be in conformity with the following provisions:

(a) All plans and specifications for buildings shall be prepared by, and the construction supervised by, an architect or engineer who is registered in the state of Michigan. Before the construction, reconstruction or remodeling of any school building or addition thereto is commenced, the written approval of the plans and specifications by the superintendent of public instruction or his authorized agent shall be obtained. The superintendent of public instruction or his authorized agent shall not issue such approval until he has secured in writing the approval of the state fire marshal, or the appropriate municipal official when certification as described in section 3 has been made, relative to factors concerning fire safety and of the health department having jurisdiction relative to factors affecting water supply, sanitation and food handling.

The superintendent of public instruction shall publish an informative bulletin which shall set forth good school building planning procedures and interpret clearly the provisions of this act. The bulletin shall be prepared in cooperation with the state fire marshal and the state health commissioner and, insofar as requirements for approval of plans are concerned, shall be consistent with recognized good practice as evidenced by standards adopted by nationally recognized authorities in the fields of fire protection and health.

(b) All walls, floors, partitions and roofs shall be constructed of fire-resisting materials such as stone, brick, tile, concrete, gypsum, steel or similar fire-resisting material.

All steel members shall be protected by at least 3/4 of an inch of fire-resisting material.

(c) No wood lath or wood furring shall be used. These regulations shall not be construed as prohibiting the use of finished wood flooring, wood door and window frames, wood sash or wood furring and grounds, for the purpose of installing wood trim, panelling, acoustical units or similar facing materials on masonry walls, structural steel or concrete ceiling members.

(d) Every room enclosing a heating unit shall be enclosed by walls of fire-resisting materials and shall be equipped with automatically closing fire doors; and said heating unit shall not be located directly beneath any portion of a school building or addition thereto which is constructed or reconstructed after the effective date of this act. This regulation shall not be construed to require the removal of an existing heating plant from beneath an existing building when an addition to such building is constructed unless the state superintendent of public instruction or his authorized agent, acting jointly with the state fire marshal, shall so require in the interests of the public safety. In any school where natural gas or any other kind of gas is used for heating purposes, the gas shall be chemically treated before being used in such a manner as to give a very distinguishable odor if any leak should develop in the heating system.

(e) In gymnasiums, fire-proofings may be omitted from the trusses and purlins if they are more than 16 feet off the main floor level. The architect or engineer shall provide adequate exits from all parts of school buildings. In all cases there shall be at least 2 stairways and the distance from the door of any class or assembly room to a stairway or exit shall not exceed 100 feet.

(f) Provisions in subdivisions (b) to (e) may be waived in writing by the state fire marshal.

HISTORY: Am. 1941, p. 192, Act 148, Eff. Jan. 10, 1942;—CL 1948, 388.851;—Am. 1949, p. 280, Act 231, Imd. Eff. May 31;—Am. 1962, p. 375, Act 175, Imd. Eff. May 17;—Am. 1968, p. 366, Act 239, Eff. Sep. 1.

CITED IN OTHER SECTIONS: The above section is cited in § 29.3c.

388.851a Construction of school buildings; definitions.

Sec. 1a. Words and phrases used in this act shall be defined as follows:

- (a) "School buildings" shall include all buildings used for school purposes.
- (b) "Remodeling" shall mean the alteration, construction or remodeling of partitions, hallways, stairways and means of egress, the replacement, relocation or reconstruction of heating, ventilating and sanitary equipment.
- (c) "Addition" shall mean added space which results in additional cubic contents to existing building.
- (d) "Total cost" shall be interpreted to mean the monetary worth of the building when ready for occupancy, regardless of the source of funds, labor or material and shall include the cost of general construction, plumbing, heating and ventilation, electrical work, all fixed equipment, together with the cost of architects, engineers and building superintending services.
- (e) A building having a basement shall be considered to be a 2 story building for the purposes of this act.

HISTORY: Add. 1941, p. 193, Act 148, Eff. Jan. 10, 1942;—CL 1948, 388.851a;—Am. 1949, p. 281, Act 231, Imd. Eff. May 31.

388.852 Architect or engineer; responsibilities.

Sec. 2. The architect or engineer preparing the plans and specifications or supervising the construction of any school building shall be responsible for constructing the

building of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved.

HISTORY: CL 1948, 388.852;—Am. 1949, p. 281, Act 231, Imd. Eff. May 31.

388.853 Inspection by state fire marshal; notice; exception.

Sec. 3. (1) Except as hereinafter provided, the state fire marshal shall inspect any building to determine whether or not the construction thereof complies with the provisions of this act. Each building shall be inspected by the state fire marshal at least twice during construction, 1 inspection to be made of the frame work of the building prior to plastering and 1 inspection shall be made on the completion of the building. The architect shall notify the state fire marshal when the building is ready for inspection. With respect to such inspections, the state fire marshal shall have the same powers as set forth in Act No. 207 of the Public Acts of 1941, as amended, being sections 29.1 to 29.25 of the Compiled Laws of 1948.

(2) The state fire marshal shall not be required to inspect or make any determination of fire safety in any existing school building insofar as operation, maintenance, remodeling, or repairs for fire safety is concerned, nor shall he be required to inspect any school building to determine whether or not its construction complies with this act, if such school building is located in a municipality where both the school board and the governing body of the municipality in which such a school is located have certified to the state superintendent of public instruction, in a manner prescribed by him, that the fire safety inspections and fire safety measures for the schools located in the municipality are provided for by a municipal code or ordinance that is administered and enforced by a full-time fire prevention and safety department, division or bureau maintained by the municipality and are satisfactory to both such school board and governing body. Either such school board or governing body may rescind the certification. Before such certification can be submitted to the superintendent of public instruction, or such certification accepted by him, the municipality shall first receive from the state fire safety board, written attestation to the effect that (a) the municipality has an ordinance or code for fire protection in schools equal to the minimum state requirements, and (b) the municipality has a full time fire prevention inspection service having a qualified program of school plan review and inspection. The state fire safety board shall act as a hearing body in accordance with Act No. 197 of the Public Acts of 1952, as amended, to review and render decisions on any contested case when properly appealed to. After a hearing, the board, acting in accordance with its statutory authority and provisions, may vary the application of any school fire safety rule or may modify the ruling or interpretation of the municipality enforcing authority when in its opinion the enforcement would do manifest injustice and would be contrary to the public interest. A decision of the board to vary the application of any fire safety rule, or to modify or change a ruling of the municipal enforcing authority, shall specify in what manner the variation, modification or change is made, the conditions upon which it is made, and the reasons therefore.

HISTORY: Am. 1941, p. 193, Act 148, Eff. Jan. 10, 1942;—CL 1948, 388.853;—Am. 1949, p. 281, Act 231, Imd. Eff. May 31;—Am. 1962, p. 376, Act 175, Imd. Eff. May 17;—Am. 1968, p. 367, Act 239, Eff. Sep. 1.

388.854 Violation of act; penalty; injunction proceedings.

Sec. 4. The license or registration of any architect or engineer convicted of violating any of the provisions of this act shall be revoked. Any school officer or member of any school board or other person neglecting or refusing to do or perform any act required of him by this act, or violating or knowingly permitting or consenting to any violation of the provisions of this act, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine not exceeding \$500.00 or by imprisonment in the county jail not exceeding 3 months, or by both such fine and imprisonment in the dis-

cretion of the court. Any violation of this act may be enjoined in a proceeding instituted by the state fire marshal, such proceedings to be brought in the circuit court in chancery in the county in which said school buildings are or will be situated.

HISTORY: Am. 1941, p. 193, Act 148, Eff. Jan. 10, 1942;—CL 1948, 388.854.

Sec. 5. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

388.855a Applicability of act; exemptions.

Sec. 5a. Except as hereinafter provided the provisions of this act shall not apply to 1-story school buildings or to 1-story additions thereto nor shall it apply, except as hereinafter provided to the construction, reconstruction or remodeling of any school building where the total cost of such construction, reconstruction or remodeling is less than \$15,000.00.

Subdivision (a) of section 1 of this act shall apply to the construction of all school buildings and additions to school buildings regardless of the number of stories of such buildings or additions where the total cost of such construction shall exceed \$15,000.00.

Subdivision (d) of section 1 shall apply to the construction of all school buildings and additions thereto of 1 or more stories regardless of the cost of their construction.

The provisions of this act shall also apply to the reconstruction of a school building destroyed or partially destroyed by fire, windstorm or other catastrophe if more than 50 per cent of the entire building is so destroyed. The state fire marshal acting jointly with the superintendent of public instruction may require that the damaged portion and/or the remaining portion of the building be remodeled or reconstructed in accordance with the provisions of this act. This act shall also apply to the remodeling of existing school buildings and other buildings to be used for school purposes.

No existing building or part of building regardless of the number of its stories or its cost to the school district which has not had prior use as a school building shall be so used until such use shall have been approved by the superintendent of public instruction and the state fire marshal.

For all construction, reconstruction or remodeling of school buildings where the total cost is less than \$15,000.00, it shall not be necessary that a registered architect or engineer be employed but the plans for such buildings shall be submitted to the state fire marshal and to the superintendent of public instruction or his authorized agent for criticism, suggestions and approval.

HISTORY: Am. 1941, p. 193, Act 148, Eff. Jan. 10, 1942;—CL 1948, 388.855a;—Am. 1949, p. 281, Act 231, Imd. Eff. May 31;—Am. 1962, p. 376, Act 175, Imd. Eff. May 17.

Sec. 6. (This was a repeal section.)

HISTORY: Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 223, 1941, p. 335; Eff. Jan. 10, 1942.

AN ACT to authorize the district board or board of education of school districts to create a sinking fund for the purpose of purchasing real estate for sites for, and the constructing and repairing of school buildings; to authorize such boards to submit the question of levying a tax to create such sinking fund to the electors of the school districts; and to provide for the manner of submission.

The People of the State of Michigan enact:

388.881 Tax for construction and repair of school buildings; period; referendum.

Sec. 1. The district board or the board of education of any school district is hereby authorized, subject to the 15 mill tax limitation provisions as embodied in Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217, inclusive, of the Compiled Laws of 1948, to levy a tax of not to exceed 5 mills on the assessed valuation of said school district each year for a period of not to exceed 20 years, for the purpose of creating a sinking fund to be used for the purchase of real estate for sites for, and the construction or repair of school buildings; provided the proposition of levying such tax to create such sinking fund shall be submitted to the electors of the school district and approved by a majority of those voting thereon in the manner provided in this act.

HISTORY: CL 1948, 388.881;—Am. 1949, p. 101, Act 93, Eff. Sep. 23.

388.882 Referendum on tax levy; notice of election.

Sec. 2. Whenever the district board or board of education of any school district shall by resolution vote in favor of levying a tax to create a sinking fund as provided in section 1 of this act, the question of levying such tax shall be submitted to the electors of the school district at an annual or special meeting of the school district or in such a manner and at such time as prescribed in the general school laws for the type of school district involved. Notices of such meetings or elections together with a brief statement of the question to be submitted to the electors shall be given in conformity with the general school laws as applicable to the type of school district involved.

HISTORY: CL 1948, 388.882.

388.883 Construction and repair of school buildings; referendum, form of ballots; boards to furnish.

Sec. 3. It shall be the duty of the district board or the board of education to prepare the necessary ballots for the use of the electors in voting upon the question of levying the tax for the purpose of creating a sinking fund. The question shall be upon a ballot separate and distinct from all other ballots. The ballot shall be substantially in the following form:

Instruction to voter

Mark a cross in the square to the left of the word "yes" or "no."

Shall school district No., township of county of, and state of Michigan, levy mills to create a sinking fund for the purpose of for a period of years?

- ☐ Yes.
- ☐ No.

There shall be inserted in the appropriate blanks above the number of the school district, the name of the township, the name of the county, the amount of the levy, not to exceed 5 mills; the purpose for which the levy is made, which must be in compliance with the provisions of this act; and the number of years, not to exceed 20 years.

HISTORY: CL 1948, 388.883;—Am. 1951, p. 229, Act 180, Imd. Eff. Jun. 8.

388.884 Elections; general school law to govern elections not specifically included.

Sec. 4. The election procedure in all details not covered specifically in this act shall be governed by the provisions of the general school laws applying to the type of district in which such election is held.

HISTORY: CL 1948, 388.884.

388.901-388.905 Repealed. 1955, p. 597, Act 269, Eff. Jul. 1.

Sections established education programs for mentally handicapped children.

Act 74, 1955, p. 117; Imd. Eff. May 26.

AN ACT to authorize and provide for the issuance and sale of bonds of the state; to provide funds for making loans to school districts for payment of principal and interest on certain school bonds; and to provide for use of moneys repaid to the state by school districts.

The People of the State of Michigan enact:

388.921 School loan bonds or notes; issuance, redemption, execution, interest, sale.

Sec. 1. The people of the state of Michigan by constitutional amendments having authorized the state to borrow not to exceed \$100,000,000.00, pledge its faith and credit and issue its bonds or notes therefor, for the purpose of making loans to school districts for the payment of principal and interest on school bonds heretofore or hereafter issued on certain conditions, the state administrative board is hereby authorized and directed to borrow on the full faith and credit of the state, from time to time, moneys not to exceed said aggregate sum, and to issue serial bonds of the state therefor. The amount to be borrowed from time to time shall not be less than such amount as shall be certified in writing by the superintendent of public instruction as being in his opinion necessary to provide funds for such loans to school districts over the next ensuing 2 calendar years. Such bonds shall be designated school loan bonds, and may be issued in series from time to time as moneys are needed for such school loan purposes, with different dates of issuance for each such series, and the state administrative board may from time to time determine and by resolution prescribe, the date of issue of each such series, the amount of bonds to be included in such series, the maturities of such bonds so included, the maximum rate or rates of interest on the bonds, the place or places of payment thereof, and provisions relative to registration of bonds, if any. Such bonds or any portion thereof may be made subject to redemption prior to maturity upon such terms as may be prescribed prior to the issuance of the bonds by resolution of said state administrative board. Said bonds shall be executed for and on behalf of the state of Michigan by the state treasurer and the secretary of state, or their deputies, and the seal of the state shall be affixed thereto by the secretary of state. Interest coupons evidencing accrued interest to the respective dates of maturity of said bonds shall bear the facsimile signature of the state treasurer. The bonds herein authorized to be issued shall be sold by the state administrative board, at not less than par and accrued interest. Such sale or sales shall be public sales held from time to time at the discretion of the said state administrative board, after notice by publication at least 5 days before each such sale, in a publication printed in the English language and circulated in the state of Michigan which carries as part of its regular service, notices of sale of municipal bonds. The bonds so sold at each such sale shall be awarded to the bidder whose bid in the opinion of said state administrative board would result in the lowest interest cost to the state. The state administrative board shall have the right to reject any or all bids.

HISTORY: New 1955, p. 117, Act 74, Imd. Eff. May 26;—Am. 1956, p. 366, Act 192, Imd. Eff. Apr. 26.

388.922 School loan bonds or notes; deposit of proceeds.

Sec. 2. The proceeds of sale of the bonds or notes shall be deposited in the state treasury, and shall constitute a fund to be known as "the school bond loan fund", hereby created in the state treasury as a special trust fund, and shall be paid out in no

other manner or for any other purpose than provided in section 27 of article 10 of the constitution of Michigan and laws enacted pursuant thereto.

HISTORY: New 1955, p. 117, Act 74, Imd. Eff. May 26;—Am. 1956, p. 366, Act 192, Imd. Eff. Apr. 26.

388.923 School loan bonds or notes; continuing appropriation for payment.

Sec. 3. For the prompt payment of the principal and interest upon each bond or note issued under this act, the full faith and credit of the state are pledged, and there is hereby appropriated each year during the life of these bonds or notes, from the general fund, a sufficient amount to pay the principal and interest on said bonds or notes maturing each year.

HISTORY: New 1955, p. 118, Act 74, Imd. Eff. May 26;—Am. 1956, p. 366, Act 192, Imd. Eff. Apr. 26.

388.924 School loans; repayment, reimbursement.

Sec. 4. Any moneys repaid by school districts on loans made from the school bond loan fund shall first be used to pay principal and interest on outstanding bonds or notes issued under the provisions of this act, and shall next be used to reimburse the general fund of the state to the extent of any appropriations made therefrom for the administration of acts pursuant to section 27 of article 10 of the state constitution. Any moneys remaining after the satisfaction of these 2 priorities may be deposited in the state bond loan fund and used for the purpose for which such fund is established, but the aggregate of all loans made pursuant to said section 27 of article 10 and laws enacted pursuant thereto shall not exceed \$100,000,000.00.

HISTORY: New 1955, p. 118, Act 74, Imd. Eff. May 26;—Am. 1956, p. 367, Act 192, Imd. Eff. Apr. 26.

388.925 School loans; notes; interest; maximum.

Sec. 5. As an alternative method of providing funds for the purpose of making loans to school districts for the payment of principal and interest on school bonds heretofore or hereafter issued on certain conditions, the state administrative board is hereby authorized and empowered on behalf of the state of Michigan to borrow from time to time upon the full faith and credit of this state, such sums of money as may be necessary therefor. As evidence of such loan or loans, the state administrative board may by resolution direct and cause to be issued serial notes of the state of Michigan and to renew the same. Such notes, or any renewals thereof, shall be made redeemable at the option of the state administrative board upon any interest payment date. They shall bear interest at such a rate as may be approved by the state administrative board and shall be in the form approved by the state administrative board. The notes shall be executed for and on behalf of the state of Michigan by the state treasurer and the secretary of state: Provided, That the total of such notes outstanding at any one time shall not exceed the sum of \$1,000,000.00.

HISTORY: Add. 1956, p. 367, Act 192, Imd. Eff. Apr. 26.

Act 151, 1955, p. 219; Imd. Eff. Jun. 7.

AN ACT to provide for loans by the state of Michigan to school districts for the payment of principal and interest upon school bonds; to prescribe the terms and conditions thereof, and the conditions upon which levies for bond principal and interest shall be included in computing the amount to be so loaned by the state; to prescribe the duties of the superintendent of public instruction in relation to such loans; to provide for the repayment of such loans; and to provide for other matters in respect to such loans.

The People of the State of Michigan enact:

388.931 Purpose of act.

Sec. 1. This act is for the purpose of implementing section 27 of article 10 of the Michigan constitution, adopted by the electors of the state at the election held on the fourth day of April, 1955, hereinafter referred to as section 27.

HISTORY: New 1955, p. 219, Act 151, Imd. Eff. Jun. 7.

CITED IN OTHER SECTIONS: Sections 388.931 to 388.938 are cited in § 388.960.

388.932 State loans to school districts; basis; limitations.

Sec. 2. If the minimum amount necessary to be levied in any calendar year for the payment of principal and interest on the bonds of a school district issued prior to July 1, 1962, after deducting any funds pledged to and available for the payment thereof, shall exceed 13 mills on each dollar of its assessed valuation as last equalized by the state, then the state of Michigan shall loan such school district the amount of such excess, but all loans so made shall not exceed in the aggregate the sum of \$100,000,000.00 and shall be subject to the terms and conditions prescribed in this act.

HISTORY: New 1955, p. 219, Act 151, Imd. Eff. Jun. 7.

388.933 State loans to school districts; qualification of bonds by superintendent of public instruction.

Sec. 3. The principal and interest on any issue of school district bonds issued prior to May 4, 1955, shall be automatically included in computing the amount to be loaned by the state under said section 27 and this act, but the principal and interest on any issue of school district bonds issued on or after May 4, 1955, shall not be included in making such computation, unless the said bonds have been qualified therefor by the superintendent of public instruction, which bonds, including both those automatically qualified and those qualified by the superintendent of public instruction, are sometimes hereinafter referred to as "qualified bonds". No issue of bonds shall be qualified by the superintendent of public instruction unless he shall find as follows, to-wit:

1. That the last maturity date on such issue of bonds is not less than 25 years from the issuance date appearing thereon and that the yearly principal maturity date is not less than 6 months after the major part of the taxes therefor become by law a lien upon the property assessed.

2. That the amount of principal maturing in any calendar year is not less than two-thirds of the amount of principal maturing in any prior calendar year.

3. That the cost of the project for which the bonds are to be issued is within such reasonable standards of costs as shall have been established by the state board of education, which standards may vary as to different localities in accordance with any variance in construction costs as between such localities.

4. That the project is designed to provide classrooms and furnishings, with the facilities necessarily connected therewith, including site, and is adequate for that purpose. A classroom is a room primarily used for teaching courses of study. Without limiting the foregoing, swimming pools, athletic fields and athletic stadiums shall not be deemed to be classrooms or primarily used for teaching courses of study. In addition, gymnasiums and auditoriums shall not be deemed to be classrooms except in those cases in which the school district provides adequate proof that the gymnasium and/or auditorium is necessary and will be used primarily for regularly scheduled instructional purposes.

5. That there exists a need for the project based upon current and probable future enrollment.

6. That there is reasonable evidence that the project will not hinder school district reorganization in the area in the foreseeable future.

7. That the project shall be for the purpose of construction of 6 or more classrooms, unless the superintendent of public instruction shall determine and certify that circumstances of location, or topography, or transportation, or population density are clearly such as to warrant construction of a school building or addition of a lesser number of classrooms.

Provided, That if any project shall exceed the above limitations as to cost and/or purpose, the bonds therefor may be qualified by the superintendent of public instruction to the extent of that percentage which represents the percentage of the project cost which is within such limitations. If the superintendent of public instruction shall find as aforesaid, then he shall issue his certificate setting forth such findings and certifying that the bonds, or such percentage thereof, are qualified under the terms of said section 27 and this act, and that the minimum amount necessary to be levied in any calendar year for principal and interest on the bonds or such portion as may be qualified after deducting any funds pledged to and available for the payment thereof, shall be included in computing the amount, if any, to be loaned by the state under said section 27 and this act. In the case of refunding bonds issued on or after May 4, 1955, to refund bonds issued prior to May 4, 1955, the superintendent of public instruction shall issue his certificate of qualification if he finds that such refunding bonds comply with the qualifications set forth in paragraphs numbered 1 and 2 of this section.

In the case of refunding bonds to refund obligations originally incurred on or after May 4, 1955, the superintendent of public instruction shall not issue his certificate of qualification therefor unless the bonds representing the original indebtedness had been qualified by him. All such certificates shall be kept in a permanent file in the office of the superintendent of public instruction, and copies thereof shall be delivered to the school district and to the office of the municipal finance commission. Application for such a certificate of qualification shall be made on forms prepared and supplied by the superintendent of public instruction. He shall prescribe reasonable rules and regulations in respect thereto. If prior to the issuance of bonds, the school district does not secure such certificate of qualification from the superintendent of public instruction, it shall be deemed to have waived the right to have such bonds so qualified.

HISTORY: New 1955, p. 219, Act 151, Imd. Eff. Jun. 7.

388.934 State loans to school districts; procedure; receipts.

Sec. 4. In any school district where the amount necessary to be levied in any calendar year for principal and interest on qualified bonds, shall exceed 13 mills on each dollar of its assessed valuation as last equalized by the state, such school district on or before 60 days prior to the time of the certification of its tax levy to the assessing officer, may file with the superintendent of public instruction a preliminary application for a loan from the state: Provided, That if the excess over 13 mills is reached or increased by reason of bonds voted within said 60 day period, an original or amended application shall be filed within said period. Such application shall set forth the amount of the last state equalized valuation of the school district, the amount of principal and interest on qualified bonds necessary to be levied upon the tax roll of such year, the amount of any moneys on hand pledged to and available for the payment of such principal and interest, the probable delinquency in tax collections at the times such principal and interest will become due, the estimated amount of the loan which will be required from the state and any other pertinent facts which may be required to be included therein by the superintendent of public instruction. The superintendent of public instruction shall examine said application as soon as possible and notify the school district of any erroneous statements or assumptions therein. If a loan from the state shall become necessary for the payment of such principal and interest, then the school district shall file a supplemental application with the superintendent of public

instruction setting forth the amount of the tax collections to the date of said application, an estimate of probable collections prior to the time when such principal and interest will become due and the amount of the loan necessary from the state. Such supplemental application shall be made not less than 30 days prior to the time when the proceeds of the loan will be necessary in order to pay maturing principal and/or interest. Upon receipt of such supplemental application it shall be the duty of the superintendent of public instruction after auditing the same, to forward to the state treasurer a statement setting forth the amount to be loaned to the school district for the payment of principal and interest and the date on or before which such loan shall be made. He shall also prepare the proper voucher as a basis for the issuance of the necessary warrant in accordance with state accounting practices. Upon receipt of such statement and warrant, it shall be the duty of the state treasurer to loan to the school district from "the school bond loan fund" the amount set forth in the statement of the superintendent of public instruction on or before the date specified therein. The state treasurer upon the making of said loan shall obtain from the school district a receipt for the amount so loaned, which receipt shall specify the terms of repayment in accordance with the provisions of said section 27 and this act. Upon receipt by any school district of such a loan it shall be the duty of the treasurer thereof to cause the same to be deposited in the debt retirement fund and used solely for the payment of principal and interest on qualified bonds.

HISTORY: New 1955, p. 220, Act 151, Imd. Eff. Jun. 7.

388.935 State loans to school districts; repayment to state; interest.

Sec. 5. Any school district having received a loan from "the school bond loan fund" under the provisions of this act, shall continue thereafter to levy on its tax rolls not less than 13 mills on each dollar of its assessed valuation as last equalized by the state, exclusive of any levy for unqualified bonds, until all loans made to the school district by the state are repaid with interest rates to be annually adjusted by the state administrative board which shall represent the average interest cost to the state on the outstanding bonds issued under said section 27 and any implementing act, computed to the nearest $\frac{1}{8}$ of 1%. The superintendent of public instruction shall annually certify to the several borrowing districts the rate of interest to be currently collected. The proceeds of each such levy shall be used first, for the payment of the minimum principal and interest requirements on the qualified bonds which shall become due prior to the time of the next tax collection, and any balance shall be paid to the state until the principal and interest due the state shall have been paid.

HISTORY: New 1955, p. 221, Act 151, Imd. Eff. Jun. 7;—Am. 1956, p. 183, Act 96, Imd. Eff. Apr. 5.

388.936 State loans to school district; false statements, concealment; penalty.

Sec. 6. Any person who shall knowingly make any false statement or conceal any material information for the purpose of obtaining a loan under the provisions of this act, or use the proceeds of a loan or any portion thereof for any purpose not authorized by this act shall be guilty of a felony.

HISTORY: New 1955, p. 221, Act 151, Imd. Eff. Jun. 7.

388.937 State loans to school district; levy; default, nondistribution of primary school interest or school aid funds.

Sec. 7. In case any school district obtaining a loan pursuant to this act shall fail to levy at least 13 mills upon its state equalized valuation for debt retirement purposes while any part of such loan is unpaid, or shall default in its agreement to repay the loan or any installment thereof, no money shall be distributed to such school district out of the primary school interest fund or out of the state school aid fund until satisfac-

tory arrangements have been made with the superintendent of public instruction for the payment of the amount in default.

HISTORY: New 1955, p. 222, Act 151, Imd. Eff. Jun. 7.

388.938 State loans to school districts; qualification fee; rules and regulations.

Sec. 8. Any school district applying for qualification of bonds, such bonds having been issued on or after May 4, 1955, shall pay a fee for such qualification, which fee shall be used toward defraying the administrative expenses in connection with this act. The fee shall be paid to the superintendent of public instruction within 30 days after the moneys obtained through the sale of bonds so qualified have been received by the treasurer of the board of education of the school district. The amount of the fee to be paid by the school district shall be based upon the total amount of the bond issue included in the application for qualification, and shall be determined by the superintendent of public instruction. The superintendent of public instruction shall prescribe necessary rules and regulations, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948. The amount of the fee to be charged to the school district may vary according to the amount of the bond issue, except that in no case shall this amount be less than \$100.00, and the total amount to be charged to all school districts in any one fiscal year shall be approximately equal to the estimated administrative expenses in connection with this act for the same fiscal year. Upon failure of any school district to pay such qualification fee within the time specified, the superintendent of public instruction is hereby authorized to withhold the amount of such fee from the payment of state school aid money next due the district: Provided, That the provisions of this section shall not apply to any issue of school district bonds qualified by the superintendent of public instruction prior to July 1, 1956.

HISTORY: Add. 1956, p. 184, Act 98, Imd. Eff. Apr. 5.

Act 108, 1961, p. 118; Eff. Sep. 8.

AN ACT to provide for loans by the state of Michigan to school districts for the payment of principal and interest upon school bonds; to prescribe the terms and conditions thereof, and the conditions upon which levies for bond principal and interest shall be included in computing the amount to be so loaned by the state; to prescribe the duties of the superintendent of public instruction in relation to such loans; to provide for the repayment of such loans; and to provide for other matters in respect to such loans.

The People of the State of Michigan enact:

388.951 Purpose of act.

Sec. 1. The purpose of this act is to implement section 16 of article 9 of the 1963 Michigan constitution, hereinafter referred to as section 16.

HISTORY: New 1961, p. 118, Act 108, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 38, Act 33, Eff. Jan. 1, 1964.

388.952 State loans to school districts; basis; limitations.

Sec. 2. (1) If the minimum amount which it would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as last equalized by the state, then the school

district may elect to borrow all or any part of the excess from the state. In that event the state shall loan the excess amount to the school district for the payment of principal and interest.

Schedule of percentages that may be borrowed; tax levy.

(2) If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 7 mills on each dollar of its assessed valuation as last equalized by the state, the school district may elect to borrow the portion of the excess amount from the state based upon the following formula:

State equalized valuation per pupil of school district		Percentage that may be borrowed by school district over 7 mills
	Under \$ 5,000	100%
\$ 5,001	6,000	90%
6,001	7,000	85%
7,001	8,000	80%
8,001	9,000	75%
9,001	10,000	70%
10,001	11,000	65%
11,001	12,000	60%
12,001	13,000	55%
13,001	14,000	50%
14,001	16,000	40%
16,001	17,000	30%
17,001	20,000	20%

The school district shall levy not less than 18 mills for operating purposes. If the school district levies less than 18 mills for operating purposes, the school district may elect to borrow not more than that percentage set forth above based upon state equalized valuation per pupil times the ratio [sic] of operating millage levied by the school district to 18 mills. In that event the state shall loan the portion of the excess amount to the school district for the payment of principal and interest and the school district shall levy the balance of the excess amount for the payment of principal and interest. Any school district which levies in excess of 18 mills for operating purposes may borrow from the state under the provisions of this act an additional 5% per mill or portion thereof up to 28 mills or a total of 100% whichever comes first based upon that district's position on the formula scale.

Study loans and financing of school construction.

(3) The municipal finance commission, the state board of education, the education committees of the house of representatives and the senate and the appropriation committees of the house of representatives and senate shall study the impact of loans made to school districts from school bond loan fund upon the credit of the state of Michigan, the financing of capital construction of school buildings by school districts, the utilization of the school bond loan fund as a suitable method of financing, the need for corrective legislation, if any, and shall report to the legislature by January 1, 1970.

HISTORY: New 1961, p. 118, Act 108, Eff. Sep. 8;—Am. 1964, p. 219, Act 169, Eff. Aug. 28;—Am. 1967, p. 16, Act 9, Imd. Eff. May 24;—Am. 1969, p. 443, Act 231, Imd. Eff. Aug. 11.

388.953 Qualified bonds; definition; validation.

Sec. 3. The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued (1) prior to

May 4, 1955, (2) on or after May 4, 1955 but prior to January 1, 1964, only if, and to the extent that, such bonds shall have been qualified pursuant to sections 27 or 28 of article 10 of the 1908 constitution and implementing acts and (3) on or after January 1, 1964, if such bonds shall be qualified pursuant to section 16 of article 9 of the 1963 constitution and this act. All actions heretofore taken by the superintendent of public instruction in qualifying bonds pursuant to sections 27 and 28 of article 10 of the 1908 constitution and implementing acts, are validated and all certificates of qualification heretofore or hereafter issued by him shall be conclusive as to the existence of facts entitling the bonds to be qualified as provided in such certificates and as to such qualification and shall not be subject to attack in any proceeding. Any certificate of qualification issued prior to January 1, 1964, qualifying bonds pursuant to section 28 of article 10 of the 1908 constitution, and the act implementing the same, shall constitute qualification pursuant to section 16 of article 9 of the 1963 constitution and this act, for any bonds sold or delivered to the purchaser thereof on or after January 1, 1964. Any bonds issued between May 4, 1955 and prior to January 1, 1964, that were partially qualified shall be deemed to be 100% qualified bonds if they would be 100% qualifiable under this act as presently amended.

HISTORY: New 1961, p. 118, Act 106, Eff. Sep. 8;—Am. 1963, 2nd Ex. Sess., p. 38, Act 33, Eff. Jan. 1, 1964;—Am. 1969, p. 443, Act 231, Imd. Eff. Aug. 11.

388.954 State loans to school districts; qualifications of bonds; findings of superintendent of public instruction.

Sec. 4. The superintendent of public instruction shall issue his certificate qualifying any issue of bonds, upon application therefor being duly made by the school district, if he shall find as follows, to wit:

(1) That the last maturity date of such issue of bonds is not less than 10 years from the issuance date appearing thereon, except that if the ratio of debt to valuation of the school district exceeds 4%, the last maturity date of such issue of bonds shall be not less than 15 years from the issuance date appearing thereon, if the ratio of debt to valuation of the school district exceeds 7%, the last maturity date of such issue of bonds shall be not less than 25 years from the issuance date appearing thereon, or if the ratio of debt to valuation of the school district exceeds 12%, the last maturity date of such issue of bonds shall be not less than 29 years from the issuance date appearing thereon. The term ratio of debt to valuation as used herein shall be construed to mean that ratio arrived at by dividing the total tax supported bonded indebtedness of the school district outstanding as of the date of the filing of the application required by this act, including the bonds proposed to be qualified, by the assessed valuation of the school district as last equalized by the state, provided that the refunding part of any proposed issue of bonds shall not be included in the total indebtedness of the school district for the purposes of this section.

(2) That the yearly principal maturity date shall be not less than 5 months after the major part of the taxes therefor become by law a lien upon the property assessed.

(3) That the amount of principal maturing in any calendar year is not less than the amount of principal maturing in any prior calendar year and, if the ratio of debt to valuation of the school district (as above defined) exceeds 12%, that the first 10 principal maturities do not in the aggregate exceed 25% of the total principal amount of the bonds proposed to be qualified.

(4) That the cost of the project for which the bonds are to be issued is within such reasonable standards of cost as shall have been established by the state board of education, which standards may vary as to different localities in accordance with any variance in construction costs as between such localities.

(5) That there exists a need for the project based upon current and probable future

enrollment and that the project is designed to provide school facilities reasonably adequate to meet such need.

(6) That a bond issue which a school district wishes to qualify has been given preliminary qualification prior to the official action of the board of education calling for the election on the bond issue.

In the case of refunding bonds issued to refund bonds issued prior to May 4, 1955, the superintendent of public instruction shall issue his certificate of qualification if he finds that such refunding bonds comply with the requirements set forth in paragraph (3) of this section. In the case of refunding bonds issued to refund bonds issued on or after May 4, 1955, he shall issue his certificates of qualification if he finds that such refunding bonds comply with the requirements set forth in paragraph (3) of this section and also that the bonds representing the original indebtedness either were qualified or satisfied the requirements for qualification in effect when issued or would have satisfied the requirements set forth in paragraphs (4), (5) and (6) of this section had such requirements been in effect when said bonds were issued.

HISTORY: New 1961, p. 119, Act 108, Eff. Sep. 8;—Am. 1964, p. 219, Act 160, Eff. Aug. 28;—Am. 1966, p. 586, Act 325, Eff. Sep. 15;—Am. 1969, p. 251, Act 133, Imd. Eff. Jul. 30.

388.954a State loans to school districts; use of unexpended balance of proceeds of bonds.

Sec. 4a. Any unexpended balance of the proceeds of sale of any school district bonds heretofore or hereafter issued, remaining after completion of the project, to the extent of 15% of the amount of the issue, with the approval of the electors in the case of bonds issued prior to August 28, 1964, may be used for school construction, equipment and site acquisition and development if such use is approved by the superintendent of public instruction if the bonds are qualified bonds as defined by section 3, or by the municipal finance commission if the bonds have not been so qualified, and any remaining balance shall be paid immediately into the bond and interest redemption fund established for the bonds and shall be used either for the redemption of callable bonds or, prior to the first call date only, for purchasing the bonds on the open market at not more than the fair market value or used to reduce the amount required to be levied to meet current principal and interest on the bonds as they become due.

HISTORY: Add. 1964, p. 220, Act 160, Eff. Aug. 28;—Am. 1967, p. 642, Act 301, Imd. Eff. Aug. 15.

388.955 State loans to school districts; certificates of qualification, copies, application.

Sec. 5. All certificates of qualification shall be kept in a permanent file in the office of the superintendent of public instruction and copies thereof shall be delivered to the school district and to the office of the municipal finance commission. Applications for such certificates shall be made on forms prepared and supplied by the superintendent of public instruction and he shall prescribe reasonable rules and regulations in respect thereto. If prior to the issuance of bonds, the school district does not secure such certificate of qualification from the superintendent of public instruction, it shall be deemed to have waived the right to have such bonds so qualified.

HISTORY: New 1961, p. 119, Act 108, Eff. Sep. 8.

388.956 State loans to school districts; preliminary application; approval.

Sec. 6. In any school district where the amount necessary to be levied in any year for principal and interest on qualified bonds, including any necessary allowance for estimated tax delinquencies but excluding any funds pledged to and available for the payment of such principal and interest, exceeds that amount stipulated in section 2, such school district, on or before 60 days prior to the time of the certification of its tax levy to the assessing officer, shall file with the superintendent of public instruction and the municipal finance commission a preliminary application for a loan from the state

in the amount of any part of such excess over that amount stipulated in section 2 which it does not propose to levy in such year. If the excess over that amount stipulated in section 2 is reached or increased by reason of bonds authorized by resolution of the board of education of such school district within such 60-day period, an original or amended application shall be filed within said period. Such application shall set forth the amount of the last state equalized valuation of the school district, the amount of principal and interest on qualified bonds necessary to be levied upon the tax roll of such year, the amount of any moneys on hand pledged to and available for the payment of such principal and interest, the probable delinquency in tax collections at the times such principal and interest will become due, the estimated amount of the loan which will be required from the state, and any other pertinent facts which may be required to be included therein by the superintendent of public instruction. The superintendent of public instruction shall examine said application as soon as possible and notify the school district of any erroneous statements or assumptions therein and within said 60-day period shall approve or deny said preliminary application in whole or in part and shall notify the school district of such action. The school district shall include in its tax levy any amount otherwise required to be levied for the payment of principal and interest on qualified bonds for which it does not secure approval for a state loan as aforesaid.

HISTORY: New 1961, p. 120, Act 108, Eff. Sep. 8;—Am. 1964, p. 220, Act 169, Eff. Aug. 28;—Am. 1966, p. 587, Act 325, Eff. Sep. 15;—Am. 1967, p. 17, Act 9, Imd. Eff. May 24.

388.957 State loans to school districts; qualified bonds; application, making of loan, receipts.

Sec. 7. If a loan from the state shall become necessary for the payment of principal and interest on qualified bonds in accordance with such approved preliminary application, or for any reason pursuant to said section 16 of article 9 of the 1963 constitution and this act, then the school district shall file with the superintendent of public instruction a supplemental application (or an original application, if no preliminary application has been filed), setting forth the amount of the tax collections to the date of said application, an estimate of probable collections prior to the time when such principal and interest will become due and the amount of the loan necessary from the state. Such supplemental or original application shall be made not less than 30 days prior to the time when the proceeds of the loan will be necessary in order to pay maturing principal or interest or both. Upon receipt of such supplemental or original application, it shall be the duty of the superintendent of public instruction, after auditing the same, to forward to the state treasurer a statement setting forth the amount to be loaned to the school district for the payment of principal and interest and the date on or before which such loan shall be made. He shall also prepare the proper voucher as a basis for the issuance of the necessary warrant in accordance with state accounting practices. Upon receipt of such statement and warrant, it shall be the duty of the state treasurer to loan to the school district from "the school bond loan fund" the amount set forth in the statement of the superintendent of public instruction on or before the date specified therein. The state treasurer upon the making of said loan shall obtain from the school district a receipt for the amount so loaned, which receipt shall specify the terms of repayment in accordance with the provisions of said section 16 of article 9 of the 1963 constitution and this act. Upon receipt by any school district of such loan, it shall be the duty of the treasurer thereof to cause the same to be deposited in the debt retirement fund and used solely for the payment of principal and interest on qualified bonds.

HISTORY: New 1961, p. 120, Act 108, Eff. Sep. 8;—Am. 1962, p. 125, Act 131, Eff. Mar. 28, 1963;—Am. 1963, 2nd Ex. Sess., p. 38, Act 33, Eff. Jan. 1, 1964.

388.958 State loans to school districts; nonpayment of qualified bonds; payment by state treasurer; repayment to state.

Sec. 8. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall loan to it an amount sufficient to enable the school district to make the payment. Any school district which finds that it will be or is unable to pay such principal or interest when due shall forthwith make application for the necessary loan and the state shall, in time to prevent default in such payment, make such loan and obtain a receipt therefor as provided in section 7 of this act. In the event that the principal or interest on any qualified bond is not paid when due upon proper presentation of the bond or interest coupon to the agent or officer charged with making payment thereof (irrespective of whether an application for a loan to pay such principal or interest has been made or approved), the state treasurer shall forthwith pay such principal or interest upon presentation of the bond or coupon to him. Any amount so paid by the state treasurer shall be deemed a loan made to the school district pursuant to the requirements of said section 16 of article 9 of the 1963 constitution and this act and the school district shall give a receipt therefor and repay such loan in the same manner as hereinbefore provided with respect to other loans: Provided, That any funds of the school district which are or become available in its hands or in the hands of the paying agent or officer for payment of the principal or interest which has been paid by the state treasurer shall forthwith be remitted to the state treasurer and applied toward repayment of said loan.

HISTORY: New 1961, p. 121, Act 108, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 38, Act 33, Eff. Jan. 1, 1964.

388.959 State loans to school districts; repayment, interest.

Sec. 9. Any school district having received a loan or loans from "the school bond loan funds" under the provisions of sections 27 and 28 of article 10 of the 1908 Michigan constitution or section 16 of article 9 of the 1963 constitution and implementing acts shall continue thereafter to levy on its tax rolls not less than that amount stipulated in section 2 on each dollar of its assessed valuation as last equalized by the state, exclusive of any levy for unqualified bonds or for school operating purposes, until all loans made to the school district by the state are repaid with interest at rates to be annually determined by the state administrative board. Such rates shall represent the average interest rate paid by the state on obligations issued under sections 27 and 28 of article 10 of the 1908 constitution and section 16 of article 9 of the 1963 constitution and implementing acts, computed to the nearest 1/8 of 1%. The state treasurer shall annually certify to the several borrowing districts the rate of interest to be currently collected. The proceeds of each such levy shall be used first for the payment of the minimum principal and interest requirements on the qualified bonds which shall become due prior to the time of the next tax collection, and any balance shall be paid to the state until the principal and interest due the state shall have been paid.

HISTORY: New 1961, p. 121, Act 108, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 39, Act 33, Eff. Jan. 1, 1964;—Am. 1964, p. 221, Act 169, Eff. Aug. 28;—Am. 1966, p. 588, Act 325, Eff. Sep. 15;—Am. 1968, p. 267, Act 175, Imd. Eff. Jun. 20.

388.960 Levy for repayment; default; nondistribution of state school aid.

Sec. 10. In case any school district obtaining a loan or loans pursuant to either this act or Act No. 151 of the Public Acts of 1955, as amended, being sections 388.931 to 388.938 of the Compiled Laws of 1948, or both such acts, shall fail to levy at least that amount stipulated in section 2 upon its state equalized valuation for debt retirement purposes for qualified bonds and for repayment of any state loan or loans made under the provisions of this act while any part of such loan or loans is unpaid, or shall default in its agreement to repay the loan or loans or any installment thereof, no money shall be distributed to such school district out of the primary school interest fund or out of

the state school aid fund until satisfactory arrangements have been made with the superintendent of public instruction for the payment of the amount in default.

HISTORY: New 1961, p. 121, Act 108, Eff. Sep. 8;—Am. 1964, p. 221, Act 169, Eff. Aug. 28;—Am. 1966, p. 568, Act 325, Eff. Sep. 15.

388.961 State loans to school district; fee for qualification, payment.

Sec. 11. Any school district applying for qualification of bonds hereunder shall pay a fee for such qualification, which fee shall be used toward defraying the administrative expenses in connection with this act and Act No. 151 of the Public Acts of 1955, as amended. The fee shall be paid to the superintendent of public instruction within 30 days after the moneys obtained through the sale of bonds so qualified have been received by the treasurer of the board of education of the school district. The superintendent of public instruction shall prescribe necessary rules and regulations, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The amount of the fee to be charged to the school district shall be determined by the superintendent of public instruction. It shall vary according to the amount of the bond issue, except that in no case shall it be less than \$100.00, and the total amount to be charged to all school districts in any one fiscal year shall be approximately equal to the estimated administrative expenses in connection with this act for the same fiscal year. Upon failure of any school district to pay such qualification fee within the time specified, the superintendent of public instruction is hereby authorized to withhold the amount of such fee from the payment of state school aid money next due the district.

HISTORY: New 1961, p. 121, Act 108, Eff. Sep. 8.

388.962 State loans to school district; false statements, concealment, penalty.

Sec. 12. Any person who shall knowingly make any false statement or conceal any material information for the purpose of obtaining a loan under the provisions of this act, or use the proceeds of a loan or any portion thereof for any purpose not authorized by this act shall be guilty of a felony.

HISTORY: New 1961, p. 122, Act 108, Eff. Sep. 8.

388.963 State loans to school district; relation of act to former act.

Sec. 13. This act does not repeal Act No. 151 of the Public Acts of 1955, as amended, but supersedes said act insofar as concerns that portion of a school district's principal and interest requirements on qualified bonds which may be borrowed from the state and insofar as concerns the tax levy which a school district is required to maintain until its state loans have been repaid.

HISTORY: New 1961, p. 122, Act 108, Eff. Sep. 8.

Act 112, 1961, p. 130; Eff. Sep. 8.

AN ACT to authorize and provide for the issuance and sale of bonds and notes of the state; to provide funds for making loans to school districts for payment of principal and interest on certain school bonds; and to provide for use of moneys repaid to the state by school districts.

The People of the State of Michigan enact:

388.981 State loans to school districts; bonds, terms, sales.

Sec. 1. The people of the state of Michigan by virtue of the provisions of section 16 of article 9 of the 1963 constitution of the state of Michigan having authorized the state to borrow from time to time such amounts as shall be required, pledge its faith

and credit and issue its notes or bonds therefor for the purpose of making loans to school districts as provided in said constitutional provision, and legislation enacted to implement said constitutional provision, the state administrative board is hereby authorized and directed to borrow on the full faith and credit of the state from time to time such sums of money as may be necessary therefor. The amount to be borrowed from time to time shall be not less than such amount as shall be certified in writing by the superintendent of public instruction as being in his opinion necessary to provide funds for such loans to school districts over the next ensuing 2 calendar years. Such bonds shall be designated school loan bonds, and may be issued in series from time to time as moneys are needed for such school loan purposes, with different dates of issuance for each such series. The state administrative board may from time to time determine and by resolution prescribe, the date of issue of each such series, the amount of bonds to be included in such series, the maturities of such bonds so included, the maximum rate or rates of interest on the bonds, the dates of payment of interest, the place or places of payment of principal and interest and provisions relative to registration of bonds, if any. Such bonds or any portion thereof may be made subject to redemption prior to maturity upon such terms as may be prescribed prior to the issuance of the bonds by resolution of said state administrative board. Said bonds shall be executed for and on behalf of the state of Michigan by the state treasurer and the secretary of state, or their deputies, and the seal of the state shall be affixed thereto by the secretary of state. Interest coupons evidencing accrued interest to the respective dates of maturity of said bonds shall bear the facsimile signature of the state treasurer. The bonds herein authorized to be issued shall be sold by the state administrative board, at not less than par and accrued interest. Such sale or sales shall be public sales held from time to time at the discretion of the said state administrative board, after notice by publication at least 5 days before each such sale, in a publication printed in the English language and circulated in the state of Michigan which carries as part of its regular service, notices of sale of municipal bonds. The bonds so sold at each such sale shall be awarded to the bidder whose bid in the opinion of said state administrative board would result in the lowest interest cost to the state. The state administrative board shall have the right to reject any or all bids.

HISTORY: New 1961, p. 130, Act 112, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 97, Act 66, Eff. Jan. 1, 1964.

388.982 School bond loan fund; creation.

Sec. 2. The proceeds of sale of the bonds or notes shall be deposited in the state treasury and shall constitute a fund to be known as "the school bond loan fund", hereby created in the state treasury as a special trust fund, and shall be paid out in no other manner or for any other purpose than provided in section 16 of article 9 of the 1963 constitution of Michigan and laws enacted pursuant thereto.

HISTORY: New 1961, p. 131, Act 112, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 98, Act 66, Eff. Jan. 1, 1964.

388.983 Appropriation.

Sec. 3. For the prompt payment of the principal and interest upon each bond or note issued under this act, the full faith and credit of the state are pledged, and there is hereby appropriated each year during the life of these bonds or notes from the general fund, a sufficient amount to pay the principal and interest on said bonds or notes maturing each year.

HISTORY: New 1961, p. 131, Act 112, Eff. Sep. 8.

388.984 Repayment of loans; deposit of remaining moneys.

Sec. 4. Any moneys repaid by school districts on loans made from the school bond loan fund shall first be used to pay principal and interest on outstanding bonds or notes issued under the provisions of this act becoming due during the next ensuing 12-month period and any expenses incurred in connection therewith. Any moneys there-

after remaining may be deposited in the school bond loan fund and used for the purpose for which such fund is established.

HISTORY: New 1961, p. 131, Act 112, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 96, Act 66, Eff. Jan. 1, 1964.

388.985 Five year notes; terms, sales.

Sec. 5. In addition to issuing bonds under section 1 of this act for the purpose of making loans to school districts for the payment of principal and interest on school bonds heretofore or hereafter issued as provided by section 16 of article 9 of the 1963 Michigan constitution, and legislation enacted to implement said constitutional provision, the state administrative board is hereby authorized and empowered on behalf of the state of Michigan to borrow from time to time upon the full faith and credit of this state, such sums of money as may be necessary therefor, and as evidence of such loan or loans, the state administrative board may by resolution direct and cause to be issued serial notes of the state of Michigan and to renew the same. Such notes or any renewals thereof shall mature not more than 5 years from the date thereof and may be made redeemable prior to maturity at the option of the state administrative board at such times and in such a manner as shall be determined by the state administrative board. They shall bear interest at such a rate as may be approved by the state administrative board and shall be in the form approved by the state administrative board. The notes shall be executed for and on behalf of the state of Michigan by the state treasurer. Said notes issued under the provisions of this section may be sold at either public or private sale as shall be determined by the state administrative board.

HISTORY: New 1961, p. 131, Act 112, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 96, Act 66, Eff. Jan. 1, 1964.

Act 287, 1964, p. 570; Eff. Aug. 28.

AN ACT to provide for the organization and functions of the state boards of education under the constitutions of 1908 and 1963; to provide for the appointment and functions of the superintendent of public instruction under the constitution of 1963; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

388.1001 State board of education; succession to powers; right to records; property, hearings.

Sec. 1. The state board of education provided for in the constitution of 1908, hereinafter referred to as the "old board", shall continue to function until 12 noon on January 1, 1965, at which time it is abolished and the terms of its members shall expire. The old board shall then be succeeded by the state board of education provided for in article 8 of the constitution of 1963, hereinafter referred to as the "state board". As soon after that time as convenient for the state board all records, files, papers and property of the old board shall be delivered and transferred to the state board. A hearing or proceeding pending before the old board shall not abate but shall be continued and determined by the state board in accordance with the law governing such hearing or proceeding. Whenever in any law, including this act, reference is made to the state board of education, it is deemed to be made, except where otherwise specifically provided, to the old board prior to such hour and to the state board thereafter.

HISTORY: New 1964, p. 570, Act 287, Eff. Aug. 28.

388.1002 State board of education; nomination, election, vacancies, membership.

Sec. 2. Members of the state board shall be nominated and elected and vacancies in their offices shall be filled in accordance with the election laws of this state. The gov-

ernor shall be ex officio a member of the state board, and the superintendent of public instruction appointed under the constitution of 1963 shall be its chairman, but neither of them shall have the right to vote.

HISTORY: New 1964, p. 570, Act 287, Eff. Aug. 28.

388.1003 State board of education; president; secretary; treasurer, bond.

Sec. 3. The state board of education shall elect a president, a secretary, a treasurer and such other officers as it deems necessary. The treasurer shall furnish a corporate surety bond in a sum determined by the board as adequate to cover the funds to be handled by him and conditioned upon the faithful discharge of his duties. The cost of the bond shall be paid by the state and the bond shall be filed in the office of the secretary of state.

HISTORY: New 1964, p. 570, Act 287, Eff. Aug. 28;—Am. 1965, p. 603, Act 317, Imd. Eff. Jul. 22.

388.1004 State board of education; quorum; process.

Sec. 4. A quorum of the state board of education shall consist of a majority of its members. The board may transact all necessary business at any meeting at which a quorum is present. All process against the board shall be served on the chairman or secretary.

HISTORY: New 1964, p. 571, Act 287, Eff. Aug. 28.

388.1005 State board of education; members, compensation, expenses.

Sec. 5. The president of the state board of education shall receive \$70.00 per diem compensation and all other members of the board shall receive \$60.00 per diem compensation, made effective as of January 1, 1965, and also their necessary traveling and other expense, to be paid out of the general fund.

HISTORY: New 1964, p. 571, Act 287, Eff. Aug. 28;—Am. 1965, p. 604, Act 317, Imd. Eff. Jul. 22.

388.1006 State board of education; members, interest in publication of books prohibited.

Sec. 6. A member of the state board of education shall not act as the agent of any publisher of school books or school library books or be interested in the publication or sale of any such book as agent or otherwise.

HISTORY: New 1964, p. 571, Act 287, Eff. Aug. 28.

388.1007 State board of education; body corporate; seal; ordinances, by-laws, regulations.

Sec. 7. The state board of education is a body corporate and may purchase, have, hold, possess, enjoy, grant, alien, invest, sell, and dispose of real and personal property of every kind; may sue and be sued, plead and be impleaded in all the courts in this state; may have, use, alter and renew a seal; and may make such ordinances, bylaws and regulations as it deems proper for the government and conduct of the board and for the transaction of its business and the operation of the state institutions under its control if they are not repugnant to the constitution or laws of this state or of the United States.

HISTORY: New 1964, p. 571, Act 287, Eff. Aug. 28.

388.1008 State board of education; gifts, grants; special funds.

Sec. 8. The state board of education may take by gift, grant from federal or other sources, devise, bequest, or in any other lawful manner, property, money, pledges or promises to pay money for the purpose of carrying on any of its powers and duties and may, with the approval of the legislature, use the same for the purposes for which they were donated. The board may place such moneys in a special fund to be spent under its direction for the purposes for which they were donated subject to the conditions of such gift, grant, devise or bequest.

HISTORY: New 1964, p. 571, Act 287, Eff. Aug. 28.

388.1008a Federal higher education act of 1965; compliance; acceptance and expenditure of funds, limitation; report.

Sec. 8a. The state board of education may take any necessary action consistent with state law to comply with the provisions of Public Law 329 of the 89th Congress, known as the "Higher education act of 1965" to strengthen the educational resources of Michigan colleges and universities and to provide financial assistance for students in post-secondary and higher education through a program of administration, research and consultation. The state board of education may accept and expend federal funds available under such provisions and promulgate rules and regulations as may be necessary for the conduct of this program. This shall not be construed as authorization to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with any fund accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state.

The state board of education shall submit to the legislature on or before April 1 of each year a report of projects conducted under the provisions of Public Law 329 of the 89th Congress during the preceding year.

HISTORY: Add. 1965, p. 838, Act 413, Imd. Eff. Dec. 17.

388.1009 State board of education; supervision of public education; planning and coordinating body; research.

Sec. 9. The state board of education has leadership and general supervision of all public education, including adult education and instructional programs of the state institutions, except as to institutions of higher education granting baccalaureate degrees. The board serves as the general planning and coordinating body for all public education, including higher education. The board may conduct research studies relating to general school problems of the public schools of this state.

HISTORY: New 1964, p. 571, Act 287, Eff. Aug. 28.

388.1009a State board of education; special education advisory committee; members, chairman, expenses, duty.

Sec. 9a. The special education advisory committee is created in the department of education and consists of 9 members, who shall be appointed by the state board of education for terms of 3 years, except that of the members first appointed 3 each shall be appointed for terms of 1, 2 and 3 years. The person within the department directly responsible for special education programs shall be an ex officio member of the committee. Each year the committee shall elect its chairman and such other officers as it deems necessary. Members of the committee shall be reimbursed for expenses incurred in performing their functions. The committee shall act as an adviser to the state board of education in the field of special education.

HISTORY: Add. 1966, p. 175, Act 154, Imd. Eff. Jul. 1.

388.1010 State board of education; powers and duties.

Sec. 10. The state board of education shall also have the following powers and duties:

Teachers' certificates and licenses; counselors.

(a) Determination of the requirements for, and issuance of, all licenses and certificates for teachers and the endorsement of teachers as qualified counselors in the public schools of this state.

School for deaf, blind; rehabilitation institute.

(b) Jurisdiction and control of the Michigan school for the deaf at Flint, the Michigan school for the blind at Lansing, and the Michigan rehabilitation institute for veter-

ans and disabled adults at Pine lake, including power to make rules for the schools necessary to enforce discipline, preserve health and provide for proper physical, intellectual and moral training of their pupils.

School buses; nonoperating districts; boundary appeals, procedure.

(c) Regulation of school bus transportation, review of the annexation or attachment of nonoperating school districts to operating school districts, and the hearing of appeals from decisions on alterations of boundaries of school districts as may be provided by law. The board may appoint a hearing officer to hear the appeals from decisions on alterations of boundaries of school districts who shall prepare a written report for consideration of the board. A copy of the written report shall be furnished to the designated appellant and appellee, who within 20 days may file written objections to the report with the state board of education for its consideration. After considering the report of the hearing officer and any objections filed by interested parties, the board may determine the appeal or order a hearing by it of the appeal from the decision on alterations of boundaries of school districts.

Inspection of educational corporations.

(d) Inspection of educational corporations as may be provided by law.

State board for public community and junior colleges.

(e) The appointment of the members of the state board for public community and junior colleges, as provided by law.

HISTORY: New 1964, p. 571, Act 287, Eff. Aug. 28;—Am. 1965, p. 772, Act 382, Imd. Eff. Aug. 18;—Am. 1969, p. 441, Act 229, Eff. Jul. 1, 1971.

388.1011 State board of education; report to legislature; financial requirements of all public education.

Sec. 11. The state board of education shall report to the legislature at each regular session as to its operations and recommendations including an itemized statement of its receipts and expenditures for its preceding fiscal year, and advise as to the financial requirements of all public education, including higher education.

HISTORY: New 1964, p. 572, Act 287, Eff. Aug. 28.

388.1012 Superintendent of public instruction; continuance in office.

Sec. 12. The superintendent of public instruction elected under the 1908 constitution shall serve as superintendent of public instruction until June 30, 1965.

HISTORY: New 1964, p. 572, Act 287, Eff. Aug. 28.

388.1013 Superintendent of public instruction; appointment and removal, bond.

Sec. 13. The state board by the affirmative vote of a majority of its members shall appoint and may remove a superintendent of public instruction and determine his term of office and compensation. The board may require him to furnish a corporate surety bond in a sum determined by it, conditioned upon accounting for and paying over any moneys which may come into his hands or under his control by reason of his holding such office. The cost of the bond shall be paid by the state and the bond shall be filed in the office of the secretary of state.

HISTORY: New 1964, p. 572, Act 287, Eff. Aug. 28.

388.1014 Superintendent of public instruction; references in other laws.

Sec. 14. After June 30, 1965, a reference in any law to the powers and duties of the superintendent of public instruction is deemed to be made to the state board unless the law names the superintendent as a member of another governmental agency or provides for an appeal to the state board of education from a decision of the superintendent, in which cases the reference is deemed to be made to the superintendent of public instruction appointed under the 1963 constitution. Such superintendent of pub-

lic instruction shall be responsible for the execution of the policies of the state board. The state board may delegate any of its functions to him. He shall be the principal executive and administrative officer of the state department of education.

HISTORY: New 1964, p. 572, Act 287, Eff. Aug. 28.

388.1015 State board of education; rules and regulations.

Sec. 15. The state board of education shall prescribe rules and regulations that it deems necessary to carry out the provisions of this act, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 572, Act 287, Eff. Aug. 28.

388.1016 Saving clause.

Sec. 16. All contracts and obligations of the old board shall continue and have the same effect under the state board as they had under the old board, except as otherwise provided by law.

HISTORY: New 1964, p. 573, Act 287, Eff. Aug. 28.

388.1017 Repeal.

Sec. 17. Act No. 194 of the Public Acts of 1889, as amended, being sections 390.401 to 390.421 of the Compiled Laws of 1948, Act No. 202 of the Public Acts of 1903, as amended, being section 390.431 of the Compiled Laws of 1948, Act No. 8 of the Public Acts of 1927, being section 15.81 of the Compiled Laws of 1948, sections 2 to 8 of Act No. 116 of the Public Acts of 1893, being sections 393.52 to 393.58 of the Compiled Laws of 1948, and sections 2 and 3 of Act No. 123 of the Public Acts of 1893, being sections 393.102 and 393.103 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1964, p. 573, Act 287, Eff. Aug. 28.

Act 209, 1965, p. 371; Imd. Eff. Jul. 16.

AN ACT to authorize the state board of education to accept federal funds for the conduct of research, surveys and demonstrations in the field of education and to strengthen and improve educational policy and educational opportunities in elementary and secondary education.

The People of the State of Michigan enact:

388.1031 State board of education; acceptance and expenditure of federal funds; rules and regulations to improve educational policy.

Sec. 1. The state board of education may take any necessary action consistent with state law to comply with the provisions of Public Law 531 of the 83rd Congress, known as the "cooperative research act" to encourage research and related activities which are of significance to education and with the provisions of Public Law 10 of the 89th Congress, known as the "elementary and secondary education act of 1965". The state board of education may accept and expend federal funds available under such provisions and promulgate rules and regulations for the conduct of research, surveys and demonstrations in the field of education and for the purposes of strengthening and improving educational policy and educational opportunities in elementary and secondary education.

HISTORY: New 1965, p. 371, Act 209, Imd. Eff. Jul. 16.

388.1032 Construction of act; payment of funds.

Sec. 2. This act shall not be construed as authorization to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropri-

ated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with any fund accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state.

HISTORY: New 1965, p. 371, Act 209, Imd. Eff. Jul. 16.

388.1033 Annual reports to legislature.

Sec. 3. The state board of education shall submit to the legislature on or before April 1st of each year a report of projects conducted under the provisions of these acts during the preceding year.

HISTORY: New 1965, p. 371, Act 209, Imd. Eff. Jun. 16.

Act 153, 1966, p. 174; Imd. Eff. Jul. 1.

AN ACT to authorize the state board of education to accept federal funds under the provisions of the television broadcasting facilities act of 1962, and under Title VII of the national defense education act of 1958, as amended; to make an appropriation and to provide for the expenditure of such funds.

The People of the State of Michigan enact:

388.1041 State board of education; acceptance and expenditure of federal funds for educational television.

Sec. 1. The state board of education may take any necessary action consistent with state law to comply with the provisions of Public Law 447 of the 87th Congress, known as the "television broadcasting facilities act of 1962," and with the provisions of Title VII of Public Law 864 of the 85th Congress, as amended, known as the "national defense education act of 1958," and may accept and expend federal funds available under these laws.

HISTORY: New 1966, p. 174, Act 153, Imd. Eff. Jul. 1.

388.1042 Construction of act; payment of funds.

Sec. 2. This act shall not be construed as authorization to expend or to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with state accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state.

HISTORY: New 1966, p. 174, Act 153, Imd. Eff. Jul. 1.

388.1043 Advisory committee for development of educational television system; appointment.

Sec. 3. The state board of education may appoint an advisory committee to conduct studies relating to the development of an educational television system in the state with particular emphasis on a complete engineering study of the feasibility of a multi-channel broadcasting system for instruction, materials distribution and administrative data handling.

HISTORY: New 1966, p. 174, Act 153, Imd. Eff. Jul. 1.

388.1044 Feasibility study; appropriation.

Sec. 4. There is hereby appropriated to the state board of education \$50,000.00 from the general fund for the fiscal year ending June 30, 1967, to conduct such a feasibility study in conjunction with federal funds as might be available.

HISTORY: New 1966, p. 174, Act 153, Imd. Eff. Jul. 1.

388.1045 Feasibility study; report; expenditure of funds.

Sec. 5. A report on the feasibility study shall be presented to the legislature by March 1, 1967. No funds, federal or state, shall be expended to implement recommendations of the feasibility study until specifically authorized by legislative act.

HISTORY: New 1966, p. 174, Act 153, Imd. Eff. Jul. 1.

Act 156, 1966, p. 175; Imd. Eff. Jul. 1.

AN ACT to provide state scholarships for students in the field of special education; and to make an appropriation therefor.

The People of the State of Michigan enact:

388.1051 Traineeship and fellowship grants for special education; purpose, qualifications, amounts.

Sec. 1. The department of education with the advice of the division of exceptional children may make traineeship and fellowship grants to persons of good character interested in part-time or full-time study in programs designed to qualify them as teachers and other workers in special education. Persons to qualify for a traineeship shall have earned at least 60 semester hours of college credit and persons to qualify for a fellowship shall be graduates of a recognized college or university. The traineeships and fellowships shall not exceed 200 on a full-time basis in any academic year and may be in amounts of not more than \$1,500.00 per academic year for traineeships and not more than \$3,000.00 per academic year for fellowships, except an additional amount for each grantee may be allowed to any approved institution of higher learning in this state for tuition and fees. Part-time students and summer session students shall be awarded grants on a pro rata basis. Grants shall be made under rules and regulations prescribed by the department of education.

HISTORY: New 1966, p. 175, Act 156, Imd. Eff. Jul. 1.

388.1052 Contracts with institutions for training of special education personnel; reimbursement.

Sec. 2. The department of education may contract with any approved institution of higher learning in this state to offer courses required for the professional training of special education personnel at such times and locations as may best serve the needs of children and may reimburse the institution of higher learning for any financial loss incurred due to low enrollments, distance from campus, or other good and substantial reason satisfactory to the department.

HISTORY: New 1966, p. 176, Act 156, Imd. Eff. Jul. 1.

388.1053 Traineeship and fellowship account; administration; certification of payments.

Sec. 3. The department of education shall administer the traineeship and fellowship account and related record of each person who is attending an institution of higher learning under a traineeship or fellowship awarded pursuant to this act and at each proper time shall certify to the department of administration, in the manner prescribed by law, the current payment to be made to the holder of each fellowship and traineeship, in accordance with an appropriate certificate of the holder endorsed by the institution of higher learning attended by him.

HISTORY: New 1966, p. 176, Act 156, Imd. Eff. Jul. 1.

388.1054 Duty of trainee to accept employment; noncompliance, refund of moneys received.

Sec. 4. Following the completion of a program of study the recipient of a traineeship or fellowship is required to accept employment within 1 year in an approved program of special education in this state on the basis of 1/2 year of service for each academic year of training received through a grant under this act. Persons who fail to comply with this provision shall be required to refund the traineeship or fellowship moneys received.

HISTORY: New 1966, p. 176, Act 156, Imd. Eff. Jul. 1.

388.1055 Appropriation.

Sec. 5. The sum of \$100,000.00 is appropriated from the general fund for the fiscal year ending June 30, 1967, to the department of education to carry out the provisions of this act.

HISTORY: New 1966, p. 176, Act 156, Imd. Eff. Jul. 1.

Act 316, 1966, p. 561; Imd. Eff. Jul. 19.

AN ACT to authorize the state board of education to accept federal funds under the national foundation on the arts and the humanities act of 1965; and to provide for the expenditure of such funds.

The People of the State of Michigan enact:

388.1061 State board of education; acceptance and expenditure of federal funds for arts and humanities.

Sec. 1. The state board of education may take any necessary action consistent with state law to comply with the provisions of Public Law 209 of the 89th Congress, known as the "national foundation on the arts and the humanities act of 1965" and may accept and expend federal funds available under this law.

HISTORY: New 1966, p. 561, Act 316, Imd. Eff. Jul. 19.

388.1062 Construction of act; payment of funds.

Sec. 2. This act shall not be construed as authorization to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with state accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state.

HISTORY: New 1966, p. 561, Act 316, Imd. Eff. Jul. 19.

Act 39, 1970, p. 94; Imd. Eff. Jun. 24.

AN ACT to authorize the development, organization and operation of neighborhood education centers; to create the state neighborhood education authority and to prescribe its functions; and to make an appropriation.

The People of the State of Michigan enact:

388.1071 Neighborhood education centers; definitions.

Sec. 1. As used in this act:

(a) "Neighborhood education center" means a facility developed, organized and operated under the provisions of this act for the purpose of providing primarily to school drop-outs but not limited thereto, educational, cultural and social programs and serv-

ices supplementary to or similar to programs and services made available by the public school system.

(b) "Sponsor" means a domestic nonprofit corporation which is capable of developing, organizing and operating a neighborhood education center. Sponsors may operate neighborhood educational centers in private or public facilities.

HISTORY: New 1970, p. 94, Act 39, Imd. Eff. Jun. 24.

388.1072 State neighborhood education authority; creation; members, appointment, terms, director.

Sec. 2. The state neighborhood education authority is created within the state department of education and is composed of 5 members, one of whom shall be the superintendent of public instruction and 4 of whom shall be citizen members appointed by the governor with the advice and consent of the senate. Not more than 2 of the citizen members shall be members of the same political party. The members of the authority shall serve terms of office concurrent with that of the governor and until their successors are appointed. The governor shall be an ex-officio nonvoting member of the authority. The position of director of the authority is created and shall be filled by appointment by members of the authority. The director shall serve at the pleasure of the authority and shall execute the policies of the authority and the administration of the program.

HISTORY: New 1970, p. 94, Act 39, Imd. Eff. Jun. 24.

388.1073 State neighborhood education authority; powers.

Sec. 3. The authority shall have power:

(a) To develop, organize and operate, or provide for the development, organization and operation of neighborhood education centers.

(b) To enter into and perform contracts and agreements with sponsors necessary or incidental to the discharge of its duties and the execution of its powers subject to review by the attorney general and approval by the state administrative board.

(c) To receive and accept grants or contributions from any source, of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to conditions on which such grants and contributions are accepted, provided that such gifts shall not obligate the state of Michigan to continue or support programs so established or enhanced.

(d) To acquire by purchase, gift or lease, and to sell, lease and otherwise deal with property, whether real or personal or mixed subject to review by the attorney general and approval by the state administrative board.

(e) To call upon and avail itself of, so far as may be practicable and within the limits of appropriations available therefor, the services of employees of the state.

(f) To promulgate rules necessary to carry out the provisions of this act, in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 95, Act 39, Imd. Eff. Jun. 24.

388.1074 Appropriation.

Sec. 4. There is appropriated from the general fund for the fiscal year ending June 30, 1971, to the department of education the supplementary sum of \$100,000.00 or as much thereof as may be necessary to fund the authority and to plan neighborhood education centers under the provisions of this act.

HISTORY: New 1970, p. 95, Act 39, Imd. Eff. Jun. 24.

388.1075 Cultural and social programs; educational purposes; limitations.

Sec. 5. Cultural and social programs and services provided under this act shall be clearly related to educational purposes, and shall neither include nor permit any

teaching or other activity which promotes or assists any political party or associated organization or which is derogatory to any racial, religious or ethnic group, whether directly or by an undue degree of emphasis on the standards, values and attainments of any other such racial, religious or ethnic group.

HISTORY: New 1970, p. 95, Act 39, Imd. Eff. Jun. 24.

388.1076 Expiration date of act; exception.

Sec. 6. This act shall expire July 1, 1971, unless the legislature has approved the rules promulgated under section 3.

HISTORY: New 1970, p. 95, Act 39, Imd. Eff. Jun. 24.

Act 38, 1970, p. 92; Imd. Eff. Jun. 24.

AN ACT to provide for assessment and remedial assistance programs of students in reading, mathematics and vocational education.

The People of the State of Michigan enact:

388.1081 Assessment of educational progress and remedial assistance; purposes.

Sec. 1. A statewide program of assessment of educational progress and remedial assistance in the basic skills of students in reading, mathematics, language arts and/or other general subject areas is established in the department of education which program shall:

(a) Establish meaningful achievement goals in the basic skills for students, and identify those students with the greatest educational need in these skills.

(b) Provide the state with the information needed to allocate state funds and professional services in a manner best calculated to equalize educational opportunities for students to achieve competence in such basic skills.

(c) Provide school systems with strong incentives to introduce educational programs to improve the education of students in such basic skills and model programs to raise the level of achievement of students.

(d) Develop a system for educational self-renewal that would continuously evaluate the programs and by this means help each school to discover and introduce program changes that are most likely to improve the quality of education.

(e) Provide the public periodically with information concerning the progress of the state system of education. Such programs shall extend current department of education efforts to conduct periodic and comprehensive assessment of educational progress.

HISTORY: New 1970, p. 92, Act 38, Imd. Eff. Jun. 24.

388.1082 Assessment program; coverage; conduct; results.

Sec. 2. (1) The statewide assessment program of educational progress shall cover all students annually at two grade levels in public schools.

(2) The department of education, hereinafter referred to as the department, shall develop and conduct the program, and may utilize the assistance of appropriate testing organizations and/or testing specialist. The program shall expand the current basic skills testing inventory in grades 4 and 7 coordinated by the department.

(3) The program shall assess competencies in the basic skills and collect and utilize other relevant information essential to the assessment program.

(4) Based on information from the program, students shall be identified who have extraordinary need for assistance to improve their competence in the basic skills.

(5) Information from the program shall be given to each school as soon as possible to assist it in its efforts to improve the achievement of students in the basic skills.

HISTORY: New 1970, p. 93, Act 38, Imd. Eff. Jun. 24.

388.1083 Remedial assistance programs; components; guidelines and specifications; staff training; demonstration projects; audit.

Sec. 3. (1) Based on information from the mathematics, reading and language arts assessment program, the department shall provide remedial assistance programs, as funds are made available by law to school districts to raise competencies in basic skills of students identified pursuant to subsection (4) of section 2. A funded program shall include but not be limited to the following components:

(a) Diagnosis of each student's performance difficulties and the development of an instructional program best suited to his individual needs.

(b) Provision for selection, adaption and installation of instructional systems that take account of individual student needs.

(c) Provision for an evaluation of the program in order to identify changes needed to improve program effectiveness.

(2) The department shall establish guidelines and specifications for the program components. The department shall provide technical assistance to each school district in its implementation of the guidelines and specifications. The department shall conduct such evaluations necessary to provide adequate information for the setting of guidelines.

(3) The department shall provide for preservice and in-service training of staff who would be involved in the school programs.

(4) The department with the cooperation of selected schools shall establish demonstration projects in basic skills.

(5) A remedial assistance program shall be audited as part of its evaluation by an agency independent of the state department of education to facilitate the accountability of each school for its programs.

HISTORY: New 1970, p. 93, Act 38, Imd. Eff. Jun. 24.

388.1084 Vocational education demonstration program; establishment, purposes.

Sec. 4. A vocational education demonstration program is established in the department of education to develop, test and evaluate the following innovative programs:

(a) A vocational education assessment and counseling system using computer and other automated techniques.

(b) A new career development program to devise curricula and materials for new careers in the labor market.

HISTORY: New 1970, p. 94, Act 38, Imd. Eff. Jun. 24.

388.1085 Vocational education demonstration program; development and testing, operation, evaluation.

Sec. 5. (1) The vocational education demonstration program shall be developed and tested in not more than 3 school districts. The department shall formulate plans and rules, select the demonstration districts and develop instruments for measurement of the program. Demonstration programs shall be operated in school districts during the 1971-72 school year.

(2) The department shall evaluate the program and recommend to the governor and the legislature a statewide vocational education assessment, counseling and evaluation program by December 31, 1972.

HISTORY: New 1970, p. 94, Act 38, Imd. Eff. Jun. 24.

388.1086 Rules for administration of act.

Sec. 6. The department shall promulgate rules necessary to carry out the provisions of this act, in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 94, Act 38, Imd. Eff. Jun. 24.

CHAPTER 389. EDUCATION—COMMUNITY COLLEGES

COMMUNITY COLLEGE ACT
Act 331 of 1966

389.1 Community college act of 1966; short title.

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Act 331, 1966, p. 594; Eff. Oct. 1.

AN ACT to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

389.1 Community college act of 1966; short title.

Sec. 1. This act shall be known and may be cited as the "community college act of 1966".

HISTORY: New 1966, p. 594, Act 331, Eff. Oct. 1.

CITED IN OTHER SECTIONS: Sections 389.1 to 389.195 are cited in § 389.301.

PART 1

CHAPTER 1

COMMUNITY COLLEGE DISTRICT COMPRISED OF COUNTIES

389.11 Establishment of district; approval.

Sec. 11. (1) One or more contiguous counties, excepting any portion previously included in an existing community college district, may join to form a community college district by a majority vote of the electors thereof. Before the election is held, approval of the formation of the proposed community college district and the proposed maximum annual tax rate shall be obtained from the state board of education by the

board or joint boards of education of the intermediate school districts of the counties affected.

(2) For the purposes of this chapter a county is eligible for the formation of a community college district even though a portion thereof is a part of an existing community college district. Such portion shall not be included in the area of the proposed community college district nor shall persons residing in such areas be eligible to vote at the organizational election or at any succeeding community college district elections.

HISTORY: New 1966, p. 594, Act 331, Eff. Oct. 1.

389.12 Organizational election; time of holding.

Sec. 12. (1) When approval of a proposed community college district is filed with the appropriate county clerks at least 75 days but not more than 6 months prior to the next general state election, the clerks shall include the necessary community college propositions with the proceedings for the general election.

(2) When approval of a proposed community college district is filed with the appropriate county clerks more than 6 months prior to the holding of the next general state election, each county clerk shall call a special election for the purpose of submitting to the electors the propositions relating to the establishment of the community college district.

HISTORY: New 1966, p. 595, Act 331, Eff. Oct. 1;—Am. 1967, p. 340, Act 231, Imd. Eff. Jul. 10.

389.13 Organizational election; propositions submitted.

Sec. 13. At the organizational election there shall be submitted the following issues:

(a) Proposition to establish the community college district. The ballots shall read substantially as follows:

Shall a community college district comprised of County (or counties) be established in accordance with Act No. of the Public Acts of 1966?

(b) Proposition to establish the maximum annual tax rate.

(c) Election of the first board of trustees.

HISTORY: New 1966, p. 595, Act 331, Eff. Oct. 1.

389.14 Community college board of trustees; number and terms.

Sec. 14. (1) The community college district shall be directed and governed by a board of trustees, consisting of 7 members, elected at large in the proposed community college district on a nonpartisan basis. At the organizational election there shall be elected 3 members for 6-year terms, 2 for 4-year terms and 2 for 2-year terms. Thereafter, at the next regular community college election immediately preceding the expiration of their terms of office, their successors shall be elected for terms of 6 years. Any community college district which on the effective date of this act has 6 board members, shall elect an additional trustee for a 6-year term at the next regular election held in the district. In a community college district which is comprised of 3 counties and is in operation on the effective date of this act, the board of trustees shall continue to consist of 9 members elected for 6-year terms, 3 of such members being elected from each of the 3 counties.

(2) When the organizational election is held at the same time as the general state election, the term of office of each member elected shall commence on January 1 following the organizational election.

(3) When the organizational election is held on a date other than the date of the general state election, each board member shall take office on the fifteenth day following the date of the organizational election. Regular terms of office shall commence on January 1 following the next general state election, however, the period of time from

the date of the organizational election until January 1 following the next general state election shall be in addition to the regular terms to which each member was elected.

HISTORY: New 1966, p. 595, Act 331, Eff. Oct. 1.

389.15 Community college districts comprised of counties; establishment; annual tax rate.

Sec. 15. (1) A community college district shall be established if:

(a) A majority of the electors of each of the counties included in the proposed community college district voting thereon approve the organization of the district.

(b) A board of trustees in the required number is elected by each county voting thereon.

(2) If the proposition to organize the district fails of a proper majority, or if a board of trustees in the proper number is not elected a community college district shall not be established.

(3) A combined majority of the electors of the counties voting thereon shall approve the establishment of the maximum annual tax rate. If the proposition to establish the maximum annual tax rate fails to receive approval of a proper majority of the electors of the counties voting thereon and a community college district is established under the provisions of this section, the proposition to establish the maximum annual tax rate may be resubmitted at a regular election or at a special election called by the board of trustees for that purpose. If the proposition to establish the maximum annual tax rate fails after being submitted 3 times, the community college district is dissolved.

HISTORY: New 1966, p. 595, Act 331, Eff. Oct. 1;—Am. 1967, p. 585, Act 285, Imd. Eff. Aug. 1.

389.16 Organizational elections; conduct.

Sec. 16. The general election laws, including the voting of absent voters, and all laws of the state relating to the hours for the opening and closing of the polls at elections and for preserving the purity of elections and for preventing fraud and corruption shall govern all elections under this act so far as the same are applicable and not inconsistent with the provisions of this act. All county and local election officials shall perform their election duties for all regular and special elections held in accordance with the provisions of this chapter, including the proper giving of notices of registration and election.

HISTORY: New 1966, p. 596, Act 331, Eff. Oct. 1.

389.17 Organizational elections; canvass of results.

Sec. 17. (1) The final results of the organizational election and succeeding elections of the community college district shall be canvassed by the county board of canvassers established by law.

(2) Where the election area involves more than 1 county the canvass shall be made by the county board of canvassers of the county containing the highest valuation of the community college district or proposed community college district.

HISTORY: New 1966, p. 596, Act 331, Eff. Oct. 1.

389.18 Regular community college district elections; when held; special propositions.

Sec. 18. Regular elections of the community college district shall be held on the same date as the general state elections. At regular elections, in addition to the election of trustees, special propositions may be submitted to the vote of the electors when authorized by the board of trustees.

HISTORY: New 1966, p. 596, Act 331, Eff. Oct. 1.

389.19 Special elections.

Sec. 19. (1) Special elections of the community college district may be called by the board of trustees. The secretary of the board shall file a copy of the resolution of the

board calling the election with the county clerks at least 60 days prior to the date of the election. The resolution of the board shall contain a statement of the propositions to be submitted to the electors.

(2) Upon receipt of the resolution each county clerk shall notify the county and local election officials of the calling of the special election. The election officials shall perform their regular election duties.

HISTORY: New 1906, p. 596, Act 331, Eff. Oct. 1.

389.20 Community college district elections; expenses.

Sec. 20. Expenses of elections of the community college district shall be paid by the board of trustees to the county and the several cities and townships upon presentation of statements therefor which shall not include charges for use of equipment or services of regular personnel of the counties, cities and townships unless otherwise agreed upon between the board of the community college district and the boards of the counties, cities and townships.

HISTORY: New 1906, p. 596, Act 331, Eff. Oct. 1.

389.21 Annexations to district; procedure.

Sec. 21. (1) The board of trustees of a community college district comprised of a county or counties by resolution may annex to the community college district in the manner provided in this act any contiguous county or any contiguous township not already included within the area of a community college district.

(2) Prior to the annexation election, the board of trustees shall obtain approval of the proposed annexation from the state board of education. Upon receipt of the approval, the secretary of the board of trustees shall file certified copies of the annexation resolution and the approval with the clerk of the county or township to be annexed. When the resolution and approval are filed more than 9 months from the date of the next general state election, the county board of supervisors, or the township board, shall call a special election for the purpose of voting on the question of annexation to the community college district and of approving the maximum tax rate existing in the community college district.

(3) If the resolution and approval are filed less than 9 months but more than 50 days prior to the next general state election, then the propositions shall be presented at such election. Annexation becomes effective on the date of the election if both propositions receive majority approval of the electors voting thereon. Final results of the annexation election shall be canvassed as provided in section 17, except in the case of annexation of a township where the results shall be canvassed by the township board of canvassers established by law.

(4) By virtue of annexation, any territory heretofore or hereafter annexed to a community college district shall be subject to taxes levied for principal and interest of outstanding bonded indebtedness of the community college district.

(5) If any portion of the county or township to be annexed lies within a community college district at the time of the annexation election, then the electors residing in such territory shall not be eligible to vote on the propositions and such territory shall not become a part of the community college district.

HISTORY: New 1906, p. 596, Act 331, Eff. Oct. 1.

CHAPTER 2

COMMUNITY COLLEGE DISTRICT COMPRISED OF SCHOOL DISTRICTS

389.31 Establishment of district; approval by state board of education.

Sec. 31. (1) Two or more contiguous school districts which operate grades kindergarten through 12 may join to form a community college district. When resolutions of the boards of education of contiguous school districts requesting the organization of

the community college district are filed with the secretary of the board of education of the intermediate school district having the highest valuation in the proposed community college district area, he shall refer the questions of organizing the community college district and the proposed annual tax rate to the state board of education for approval.

(2) For the purpose of this chapter, a school district operating grades kindergarten through 12 shall be eligible for the formation of a community college district even though a part of the district is within an existing community college district. Such part shall not be included in the area of the community college district nor shall persons residing in such part be eligible to vote at the organizational election or at any community college district election.

HISTORY: New 1966, p. 597, Act 331, Eff. Oct. 1.

389.32 Organizational election; time of holding.

Sec. 32. (1) The secretary of the board of education of the intermediate school district shall file a copy of the approval specified in section 31 with the secretary of the board of education of each component school district. When the filing is made at least 60 days but not more than 6 months prior to the next annual school election, the secretaries shall include the necessary community college propositions in the proceedings for the annual election.

(2) When the approval is filed with the secretaries of the component school districts more than 6 months prior to the date of the annual school election, each board of education shall call a special election to be held on a date designated by the secretary of the intermediate board of education of the school district having the highest valuation within the proposed community college district, for the purpose of submitting the propositions relating to the establishment of a community college district.

HISTORY: New 1966, p. 597, Act 331, Eff. Oct. 1;—Am. 1967, p. 340, Act 231, Imd. Eff. Jul. 10.

389.33 Organizational election; propositions submitted.

Sec. 33. At the organizational election the following issues shall be submitted to the electors:

(a) Proposition to establish the community college district. The ballots shall read substantially as follows:

(list names of school districts)

Shall a community college district comprised of
be established in accordance with Act No. of the Public Acts of 1966?

(b) Proposition to establish the maximum annual tax rate.

(c) Election of the first board of trustees.

HISTORY: New 1966, p. 597, Act 331, Eff. Oct. 1.

389.34 Board of trustees; number and terms.

Sec. 34. (1) If the community college district consists of 2 school districts, then 3 members shall be elected from each district and 3 members shall be elected at large.

(2) If the community college district consists of 3 or more school districts, then 1 member shall be elected from each school district and 3 members shall be elected at large.

(3) The terms of office of members elected at the first regular community college election shall be arranged so that of the members elected from each school district within the community college district, 1/3 shall be elected for a period of 2 years, 1/3 shall be elected for a period of 4 years and 1/3 shall be elected for a period of 6 years. The terms of office of members elected at large at the first regular community college election shall be arranged so that 2/3 of the members shall be elected for 6-year terms and 1/3 shall be elected for 4-year terms. If the total number of members to be elec-

ted from individual schools districts is 3, 2 members shall be elected for 2-year terms and 1 member shall be elected for a term of 4 years. If the total number of individual districts is 4, 3 members shall be elected for 2-year terms and 1 member shall be elected for a term of 4 years. If the number of constituent districts exceeds 4 and is an even number, 1/2 of the members shall be elected for 2-year terms and 1/2 shall be elected for 4-year terms. If the number of districts in excess of 4 is an odd number, the majority of the members shall be elected for 2-year terms and the remaining members shall be elected for 4-year terms. The board of trustees of the community college district shall establish, by drawing lots, which constituent school districts shall elect a trustee for the respective 2 and 4-year terms. At the next regular community college election immediately preceding the expiration of their terms of office, their successors shall be elected for a term of 6 years.

(4) The term of office of the members elected to the first board of the community college district shall commence on the fifteenth day after the election, however, the period of time remaining until July 1 following the election of the succeeding members in odd numbered years on the date prescribed for annual school elections in sections 34, 72 and 108 of Act No. 269 of the Public Acts of 1955, as amended, being sections 340.34, 340.72 and 340.108 of the Compiled Laws of 1948, shall be in addition to the regular terms to which each member was elected. The term of office of each succeeding member elected at the regular community college district election shall commence on July 1 after his election. If any component school district holds its annual school election on a different date, such district shall call a special election to be held on the same day as that above prescribed.

HISTORY: New 1966, p. 566, Act 331, Eff. Oct. 1.

389.35 Community college district comprised of counties; establishment; annual tax rate.

Sec. 35. (1) A community college district shall be established if:

(a) A majority of the electors of each school district voting thereon approve the organization of the district.

(b) A board of trustees in the required number is elected by a majority of the electors of the school districts voting thereon or by the combined majority of electors of the component school districts.

(2) If the proposition to organize the district fails of a proper majority, or if a board of trustees in the proper number and area representation is not elected, a community college district shall not be established.

(3) A combined majority of the electors of the component school districts voting thereon shall approve the establishment of the maximum annual tax rate. If the proposition to establish the maximum annual tax rate fails to receive approval of a proper majority of the electors of the component school districts voting thereon and a community college district is established under the provisions of this section, the proposition to establish the maximum annual tax rate may be resubmitted at a regular election or at a special election called by the board of trustees for that purpose. If the proposition to establish the maximum annual tax rate fails after being submitted 3 times, the community college district is dissolved.

HISTORY: New 1966, p. 566, Act 331, Eff. Oct. 1;—Am. 1967, p. 585, Act 285, Imd. Eff. Aug. 1.

389.36 Community college election; conduct.

Sec. 36. (1) The provisions of sections 531 to 540 of Act No. 269 of the Public Acts of 1955, as amended, being sections 340.531 to 340.540 of the Compiled Laws of 1948, shall govern the conduct and procedures of the community college election conducted by local school boards under this chapter.

(2) Where part of a local school district is in another community college district, only those electors residing in the remainder of the school district shall be eligible to vote in the organizational election or in subsequent community college elections.

HISTORY: New 1966, p. 599, Act 331, Eff. Oct. 1.

389.37 Community college election results; canvass of results.

Sec. 37. The results of any election in the school districts shall be canvassed within 3 days of the election by the boards of canvassers of the districts. The final canvass of the results of the organizational election shall be made by the board of canvassers appointed by the secretaries of the boards of the component school districts meeting jointly. The final canvass of the results of any community college district election, except the organizational election, shall be made by the board of canvassers appointed by the board of trustees of the community college district.

HISTORY: New 1966, p. 599, Act 331, Eff. Oct. 1.

389.38 Regular community college elections; when held; special propositions.

Sec. 38. (1) The regular community college election shall be held at the same time as the annual school elections of the constituent school districts held in the odd numbered years on the date prescribed for annual school elections in sections 34, 72 and 108 of Act No. 269 of the Public Acts of 1955, as amended. If any component school district holds its annual school election on a different date, the board of such district shall call a special election to be held on the same day as that above prescribed. The election shall be conducted in the same manner provided by sections 531 to 540 of Act No. 269 of the Public Acts of 1955, as amended.

(2) At the regular elections separate propositions may be submitted to the electors in addition to the election of trustees of the community college district when authorized by the board of trustees.

HISTORY: New 1966, p. 599, Act 331, Eff. Oct. 1.

389.39 Special community college district elections.

Sec. 39. (1) Special elections of the community college district may be called by the board of trustees. The secretary of the board shall file a copy of the resolution of the board calling the election with the secretaries of the component school districts at least 60 days prior to the date of the election. The resolution of the board shall contain a statement of the propositions to be submitted to the electors.

(2) The board of education of each component school district shall call the special election on the date specified in the resolution of the board of trustees.

HISTORY: New 1966, p. 599, Act 331, Eff. Oct. 1.

389.40 Community college election; expenses.

Sec. 40. Expenses of the elections shall be paid to the several school districts by the board of trustees of the community college district upon presentation of statements therefor which shall not include charges for use of equipment or services of regular personnel of the school districts unless otherwise agreed upon between the boards of the community college district and the school districts.

HISTORY: New 1966, p. 599, Act 331, Eff. Oct. 1.

389.41 Annexations to community college districts; approval.

Sec. 41. (1) The board of trustees by resolution may annex to the community college district any contiguous school district not already included within a community college district.

(2) The board of trustees shall obtain the approval of the proposed annexation from the state board of education. Upon receipt of the approval, the secretary of the board

of trustees shall file certified copies of the annexation resolution and the approval with the secretary of the board of education of the school district to be annexed.

(3) If a school district which operates grades kindergarten through 12 is annexed to a community college district, the school district shall be entitled to elect a member to the board of trustees of the community college district for a term of 6 years. The first member shall be elected at the regular community college election next succeeding the annexation election.

HISTORY: New 1966, p. 599, Act 331, Eff. Oct. 1.

389.42 District annexation; date; procedure.

Sec. 42. (1) If the resolution and approval are filed with the secretary more than 90 days before the date of the annual election of the district to be annexed, the board of education of the district shall call a special election for voting on the annexation on a date specified by the secretary of the board of trustees of the community college district.

(2) If the resolution and approval are filed more than 20 days but less than 90 days prior to the date of the annual election of the district to be annexed, the annexation proposition shall be submitted to the electors at the annual election.

HISTORY: New 1966, p. 600, Act 331, Eff. Oct. 1.

389.43 District annexations; vote requirements.

Sec. 43. (1) At the annexation election the electors shall vote on the propositions of annexation to the community college district and the adoption of the maximum annual tax rate of the community college district. Annexation will become effective on the date of the election if both propositions receive majority approval of the electors voting thereon. By virtue of annexation, a school district heretofore or hereafter annexed shall be subject to taxes levied within the maximum annual tax rate and to taxes levied for principal and interest of outstanding bonded indebtedness of the community college district.

(2) If any portion of a school district to be annexed lies within a community college district at the time of the annexation election, the electors residing in such territory shall not be eligible to vote on the propositions and such territory shall not become a part of the community college district.

HISTORY: New 1966, p. 600, Act 331, Eff. Oct. 1.

389.44 School districts with community college; transfer of territory.

Sec. 44. Whenever territory which is not already within a community college district is transferred to a school district which is a part of a community college district, the territory shall be a part of the community college district and subject to taxes levied within the maximum annual tax rate and to taxes levied for principal and interest of outstanding bonded indebtedness of the community college district.

HISTORY: New 1966, p. 600, Act 331, Eff. Oct. 1.

389.45 Annexation of school district to school district within community college district.

Sec. 45. Whenever a school district which is not within the area of a community college district was heretofore or is hereafter annexed to a school district which is within a community college district, the annexed school district shall be a part of the community college district and subject to taxes levied within the tax rate established in the community college district and to taxes for the payment of principal and interest of outstanding bonded indebtedness of the community college district.

HISTORY: New 1966, p. 600, Act 331, Eff. Oct. 1.

CHAPTER 3

COMMUNITY COLLEGE DISTRICT COMPOSED OF INTERMEDIATE
SCHOOL DISTRICTS**389.51 Establishment of district; approval; territory.**

Sec. 51. (1) The board of education of an intermediate school district or the boards of 2 or more adjoining intermediate school districts acting as a single board may direct that the question of coming under the provisions of this act be submitted to the school electors of the territory affected at the annual school elections or at special school elections held in the local school districts of such territory. If any school district holds its annual election on a different date, it shall call a special election to be held on the same day of the annual elections.

(2) The board of education of the intermediate school district or the joint board of 2 or more intermediate school districts shall designate the territory to be included in the proposed community college district and a uniform property tax question for the support of the community college, both propositions being subject to the approval of the state board of education.

HISTORY: New 1966, p. 600, Act 331, Eff. Oct. 1.

389.52 Organizational election; time of holding.

Sec. 52. (1) The secretary of the board of education of the intermediate school district having the highest valuation in the proposed community college district shall file a copy of the approval specified in section 51 together with the propositions to be submitted with the secretary of the board of education of each component school district. When the filing is made at least 60 days but not more than 6 months prior to the next annual school election, each secretary shall include the necessary community college propositions with the proceedings for the annual school election.

(2) When the approval is filed with the secretary of each component district more than 6 months prior to the date of the annual school election, each board of education shall call a special election to be held on a date designated by the secretary of the intermediate board of education of the school district having the highest valuation within the proposed community college district for the purpose of submitting the propositions relating to the establishment of the community college district.

HISTORY: New 1966, p. 601, Act 331, Eff. Oct. 1;—Am. 1967, p. 341, Act 231, Imd. Eff. Jul. 10.

389.53 Organizational election; propositions submitted.

Sec. 53. At the organizational election there shall be submitted the following issues:

(a) Proposition to establish the community college district. The ballots shall read substantially as follows:

Shall a community college district comprised of

(Name of intermediate school district or districts)

be established in accordance with Act No. — of the Public Acts of 1966?

(b) Proposition to establish the maximum annual tax rate.

(c) Election of the first board of trustees.

HISTORY: New 1966, p. 601, Act 331, Eff. Oct. 1.

389.54 Board of trustees; number and terms.

Sec. 54. (1) The community college district shall be directed and governed by a board of trustees, consisting of 7 members, elected at large in the proposed community college area on a nonpartisan basis. At the organizational election there shall be elec-

ted 3 members for 6-year terms, 2 for 4-year terms and 2 for 2-year terms. Thereafter, their successors shall be elected to serve for 6-year terms.

(2) When the organizational election is held at the same time as the annual school election, the term of office of each member elected shall commence on July 1 following the organizational election.

(3) When the organizational election is held on a date other than the date of the annual school election, each board member shall take office on the fifteenth day following the date of the organizational election. Regular terms of office shall commence on July 1 following the next annual school election. When the organizational election is held on a date other than the annual election date of the component school districts, the first year of the term of office of each of the members elected to the first board of trustees shall extend for the period of time remaining until July 1 following the date of the annual election of the component districts held not less than 1 year nor more than 2 years from the date of the organizational election.

(4) The term of office of the members of the board of trustees of a community college district organized in the manner provided in this chapter before April 22, 1965 shall be until July 1 following the first regular community college election at which there shall be elected 2 members for 2 years, 2 for 4 years and 3 for 6 years; thereafter, their successors shall be elected to serve for 6-year terms. In a community college district organized in the manner provided in this chapter before the effective date of this act, and having 6 members on the board of trustees, an additional member shall be elected at the next regular community college election for a term of 6 years.

HISTORY: New 1966, p. 601, Act 331, Eff. Oct. 1.

389.55 Establishment of community college district composed of intermediate school districts; annual tax rate.

Sec. 55. (1) A community college district shall be established if a majority of the electors voting in the proposed community college district area approve the organization of the district and elect a board of trustees in the proper number.

(2) A majority of the electors of the community college district shall approve the establishment of the maximum annual tax rate. If the proposition to establish the maximum annual tax rate fails to receive approval of a proper majority of the electors voting in the proposed community college district area and a community college district is established under the provisions of this section, the proposition to establish the maximum annual tax rate may be resubmitted at a regular election or at a special election called by the board of trustees for that purpose. If the proposition to establish the maximum annual tax rate fails after being submitted 3 times, the community college district is dissolved.

HISTORY: New 1966, p. 602, Act 331, Eff. Oct. 1;—Am. 1967, p. 585, Act 285, Imd. Eff. Aug. 1.

389.56 Community college district elections; conduct.

Sec. 56. (1) The provisions of sections 531 to 540 of Act No. 269 of the Public Acts of 1955, as amended, shall govern the conduct and procedures of the community college election conducted by local school boards under this chapter.

(2) In those instances where part of a local school district is in another community college district, only those electors residing in the remainder of the school district shall be eligible to vote in the organizational election and in subsequent elections of the community college district.

HISTORY: New 1966, p. 602, Act 331, Eff. Oct. 1.

389.57 Community college district elections; canvass of results.

Sec. 57. The results of any election from the several school districts shall be canvassed within 3 days of the election by the boards of canvassers of the districts. The fi-

nal canvass of the results of the organizational election shall be made by the board of canvassers of the intermediate school district having the highest valuation within the proposed community college district. The final canvass of the results of any community college district election except the organizational election shall be made by the board of canvassers appointed by the board of trustees of the community college.

HISTORY: New 1966, p. 602, Act 331, Eff. Oct. 1;—Am. 1967, p. 341, Act 231, Imd. Eff. Jul. 10.

389.58 Regular community college elections; time of holding.

Sec. 58. (1) The first regular election of a community college district shall be held at the time of the annual elections of the component school districts held not less than 2 years nor more than 3 years from the date of the organizational election. The date of the annual school elections referred to in this chapter is the date prescribed for annual school elections in sections 34, 72 and 108 of Act No. 269 of the Public Acts of 1955, as amended. If any school district holds its annual election on a different date, the board of this district shall call a special election for the community college district to be held on the same day as prescribed in this chapter. The period of time between the annual election dates shall be construed as being 1 year.

(2) Subsequent regular elections of the community college district shall be held biennially thereafter on the annual school election date.

(3) At the regular elections, special propositions may be submitted to the electors in addition to the election of trustees when authorized by the board of trustees.

HISTORY: New 1966, p. 602, Act 331, Eff. Oct. 1;—Am. 1967, p. 341, Act 231, Imd. Eff. Jul. 10.

389.59 Special community college election; called by board of trustees.

Sec. 59. (1) Special elections of the community college district may be called by the board of trustees. The secretary of the board shall file a copy of the resolution of the board calling the election with the secretary of each of the component school districts at least 60 days prior to the date of the election. The resolution shall contain a statement of the proposition to be submitted to the electors.

(2) The board of education of each component school district shall call the special election on the date specified in the resolution.

HISTORY: New 1966, p. 602, Act 331, Eff. Oct. 1.

389.60 Community college elections; expenses.

Sec. 60. Expenses of the elections shall be paid to the school districts by the board of trustees of the community college district upon presentation of statements therefor which shall not include charges for use of equipment or services of regular personnel of the school districts unless otherwise agreed upon between the boards of the community college district and the school districts.

HISTORY: New 1966, p. 602, Act 331, Eff. Oct. 1.

389.61 Annexations to community college districts.

Sec. 61. (1) The board of trustees by resolution may annex to the community college district any contiguous intermediate school district or contiguous local school district not already included within a community college district area.

(2) The board of trustees shall obtain the approval of the proposed annexation from the state board of education. Upon receipt of the approval the secretary of the board of trustees shall file certified copies of the annexation resolution and the approval with the secretary of the board of education of the intermediate school district to be annexed, or with the secretary of the board of education of the local school district to be annexed.

HISTORY: New 1966, p. 603, Act 331, Eff. Oct. 1.

389.62 Elections for annexations to district; date.

Sec. 62. (1) In the annexation of a local school district, if the resolution and approval are filed with the secretary more than 90 days before the date of the annual election of the district to be annexed, the board of education of the district shall call a special election for voting on the propositions of annexation. If the resolution and approval are filed more than 20 days but less than 90 days prior to the date of the annual election of the district to be annexed, the annexation propositions shall be submitted to the electors at the annual election.

(2) In the annexation of an intermediate school district, the secretary of the board of education of the district in writing shall direct the board of education of each component school district to provide for the submission of the annexation propositions to the electors of the school district. The election shall be held at the time of the annual school elections if notification is given more than 20 but less than 90 days prior to the annual election date, otherwise, each board of education shall call a special election for this purpose on a date specified by the secretary of the intermediate board of education.

HISTORY: New 1906, p. 603, Act 331, Eff. Oct. 1.

389.63 Elections for annexations to district; voting requirements.

Sec. 63. (1) At the annexation election the electors shall vote on the propositions of annexation to the community college district and the adoption of the maximum annual tax rate of the community college district. Annexation is effective on the date of the election if both propositions receive majority approval of the electors voting thereon. By virtue of annexation, a school district heretofore or hereafter annexed shall be subject to taxes levied for principal and interest of outstanding bonded indebtedness of the community college district.

(2) If any portion of an intermediate school district or of a local school district to be annexed lies within a community college district at the time of the annexation election, the electors residing in such territory shall be excluded from voting on the propositions and such territory shall not become a part of the community college district.

(3) Final results of the annexation election shall be canvassed as provided in section 57.

HISTORY: New 1906, p. 603, Act 331, Eff. Oct. 1.

389.64 Transfer of territory of school districts within community college district.

Sec. 64. Whenever territory which is not within a community college district is transferred to a school district which is a part of a community college district, the territory shall become a part of the community college district and shall be subject to taxes levied within the maximum annual tax rate and to taxes levied for principal and interest of outstanding bonded indebtedness of the community college district.

HISTORY: New 1906, p. 603, Act 331, Eff. Oct. 1.

389.65 Annexation of school district to school district within community college district.

Sec. 65. Whenever a school district which is not within a community college district which was heretofore or is hereafter annexed to a school district which is within a community college district, the annexed school district becomes a part of the community college district, and is subject to taxes levied within the tax rate established in the community college district and to taxes for the payment of principal and interest of outstanding bonded indebtedness of the community college district.

HISTORY: New 1906, p. 603, Act 331, Eff. Oct. 1.

CHAPTER 4

ESTABLISHMENT OF DISTRICT BY PETITION

389.71 Approval of establishment of district by petition.

Sec. 71. Whenever the secretary of the board of education of an intermediate school district is requested in writing by not less than 25 school electors of the county, school district or intermediate school district to initiate proceedings for the organization of a community college district, he shall refer the question of organizing the community college district to the state board of education for its approval. The state board of education may approve or deny the proposal to initiate proceedings to effectuate the proposed community college district organization. Upon the approval of the petition by the state board of education, proceedings for the establishment of the community college district shall be held in accordance with the provisions of chapters 1, 2 or 3 for the respective type of community college district.

HISTORY: New 1966, p. 604, Act 331, Eff. Oct. 1.

CHAPTER 5

INTERMEDIATE SCHOOL DISTRICTS OF MORE THAN 1,000,000.

389.81 Intermediate school district of more than 1,000,000; constituted as community college district; exceptions.

Sec. 81. Upon the effective date of this chapter, an intermediate school district now or hereafter having a population of more than 1,000,000 is constituted as a community college district which shall include all of the territory of the intermediate district except that portion presently included in an established community college district or included in a school district operating a community college as a department of the school district under the provisions of Act No. 269 of the Public Acts of 1955, as amended, being sections 340.1 to 340.984 of the Compiled Laws of 1948. Any such established community college district or community college department of a district school system may become a part of the new community college district under this chapter by action of its board of trustees or board of education.

HISTORY: Add. 1967, p. 586, Act 285, Imd. Eff. Aug. 1.

389.82 Community college district; rights and powers, exceptions.

Sec. 82. A community college district organized under this chapter shall have all the rights and powers provided in part 2 of this act, except those enumerated in section 122 of this act. The board shall have the power to borrow, purchase, lease or contract for operating purposes. However, the board shall not have power to impose taxes for the payment of bonds or other evidences of indebtedness or assessments or obligations in anticipation of which bonds are issued, the proceeds of which bonds or obligations are used for operating purposes, without a vote of the electorate of the district, and the board shall not have the power to borrow, lease, or purchase or levy any tax for the purposes of capital outlay until such time as operating millage has been voted by the electorate of the district.

HISTORY: Add. 1967, p. 586, Act 285, Imd. Eff. Aug. 1;—Am. 1969, p. 521, Act 282, Imd. Eff. Aug. 11.

389.83 Board of trustees; election; districts; terms; costs.

Sec. 83. The date of the first election of members of the board of trustees under this chapter shall be determined by the intermediate board of education. Subsequent elections of members of the board of trustees shall be held at the time of the general election and shall be conducted by the county as provided in section 16. On or before January 1, 1968, the intermediate board of education shall divide the territory of the community college district into 7 trustee districts which shall be composed of compact and as nearly contiguous territory and as equal in population as practicable and shall

be reapportioned after each federal decennial census. After the first election of members of the board of trustees a member of the board of trustees shall be elected from each trustee district for a term of 6 years. The members elected shall assume office on or before December 1, 1968 and the 3 members receiving the highest number of votes in such election shall serve a 6 year term. The next 2 highest shall serve a 4 year term and the final 2 highest shall serve a 2 year term. Regular successive terms shall be for a period of 6 years. Special elections may be called by the board of trustees in accordance with the provisions of chapters 1 and 2 except that the county or the constituent school districts shall pay for the cost of such elections until such time as the authorization to levy a tax is established.

HISTORY: Add. 1967, p. 586, Act 285, Imd. Eff. Aug. 1;—Am. 1969, p. 521, Act 282, Imd. Eff. Aug. 11.

389.84 Annual tax rate; submission to electors; limitation.

Sec. 84. The board of trustees shall submit to the electors of the district the proposition to establish the maximum annual tax rate. If the proposition to establish the maximum annual tax rate fails to receive a proper majority of the electors voting in the community college district at the first election held for that purpose, the proposition to establish the maximum annual tax rate may be resubmitted at a regular election or at a special election called by the board of trustees for that purpose. In no event shall such an election be called by the board of trustees more often than once in any 9 month period.

HISTORY: Add. 1967, p. 586, Act 285, Imd. Eff. Aug. 1;—Am. 1969, p. 522, Act 282, Imd. Eff. Aug. 11.

PART 2

CHAPTER 11

GENERAL POWERS AND DUTIES OF DISTRICTS

389.101 Community college districts; provisions governing.

Sec. 101. Each community college district shall be subject to and governed by the provisions of part 2 except as to those matters which are specifically or by necessary implication provided for in the particular chapter relative to the class or kind of community college district to which the district belongs.

HISTORY: New 1966, p. 604, Act 331, Eff. Oct. 1.

389.103 Community college as corporate entity.

Sec. 103. The community college district shall be a body corporate and may sue and be sued, and may take, condemn, use, hold, sell, lease and convey real property without restriction as to location and personal property including property received by gift, devise or bequest, as the interest of the community college district may require. Every community college district shall be presumed to have been legally organized when it has exercised the franchises and privileges of a district for a period of 2 years; and the district and its trustees shall be entitled to all rights, privileges and immunities, and be subject to all duties and liabilities conferred upon community college districts by law.

HISTORY: New 1966, p. 604, Act 331, Eff. Oct. 1.

389.105 Community college programs; definitions.

Sec. 105. (1) A community college means an educational institution providing, primarily for all persons above the twelfth grade age level and primarily for those within commuting distance, collegiate and noncollegiate level education including area vocational-technical education programs which may result in the granting of diplomas and certificates including those known as associate degrees but not including baccalaureate or higher degrees.

(2) An area vocational-education program means a program of organized systematic instruction designed to prepare the following individuals for useful employment in recognized occupations:

(a) Persons who have completed or left high school and who are available for full-time study in preparation for entering the labor market.

(b) Persons who have already entered the labor market and who need training to achieve stability or advancement in employment.

(c) Persons enrolled in high school.

(3) When programs or courses are provided for persons enrolled in high school, the provision of the programs or courses shall be requested for each of the individuals by the superintendent or his designated representative of the school district in which the person is enrolled.

(4) The word "area", in the phrase "area vocational-technical education program", refers to the geographical territory of the district, and whatever territory without the district as is designated as the service area of the district by the state board of education. A community college is eligible to receive such state aid and assistance as may be appropriated by the legislature for the aid and support of junior colleges or community colleges.

HISTORY: New 1966, p. 604, Act 331, Eff. Oct. 1.

389.107 Qualifications of electors.

Sec. 107. An elector of a community college district shall possess the qualifications provided for in article 2 of the state constitution.

HISTORY: New 1966, p. 605, Act 331, Eff. Oct. 1.

389.109 Community college district; legal name.

Sec. 109. (1) Until changed by board resolution, every community college district shall have the legal name of "Community College District of" (the name of the county or counties when organized under chapter 1, the names of the component school districts when organized under chapter 2, or the name of the intermediate school district or districts when the community college district is organized under chapter 3).

(2) The board of any community college district by resolution may adopt a distinctive name for the community college district, which name, after being approved by the state board of education, shall be the legal name of the district for all purposes. The board in like manner may change the name of the district. The adoption of a distinctive name or the change in name of any district shall have no effect upon existing obligations incurred in the former name of the district or upon the district ownership of any real or personal property.

HISTORY: New 1966, p. 605, Act 331, Eff. Oct. 1.

389.111 Board of trustees; first meeting; organization.

Sec. 111. (1) The first meeting of the board of trustees following the organizational election of a community college district shall be called by the secretary of the intermediate board of education of the county having the highest valuation within the community college district. The meeting shall be held within 15 days following the statutory date upon which the newly elected members take office, at such time and place as he shall designate.

(2) The organizational board meeting of any community college district operating under chapter 1 shall be held on the first Monday in January following the date of the regular community college election. The organizational board meeting of any community college district operating under chapters 2 or 3 shall be held on the first Monday in July following the date of the regular community college district election. If the

date of an organizational meeting falls on a legal holiday, then it shall be held on the next succeeding Monday.

(3) At the first meeting of a first or succeeding board of trustees, the board shall elect a chairman, who shall be a member of the board of trustees, and a secretary and a treasurer, who need not be members. The officers shall be elected for a term of 2 years, subject to change of officers by resolution of the board.

HISTORY: New 1906, p. 805, Act 331, Eff. Oct. 1.

389.112 Board of trustees; compensation; expenses.

Sec. 112. No member of the board of trustees except the secretary and treasurer may receive any compensation for any services rendered the district. Expenses of board members may be reimbursed when the expenses are authorized by the board of trustees.

HISTORY: New 1906, p. 805, Act 331, Eff. Oct. 1.

389.113 Board of trustees; quorum; voting required; records.

Sec. 113. (1) A majority of the board of trustees is a quorum, but no act is valid unless voted at a meeting of the board by a majority vote of the members elect of the board and a proper record made of the same. The trustees shall keep a written or printed record of every regular or special meeting of the board, which record shall be public.

(2) The chairman, secretary and treasurer shall perform such duties as may be provided by law and prescribed by the bylaws, rules and regulations of the board of trustees not inconsistent with the provisions of this act or any laws of this state.

HISTORY: New 1906, p. 806, Act 331, Eff. Oct. 1.

389.114 Board of trustees; bonds of officers and employees.

Sec. 114. The treasurer and such other officers or employees as shall handle money on behalf of the community college district shall first secure a suitable bond from a responsible bonding company, which bond shall be paid for by the board of trustees.

HISTORY: New 1906, p. 806, Act 331, Eff. Oct. 1.

389.121 Board of trustees; general powers.

Sec. 121. The board of trustees of the community college district shall have the power to make plans for, to promote, or acquire, construct, own, develop, maintain and operate a community college and an area vocational-technical education program. The board of trustees may:

(a) Locate, acquire, purchase or lease in the name of the district such site or sites within or without the district for college buildings, libraries, agricultural farms, athletic fields, playgrounds, stadiums, gymnasiums, auditoriums, parking areas, residence halls and supporting facilities as may be necessary; purchase, lease for a term not to exceed 5 years, acquire, erect or build and equip such buildings, structures and other improvements for college or area vocational-technical education buildings, libraries, agricultural farms, athletic fields, playgrounds, stadiums, gymnasiums, auditoriums, parking areas, residence halls and supporting facilities as may be necessary; pay for the same out of the funds of the district provided for that purpose; sell or exchange any real or personal property of the district which is no longer required thereby for school purposes, and give proper deeds, bills of sale or other instruments passing title to the same.

(b) Establish and carry on schools and departments or courses of study and other educational programs as may be consistent with the purposes of this act, and take over and succeed to the operation of such community college or vocational-technical department or departments as may previously have been operated by school districts within the community college district.

(c) Establish, equip and maintain agricultural, trade and other vocational-technical departments and to have general control thereover for community college or area vocational-technical program purposes.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1.

389.122 Board of trustees; borrowing power, bonds.

Sec. 122. The board of trustees may:

(a) Borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, for community college purposes including capital expenditures such sums of money and on such terms as it deems desirable and give notes of the district therefor. When the borrowing by a newly organized community college district is in anticipation of the collection of the first tax levy of such district, the loan shall not exceed 50% of the estimated amount of the first tax levy.

(b) Borrow, subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, such sums of money as it deems necessary and issue bonds of the community college district therefor, to purchase sites for buildings, playgrounds, athletic fields or agricultural farms, purchase or erect and equip any building or buildings, which it is authorized to purchase and erect, make any permanent improvement which it is authorized to make, or in part to refund existing bonded indebtedness, and in part for any of the aforesaid purposes. No loan shall be made and no bonds shall be issued for any sum which, together with the total outstanding bonded indebtedness of the district, including bonds voted but not issued, exceeds the total of 1 % of the first \$250,000,000.00 plus 1% of the excess over \$250,000,000.00 of the last confirmed state equalized valuation of all taxable property in the district unless the proposition of making the loan or of issuing bonds has been submitted first to a vote of the qualified electors of the district, at a general or special election, and approved by the majority of the electors voting thereon, in which event loans may be made or bonds may be issued in an amount not to exceed 15% of the total state equalized valuation of the district. The refunding part of any bond issue shall not be included within the limitations but shall be deemed to be authorized in addition thereto. The bonded indebtedness of the district shall not extend beyond a period of 30 years for money borrowed. Bonds or obligations issued under the provisions of this act shall not be purchased by the state.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1.

389.123 Board of trustees; control of community college property; tuition and fees; library or museum.

Sec. 123. The board of trustees may:

(a) Have the care and custody of all community college property and provide suitable facilities, sanitary conditions and medical inspection for the community college of the district.

(b) Establish and collect tuition and fees for resident and nonresident students. However, commencing in July 1971 the board shall charge the following tuition rates per semester hour of credit or its equivalent in term hours of credit for all students as follows: \$10.00 per hour for in-district students; \$20.00 per hour for out-of-district Michigan residents; and \$30.00 per hour for out-of-state residents or foreign students. No waiver of tuition shall be granted by the board.

(c) Establish and maintain or continue a library or museum, which institutions may be separately operated if desired, for the community college, if it deems it advisable to do so and provide for its or their care and management.

HISTORY: New 1966, p. 607, Act 331, Eff. Oct. 1;—Am. 1970, p. 542, Act 181, Imd. Eff. Aug. 3.

389.124 Board of trustees; administrator of community college, appointment, qualifications; teachers and employees.

Sec. 124. The board of trustees may:

(a) Contract with, appoint and employ a suitable person, not a member of the board, as administrator or director of the community college, who shall possess at least an earned bachelor's degree from a college acceptable to the state board of education and be the possessor of or be eligible for a teacher's certificate or have educational qualifications equivalent thereto in accordance with standards determined by the state board of education or have an earned doctor's degree from an accredited college or university, and who shall hold his office for a term fixed by the board, not to exceed 5 years, who shall perform such duties as the board may determine and who shall make reports in writing to the board of trustees and to the department of education annually or oftener if required in regard to all matters pertaining to the educational interests of the community college district; appoint in its discretion, a business manager responsible to the administrator or director of the community college for the community college district and fix his term of office.

(b) Select and employ such administrative officers, teachers and employees and engage such services as shall be necessary to effectuate its purposes.

HISTORY: New 1966, p. 607, Act 331, Eff. Oct. 1.

389.125 Board of trustees; payment of claims against community college district; gifts; bylaws.

Sec. 125. The board of trustees may:

(a) Certify to the treasurer of the community college district for payment out of the funds thereof all claims and demands against the board or community college district, which shall be allowed by the board under rules and regulations it may establish.

(b) Borrow money or other property and accept contributions, capital grants, gifts, donations, services or other financial assistance from the United States of America or any agency or instrumentality thereof.

(c) Accept by gift or devise private property. They may accept from any county, township or other governmental unit any contribution authorized by its governing body as provided in sections 791 to 795 of Act No. 269 of the Public Acts of 1955, as amended, being sections 340.791 to 340.795 of the Compiled Laws of 1948. They shall likewise be entitled to receive from the state all grants of state aid, in the same manner and proportion, as any other community college.

(d) Adopt bylaws, rules and regulations for its own government and for the control and government of the community college district.

(e) Acquire and hold in the name of the district all real property and improvements acquired and erected under the provisions of this act.

(f) To do all other things in its judgment necessary for the proper establishment, maintenance, management and carrying on of the community college.

HISTORY: New 1966, p. 607, Act 331, Eff. Oct. 1.

389.126 Board of trustees; self-liquidating projects.

Sec. 126. Notwithstanding the provisions of sections 121 and 122, the board of trustees may acquire lands or acquire or erect and equip buildings or maintain them to be used as residence halls, apartments, dining facilities, student centers, health centers, parking facilities, stadiums, athletic fields, gymnasiums, auditoriums and other educational facilities and finance the acquisition thereof by borrowing money and issuing bonds or other obligations therefor under such terms and provisions as it deems best, including the right to refund such bonds or obligations and the board shall obligate itself for the repayment thereof, together with interest thereon, solely out of the income

and revenues from such facilities or other facilities heretofore or hereafter acquired or any combination thereof or from allocations and pledges of fees and charges required to be paid by students enrolling in the college, or any combination thereof. The bonds shall be for a period not to exceed 50 years, and shall never constitute a debt of the state or any political subdivision thereof. The bonds shall not be subject to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 131.3 of the Compiled Laws of 1948, or to Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1;—Am. 1967, p. 150, Act 121, Imd. Eff. Jun. 27.

389.141 Board of trustees; annual budget, estimate.

Sec. 141. The board of trustees shall prepare annually on a day to be determined by the board of such district but before the third Monday in April of each year, an estimate of the amount of taxes or appropriation deemed necessary for the ensuing fiscal year for the purposes of expenditures authorized by law as within the powers of the board.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1.

389.142 Treasurer; investment of community college funds; restrictions.

Sec. 142. (1) The treasurer of any community college district, when authorized by resolution of the board of trustees, may invest debt retirement funds, building and site funds, building and site sinking funds or general funds of the district. The investment shall be restricted to the following:

(a) Bonds, bills or notes of the United States, or obligations, the principal and interest of which are fully guaranteed by the United States, or obligations of the state; or

(b) Certificates of deposit or open time deposits issued by any state or national bank organized and authorized to operate a bank in this state.

(2) Moneys in the several funds of a community college district shall not be commingled for the purpose of making any investment authorized by this section and all earnings on any investment shall become a part of the funds for which the investment was made.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1.

389.143 Board of trustees; audit of accounts.

Sec. 143. The board of trustees shall provide for a system of accounting meeting the approval of the state board of education. All accounts shall be audited once each year by a certified public accountant and a summary of the audit shall be published in a newspaper of general circulation in the community college district. The fiscal and accounting year shall commence with July 1 in each year. Copies of the reports of audits shall be filed as required by the state board of education and shall be available at all reasonable times for public inspection, as a condition of receiving any state aid for the subsequent fiscal year.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1.

389.144 Board of trustees; tax levy, rate, assessment and collection.

Sec. 144. (1) The board of trustees of each community college district may levy for the purposes specified as within the power of the board, a tax which shall not exceed the rate which has been heretofore or is hereafter authorized by the qualified electors of the district or the rate derived through the previous adoption by the electors of the district of the provisions of Act No. 188 of the Public Acts of 1955, as amended. The funds may be used for any and all purposes authorized except that the foregoing limitation shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be im-

posed without limitation as to rate or amount. This limitation may be increased to not more than 5 mills if approved by a majority of the qualified electors voting on the question at any general or special election of the community college district. The board of trustees shall determine the total taxes required for any year and shall certify the approved tax rate to be levied and the amount of taxes to be raised to the proper assessing officer of each city and township in which the territory of the community college district is situated on or before September 1 of each year, except that the board of trustees may provide by resolution that taxes to be raised against property within any city, any portion of which lies within the community college district boundaries, may be levied and collected in the same manner and at the same time as the city taxes. All moneys collected by any tax collecting officer from the tax levied under the provisions of this section shall be returned to the county treasurer who shall pay the taxes so returned forthwith to the community college district.

(2) The subjects of taxation for the community college district purposes shall be the same as for state, county and other school purposes as provided under the general property tax law.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1.

389.145 Community college district; exemption from taxation; special assessments.

Sec. 145. The property of the community college district shall be exempt from all taxation and assessment, and no writ of attachment or writ of execution shall be levied upon the property thereof. The board of trustees may enter into an agreement with any city, village or township or with the board of county road commissioners whereby the community college district agrees to pay special assessments for local improvements levied against any community college district property irrespective of the use to which the property is put.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1.

CHAPTER 12

BOARDS OF TRUSTEES

389.151 Community college district; board of trustees, eligibility.

Sec. 151. Any qualified elector residing within the community college district or proposed community college district is eligible to be chosen as a board member.

HISTORY: New 1966, p. 606, Act 331, Eff. Oct. 1;—Am. 1967, p. 341, Act 231, Imd. Eff. Jul. 10.

389.152 Candidates for board of trustees; nominating petitions, requirements, filing.

Sec. 152. (1) Candidates for members of the first and succeeding boards shall be nominated by petition signed by not less than 50 nor more than 200 qualified and registered electors residing within the geographic area of the community college district. All nominating petitions in community college districts organized under chapter 1 shall be filed not later than 4 p.m. on the sixtieth day prior to the date of any election. All nominating petitions in community college districts organized under chapters 2 and 3 shall be filed not later than 4 p.m. on the seventh Tuesday prior to the date of any election. If the last day for filing nominating petitions falls on a Saturday, Sunday or legal holiday, the nominating petitions shall be filed not later than 4 p.m. on the next secular day.

(2) Nominating petitions for the first board of trustees of a community college district organized under chapter 1 shall be filed with the county clerk or clerks. Nominating petitions for the first board of trustees organized under chapters 2 and 3 shall be filed with the secretary of the board of education of the intermediate school district of the county having the highest valuation within the community college district. Nomi-

nating petitions for succeeding boards of trustees shall be filed with the secretary of the board of trustees of the community college district, except that when candidates are elected from separate school districts within the college district as provided in chapter 2, nominees from school district areas shall file nominating petitions with the secretaries of school districts for the first and succeeding boards of trustees. In a community college district organized under chapter 1, the names of all candidates and the terms of office shall be certified to the county clerk or clerks by the secretary of the board of trustees of the community college district within 5 days after the last day for filing petitions.

(3) Upon the filing of nominating petitions with the appropriate official, he shall canvass them to ascertain if they have been signed by the requisite number of qualified and registered electors and for the purpose of determining the validity thereof may cause any doubtful signatures to be checked against the registration records of the clerk of any political subdivision in which the petitions were circulated, or may use any other method he deems proper for determining the validity of the doubtful signatures. If he determines that the nominating petitions of any candidate do not comply with the requirements or if the candidate does not possess the qualifications as required by the provisions of this act for membership on the board of trustees, the official shall notify the candidate of such fact together with a statement of the reasons.

HISTORY: New 1906, p. 606, Act 331, Eff. Oct. 1;—Am. 1967, p. 342, Act 231, Imd. Eff. Jul. 10.

389.153 Candidates for board of trustees; withdrawal, notice.

Sec. 153. After the filing of a nominating petition by or on behalf of a candidate for membership on the board, the candidate shall not be permitted to withdraw unless a written notice of withdrawal, signed by the candidate, is served upon the official with whom the nominating petition was filed or his duly authorized agent not later than 4:00 p.m. of the third day after the last day for filing the petition unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the official or his duly authorized agent up to 4:00 p.m. on the next secular day.

HISTORY: New 1906, p. 610, Act 331, Eff. Oct. 1.

389.154 Candidates for board of trustees; disqualification, withdrawal or death; replacement by majority vote of first board meeting.

Sec. 154. When a candidate for election to the board of trustees dies before the election, withdraws, removes from the community college district or proposed district, or becomes disqualified for any reason, and such person is the only candidate for the term of office of member of the board of trustees, then at the first meeting of the board after the election, the board shall elect, by majority vote of the members of the board, a person who would otherwise meet the qualifications of the office to serve until the next succeeding regular community college election for members of the board of trustees.

HISTORY: New 1906, p. 610, Act 331, Eff. Oct. 1.

389.155 Board of trustees; election; certificates of election.

Sec. 155. The candidate for each term of office who received the highest number of votes cast shall thereby be elected. Within 3 days of the official canvass the secretary of the final board of canvassers of any election for members to the board of trustees shall deliver a certificate of election to each of the candidates declared elected. The delivery may be made in person or by certified mail.

HISTORY: New 1906, p. 610, Act 331, Eff. Oct. 1.

389.156 Board of trustees; oath of office and acceptance, filing.

Sec. 156. (1) Within 15 days after his appointment or after the final canvass of his election, each person elected or appointed as a member of the board of trustees of a

community college district shall file with the secretary of the board of trustees his oath of office and his acceptance of office, accompanied by a written affidavit setting forth the fact of his eligibility as provided in section 151. Each person elected or appointed to the board of any community college district shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of member of the board of trustees according to the best of my ability."

(2) Any member elected to the first board of trustees of a community college district shall file his acceptance of office, affidavit of eligibility and oath of office with the secretary of the intermediate board of education of the county having the highest valuation within the community college district.

HISTORY: New 1966, p. 610, Act 331, Eff. Oct. 1.

389.157 Board of trustees; vacancies, causes.

Sec. 157. The office of a member of the board of trustees shall become vacant immediately without declaration of any officer or any acceptance of the board of trustees or its members, upon the death of the incumbent, or his being adjudicated insane or being found to be mentally incompetent by the proper court; his resignation; his removal from office; his conviction of a felony; his election or appointment being declared void by a competent tribunal; his refusal or neglect to file his acceptance of office, or his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; his ceasing to possess the legal qualifications for holding office including his residence qualification.

HISTORY: New 1966, p. 610, Act 331, Eff. Oct. 1.

389.158 Board of trustees; vacancies, filling.

Sec. 158. Whenever a vacancy in the board of trustees occurs, the remaining members of the board by majority vote shall fill the vacancy immediately with a qualified elector of the community college district. Any person so appointed shall hold office until the next regular community college election held for the election of members to the board of trustees in the community college district at which time the electors of the community college district shall fill the office for the unexpired portion of the term.

HISTORY: New 1966, p. 611, Act 331, Eff. Oct. 1.

CHAPTER 21

MISCELLANEOUS AND REPEALS

389.191 Construction of act.

Sec. 191. This act is for the purpose of implementing section 7 of article 8 of the state constitution and shall be construed as being the charter of community colleges established and operating hereunder, and as determining the tax limitation of such colleges in accordance with section 6 of article 9 of the constitution.

HISTORY: New 1966, p. 611, Act 331, Eff. Oct. 1.

389.192 Saving clause.

Sec. 192. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this act takes effect are hereby saved. It is the legislative intent that this act shall not be construed to alter or affect the continued organization or operation of the community college districts of the state or the rights or liabilities of such districts, except as otherwise specifically provided herein.

HISTORY: New 1966, p. 611, Act 331, Eff. Oct. 1.

389.193 Accrued rights and liabilities.

Sec. 193. Except as specifically otherwise provided in this act, this act shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

HISTORY: New 1966, p. 611, Act 331, Eff. Oct. 1.

389.194 Repeals.

Sec. 194. Act No. 188 of the Public Acts of 1955, as amended, being sections 390.871 to 390.883 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1966, p. 611, Act 331, Eff. Oct. 1.

389.195 Effective date of act.

Sec. 195. This act shall take effect on October 1, 1966.

HISTORY: New 1966, p. 611, Act 331, Eff. Oct. 1.

Act 39, 1969, p. 83; Imd. Eff. Jul. 17.

AN ACT to establish a state maritime academy at northwestern Michigan college to provide for the training of merchant marine officers; to provide for the operation and control thereof; and to designate the board of trustees thereof as the official state agency in connection therewith.

The People of the State of Michigan enact:

389.301 State maritime academy; establishment, operation.

Sec. 1. A state maritime academy and training program for merchant marine officers is established as a department of northwestern Michigan college. The board of trustees of northwestern Michigan college shall operate the program under the authority granted by Act No. 331 of the Public Acts of 1966, as amended, being sections 389.1 to 389.195 of the Compiled Laws of 1948 to conduct vocational-technical education programs.

HISTORY: New 1969, p. 83, Act 39, Imd. Eff. Jul. 17.

389.302 State maritime academy and training program; qualification for federal assistance.

Sec. 2. The board of trustees of northwestern Michigan college is the designated legal state entity to qualify the academy and training program in all phases required to qualify for federal assistance and to receive and expend funds for this purpose under provisions of the maritime academy act of 1958, being Public Law 85-672, any rules issued thereto and such other related statutes and rules as may be applicable.

HISTORY: New 1969, p. 83, Act 39, Imd. Eff. Jul. 17.

389.303 Scope of training program.

Sec. 3. It is the intent of the legislature that this program will not exceed the scope of the community college program as defined in section 1 of this act.

HISTORY: New 1969, p. 83, Act 39, Imd. Eff. Jul. 17.

CHAPTER 390. EDUCATION—UNIVERSITIES AND COLLEGES

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- 390.1 University of Michigan; continuation.
- 390.2 University of Michigan; object.
- 390.3 University of Michigan; government, board of regents.
- 390.4 Board of regents; body corporate; rights, seal.
- 390.5 Board of regents; powers.
- 390.6 Board of regents; power of removal of president, professor or tutor.
- 390.7 Board of regents; appointive power.
- 390.8 University of Michigan; departments.
- 390.9 Provision for special courses.
- 390.10 Repealed.
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- 390.16 Interest on university fund; use for erection of buildings.
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- 390.18 Branches of university; limitations; support.
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- 390.20 Board of regents; meeting, quorum.
- 390.21 Repealed.
- 390.22 Board of regents and visitors; expenses, reimbursement from university fund interest.
- 390.23 Required signatures for orders on treasurer.

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- 390.31 Institute of gerontology; establishment, authorization; purpose.
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Act 128 of 1875

- 390.41 Homeopathic medical department; establishment, authority of board of regents.

REGENTS OF UNIVERSITY, HOLDING OF PROPERTY

Act 36 of 1895

- 390.51 Board of regents; holding property in trust.

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Act 86 of 1899

- 390.61 Board of regents; receipt and investment of donations, life incomes.

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Act 203 of 1897

- 390.71, 390.72 Repealed.

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Act 43 of 1897

- 390.81 Water analysis by university; submission of sample.
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- 390.91 Michigan child guidance institute; abolition.
- 390.92 Michigan child guidance institute; transfer of property to regents of university.
- 390.93 Effective date of act.

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- 390.101 Michigan state university; name, purpose.
- 390.102 Michigan state university; government by board of trustees.
- 390.103 Board of trustees; compensation, expenses.
- 390.104 Board of trustees; meetings, quorum.
- 390.105 Board of trustees; organization.
- 390.106 State board of agriculture; successor of prior board; supervisory powers; control of property; rules.
- 390.107 State board of agriculture; power to fix salaries and remove professors and employees.
- 390.108 State board of agriculture; courses of instruction; degrees and certificates.
- 390.109 State board of agriculture; disposition of moneys.
- 390.110 State board of agriculture; experiment station.
- 390.111 State board of agriculture; vesting of certain swamp lands.
- 390.112 State board of agriculture; sale of swamp lands, terms, deeds.
- 390.113 Faculty; president, duties.
- 390.114 Faculty; rules and regulations.
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- 390.118 State board of agriculture; payment of expenses of employee attendance at meetings and tours of inspection.
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- 390.151 Oakland university; establishment, location; board of control.
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- 390.222 Agricultural college interest fund; use; excess; maintenance of certain departments.
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- 390.231 Agricultural experiment stations; establishment, legislative assent.
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- 390.272 Agricultural college endowment; use of money.
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Act 56 of 1929
- 390.281 Co-operative agricultural extension work; further development, legislative assent; acceptance of money.
- 390.282 Co-operative agricultural extension work; federal aid, disposition of funds.
- PUBLICATION OF INFORMATION
Act 81 of 1885
- 390.291 Agricultural college experiment bulletin; publication.
- 390.292, 390.293 Repealed.
- INSTITUTES AND LECTURES
Act 137 of 1899
- 390.301-390.306 Repealed.
- HIGHWAY TRAFFIC SAFETY CENTER
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- 390.311 Highway traffic safety center; establishment.
- 390.312 Highway traffic safety center; accommodations for research, instruction, distribution of information, demonstration programs.
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- MICHIGAN COLLEGE OF MINING AND TECHNOLOGY
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- 390.341 Michigan college of mines; board of control, presiding officer, title change.
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- 390.353 Board of control; meetings, quorum, officers, bond.
- 390.354 Board of control; securing of buildings and equipment; faculty, appointment, discharge.
- 390.355 Michigan college of mining and technology; courses of instruction, tuition; fees; supplies; free school, declaration; scholarships; short courses.
- 390.356 Michigan college of mining and technology; curriculum; admission and discipline of students; degrees and diplomas.

390.357 Michigan college of mining and technology; contraction of debt; control of property; mining business.

390.358 Michigan college of mining and technology; collection of minerals; report.

390.359 Repealed.

390.360 Michigan technological university; vesting of property.

390.361 Michigan technological university; acceptance of gifts; cooperation; agreements.

390.362 Repealed.

390.363 Michigan college of mining and technology; rules and regulations, publication; violation, penalty.

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390.371 Michigan college of mining and technology; residence halls housing units, and social centers, erection and operation; authority of board of control.

390.372 Michigan college of mining and technology; title of real estate, held by board of control.

390.373 Michigan college of mining and technology; board of control, borrowing power, issuance of obligations.

390.374 Michigan college of mining and technology; obligations, payment.

390.375 Michigan state college of mining and technology; prohibition of state to purchase bonds or obligations.

Act 250 of 1929

390.381 Michigan college of mining and technology; grounds for suits or legal actions by or against board of control; judgment or decree.

390.382 Suits or actions; institution, process, abatement.

LAKE SUPERIOR STATE COLLEGE

Act 26 of 1969

390.391 Lake Superior state college; establishment, location; board of control; name.

390.392 Board of control; members; term.

390.393 Board of control; election of officers; treasurer's bond; limitations.

390.394 Board of control; quorum for business transaction; rules and regulations; powers.

390.395 Sault Ste. Marie facilities; transfer to Lake Superior state college.

390.396 Board of control; borrowing power; repayment; pledge.

390.397 Repeal.

390.398 Bonds; purchase by state prohibited.

390.399 Effective date of act.

STATE BOARD OF EDUCATION

Act 194 of 1889

390.401-390.421 Repealed.

COURSES OF STUDY, LICENSES, CERTIFICATES, DIPLOMAS

Act 202 of 1903

390.431 Repealed.

STATE NORMAL BUILDINGS, IMPROVEMENTS

Act 15 of 1937

390.451-390.456 Repealed.

CENTRAL STATE NORMAL

Act 261 of 1895

390.471-390.473 Repealed.

RECIPROCITY, NORMAL SCHOOLS

Act 175 of 1897

390.481, 390.482 Repealed.

NORTHERN STATE NORMAL

Act 51 of 1899

390.491-390.496 Repealed.

WESTERN STATE NORMAL

Act 156 of 1903

390.511-390.515 Repealed.

LOWER PENINSULA NORMAL SCHOOL

Act 190 of 1925

390.531-390.537 Repealed.

GOGEBIC NORMAL SCHOOL

Act 338 of 1925

390.541, 390.542 Repealed.

CENTRAL, EASTERN, NORTHERN AND WESTERN MICHIGAN UNIVERSITIES

Act 48 of 1963 (2nd Ex. Ses.)

390.551 Central, Eastern, Northern and Western Michigan universities; continuation; boards of control, appointment, terms, vacancy.

390.552 Boards of control; officers, expenses.

390.553 Boards of control; general supervision, powers and duties.

390.554 Boards of control; specified powers and duties.

390.555 Boards of control; body corporate, actions, seal.

390.556 State board of education; division and transfer of funds to respective boards of control.

390.557 State board of education; contracts, assignment.

390.558 Boards of control; borrowing powers; pledge of revenues; approval.

390.559 Boards of control; teacher training schools, maintenance; contracts.

390.560 Boards of control; public school teaching, courses of study.

390.561 Repeals.

390.562 Effective date of act.

STATE NORMAL COLLEGE

Act 52 of 1899

390.571 Repealed.

TEACHERS' COLLEGES, CHANGE OF NAMES

Act 108 of 1941

390.581 Repealed.

NORTHERN MICHIGAN UNIVERSITY BOARD OF CONTROL

Act 222 of 1970

390.591 Northern Michigan university; board of control; ordinance powers.

390.592 Ordinances; adoption, publication, recording, inspection.

390.593 Violations, misdemeanor.

- 390.594 Enforcement; jurisdiction; procedure; appeals; fines, costs.
COUNTY TEACHERS' COLLEGE
Act 154 of 1927
- 390.601, 390.602 Repealed.
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Act 193 of 1927
- 390.631-390.635 Repealed.
WAYNE STATE UNIVERSITY
Act 183 of 1956
- 390.641 Wayne state university; establishment, board of governors.
390.642 Repealed.
390.643 Board of governors; election, term.
390.644 Board of governors; general supervision; compensation, expenses.
390.645 Board of governors; officers, powers; treasurer's bond.
Quorum, powers.
390.646 Board of governors; borrowing power.
390.647 Transfer of property and funds to board of governors; retirement provisions for employees.
390.648 Board of governors; power of condemnation.
390.649 Board of governors; appropriations.
- STATE SCHOOL OF OSTEOPATHIC MEDICINE
Act 162 of 1969
- 390.661 State school of osteopathic medicine; establishment; location; dean; operation by board of control.
390.662 Michigan osteopathic medicine advisory board; members, appointment, terms.
390.663 Osteopathic medicine advisory board; officers, election, terms, powers and duties.
390.664 Osteopathic medicine advisory board; quorum, rules and regulations, recommendations.
390.665 Board of control; powers and duties.
390.666 Effective date of act.
- BOARDS OF CONTROL OF STATE INSTITUTIONS OF HIGHER EDUCATION
Act 99 of 1969
- 390.681 Boards of control of state institutions of higher education; membership, eligibility.
Act 23 of 1963 (2nd Ex. Ses.)
390.691 Regents of university of Michigan; extension of terms.
390.692 Trustees of Michigan state university and governors of Wayne state university; extension of terms; appointment of new members.
390.693 Effective date of act.
- ALBION COLLEGE
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- 390.701 Albion college; creation, trustees; successor to rights and property of certain institutions.
390.702 Board of trustees; filling of vacancies; election by church conferences and alumni association; term; eligibility of graduates.
- 390.702a Board of trustees; additional members.
390.703 Board of trustees; powers; course of study; conferring of degrees.
390.704 Board of trustees; election of president of college, ex officio member; quorum.
390.705 Powers of corporation.
390.705a Board of trustees; custodians of endowment funds.
390.706 Act declared public; non-user of privileges; misnomer in instrument.
390.707 Board of trustees; election by alumni association.
390.708 Visitors; appointment; report of board of trustees.
- SAGINAW VALLEY COLLEGE
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- 390.711 Saginaw Valley college; establishment; location; maintenance; board of control.
390.712 Board of control; members, terms.
390.713 Board of control; officers; term, treasurer's bond; incurring debts of disposing of board property or funds.
390.714 Board of control; selection of site for college; raising of funds.
390.715 Board of control; quorum; rules and regulations; powers.
390.716 Board of control; borrowing power; repayment; pledge.
- HILLSDALE COLLEGE
Act 95 of 1943
- 390.731 Hillsdale college; corporate existence renewed and extended.
390.732 Hillsdale college; acts and powers validated.
- KALAMAZOO COLLEGE
Territorial Laws, p. 1131, Vol. III
- 390.751 Kalamazoo college; board of trustees, officers.
390.752 Kalamazoo college; purpose of corporation, affiliation.
390.753 Board of trustees; affiliation, quorum, term of office, honorary trustees.
390.754 Board of trustees; selection of president.
390.755 Treasurer, agents, bonds.
390.756 Nonsectarian enrollment; expulsion, suspension.
390.757 Fiscal affairs; restricted donations; conveyances.
390.758 Inspection by legislature of college.
390.759 Honors and degrees; earned degrees.
390.760 Board of trustees; powers, delegation of authority, relation with American Baptist convention.
- NONINCORPORATED PRIVATE EDUCATIONAL INSTITUTIONS
Act 142 of 1964
- 390.771 Nonincorporated private educational institutions; standards; exemptions.
390.772 Failure to meet standards; resulting courses of action.

MAIL VOTE BY ALUMNI ASSOCIATIONS

Act 86 of 1905

- 390.791 Graduate organizations; voting by mail.

FERRIS STATE COLLEGE

Act 114 of 1949

- 390.801 Ferris state college; continuation, operation.
- 390.802 Ferris state college; board of control, members, terms, expenses, powers.
- 390.803 Ferris state college; board of control, powers and duties.

FERRIS INSTITUTE

Act 55 of 1953

- 390.821 Ferris institute; board of control, powers.
- 390.822 Board of control; title to realty.
- 390.823 Board of control; borrowing power.
- 390.824 Payment of loans.
- 390.825 Bonds; purchase by state unlawful.

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Act 120 of 1960

- 390.841 Grand Valley state college; establishment; location; board of control.
- 390.842 Board of control; members, appointment, terms; president.
- 390.843 Board of control; officers, election; treasurer's bond.
- 390.844 Board of control; quorum, powers and duties.
- 390.845 Board of control; borrowing power; acquisition of property.
- 390.845 Legislative intent.

UNIVERSITY OF MICHIGAN, TWO-YEAR PROGRAMS

Act 63 of 1955

- 390.851 University of Michigan board of regents; temporary appropriation for two-year university programs.

BOARDS OF CONTROL OF STATE INSTITUTIONS OF HIGHER EDUCATION

Act 21 of 1963 (2nd Ex. Ses.)

- 390.861 State institutions of higher education; names; boards of control, appointment, vacancy.
- 390.862 Michigan technological university; board of control; terms.
- 390.863 Ferris state college; board of control; terms.
- 390.864 Grand Valley state college; board of control; terms.
- 390.865 Appointments; advice and consent of senate.
- 390.866 Effective date of act.

COMMUNITY COLLEGE DISTRICTS

Act 188 of 1955

- 390.871-390.883 Repealed.

TRAFFIC ORDINANCES AT UNIVERSITIES AND COLLEGES

Act 291 of 1967

- 390.891 Traffic ordinances; enactment; enforcement at state universities and colleges.
- 390.892 Violations; enforcement; procedure; appeals; disposition of fines.

JUNIOR AND COMMUNITY COLLEGE PROGRAMS

Act 259 of 1955

- 390.901 Junior and community college programs; development.
- 390.902 Junior and community college funds; distribution to public school districts.
- 390.903 Junior and community college funds; enrollment unit, maximum apportionment.
- 390.904 Junior and community college programs; appropriation; pro rata reduction.

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Act 193 of 1964

- 390.911 State board for public community and junior colleges; creation; membership, appointment, terms, vacancy.
- 390.912 State board for public community and junior colleges; oath, meeting, organization; officers.
- 390.913 State board for public community and junior colleges; quorum.
- 390.914 State board for public community and junior colleges; compensation, expenses, accounting, offices.
- 390.915 State board for public community and junior colleges; general supervision and planning, appropriations.
- 390.916 Effective date of act.

HIGHER EDUCATION FACILITIES AUTHORITY ACT

Act 295 of 1969

- 390.921 Higher education facilities authority act; short title.
- 390.922 Higher education facilities authority act; definitions.
- 390.923 Higher education facilities authority; creation; membership.
- 390.924 Higher education facilities authority; powers.
- 390.925 Loans to educational institutions; requirements, amount.
- 390.926 Bonds; issuance; refunding; approval; authorization.
- 390.927 Pledge to bondholders.
- 390.928 Bonds as investment.
- 390.929 Funds; disposition; accounting system; audits.
- 390.930 Tax exemption.
- 390.931 Bonds; negotiability; tax exemption.
- 390.932 Trustee; appointment; powers and duties.
- 390.933 Antidiscrimination covenant.

STATE HIGHER EDUCATION FACILITIES COMMISSION

Act 233 of 1964

- 390.941 State higher education facilities commission; members, terms, removal, vacancy, officers; chairman.
- 390.942 State higher education facilities commission; plan for participation in federal grant program.
- 390.943 State higher education facilities commission; expenditure of appropriations.
- 390.944 State higher education facilities commission; rules and regulations, hearing; approval of eligible projects.
- 390.945 State higher education facilities commission; applications for approval, priority,

- determination of federal share of cost.
- 390.946 State higher education facilities commission; hearing, eligibility of project, priority, determination as to federal grant.
- 390.947 State higher education facilities commission; gifts.
- 390.948 State higher education facilities commission; annual report, contents.
- MICHIGAN HIGHER EDUCATION ASSISTANCE
AUTHORITY
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- 390.951 Michigan higher education assistance authority; creation.
- 390.952 Higher education assistance authority; members, appointment.
- 390.953 Higher education assistance authority; term of office, removal.
- 390.954 Higher education assistance authority; vacancies, appointment, removal.
- 390.955 Higher education assistance authority; quorum; rules and regulations; employees.
- 390.956 Higher education assistance authority; compensation, expenses.
- 390.957 State department of education; powers.
- 390.958 Higher education assistance authority; loans to minors.
- 390.959 Higher education assistance authority; gift tax, deductible.
- 390.960 Higher education assistance authority; supervision and examination by state banking commissioner.
- STATE COMPETITIVE SCHOLARSHIPS
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- 390.971 State competitive scholarships; establishment of program.
- 390.972 State competitive scholarships; administration of program.
- 390.973 State competitive scholarships; examinations; certificates of recognition; rules and regulations.
- 390.974 State competitive scholarships; eligibility of applicants.
- 390.975 State competitive scholarships; first-year scholarships, award, renewal; residual scholarships, award.
- 390.975a State competitive scholarships; award of honorary scholarships, publication of names.
- 390.976 State competitive scholarships; determination of amounts.
- 390.977 State competitive scholarships; choice of college or university; enrollment; notice to authority.
- 390.978 State competitive scholarships; award.
- 390.979 State competitive scholarships; reports required; certificate of applicant; award checks, optional payments.
- 390.980 Higher education assistance authority; acceptance of gifts, annual reports.
- TUITION GRANTS
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- 390.991 Tuition grants; students in private, non-profit colleges or universities.
- 390.992 Tuition grants; administration; availability.
- 390.993 Tuition grants; private colleges; application; qualification, eligibility; grants.
- 390.993a Tuition grants; eligibility, state competitive scholarship examination.
- 390.994 Tuition grants; amount, determination.
- 390.995 Tuition grants; maximum.
- 390.996 Rules and regulations.
- 390.997 Tuition grants; adjustment for other scholarships.
- 390.998, 390.999 Repealed.
- NONPUBLIC SCHOOLS OF DENTISTRY
Act 219 of 1969
- 390.1001 Nonpublic school of dentistry; state payments; amounts.
- 390.1002 Michigan resident; definition.
- 390.1003 Appropriation; expiration date.
- BUDGETS OF INSTITUTIONS OF HIGHER EDUCATION
Act 232 of 1962
- 390.1015 Institutions of higher education; statistics included in budget requests.
- 390.1016 Michigan state university; industries and labor relations center.
- 390.1017 Michigan state university; medical education program.
- Act 176 of 1963
- 390.1034 Institutions of higher education; statistics included in budget requests.
- Act 259 of 1964
- 390.1054 Institutions of higher education; statistics included in budget requests.
- ACCOUNTING OF INSTITUTIONS OF HIGHER
EDUCATION
Act 42 of 1963 (2nd Ex. Ses.)
- 390.1101 Institutions of higher education; accounting to legislature.

Act 151, 1851, p. 205; Eff. Jul. 5.

AN ACT to provide for the government of the state university, and to repeal chapter 57 of the Revised Statutes of 1846.

*The People of the State of Michigan enact:***390.1 University of Michigan; continuation.**

Sec. 1. That the institution established in this state and known as the university of Michigan, is continued under the name and style heretofore used.

HISTORY: CL 1857, 2183;—CL 1871, 3481;—How. 4905;—CL 1897, 1781;—CL 1915, 1156;—CL 1929, 7764;—CL 1948, 390.1.

FORMER LAWS: For earlier legislation, relative to the establishment of the university, see 2 Terr. Laws, p. 104; 1 Terr. Laws, p. 879; Act 55 of 1837, Ex. Ses.; R.S. 1838, Title XI, Ch. 2; R.S. 1846, Ch. 57.

Act 205 of 1875 was repealed by Act 309 of 1929, being CL 1929, 121.

Michigan college of mines and technology, see Compilers' § 390.351 et seq.

390.2 University of Michigan; object.

Sec. 2. The university shall provide the inhabitants of this state with the means of acquiring a thorough knowledge of the various branches of literature, science and arts.

HISTORY: CL 1857, 2184;—CL 1871, 3482;—How. 4906;—CL 1897, 1782;—CL 1915, 1157;—CL 1929, 7765;—CL 1948, 390.2.

390.3 University of Michigan; government, board of regents.

Sec. 3. The government of the university is vested in the board of regents.

HISTORY: CL 1857, 2185;—CL 1871, 3483;—How. 4907;—CL 1897, 1783;—CL 1915, 1158;—CL 1929, 7766;—CL 1948, 390.3.

STATE TRUNK LINE HIGHWAY: In order to traverse property owned by the university with a state trunk line highway, the consent of the board of regents is required by Sec. 2 of Act 77 of 1929, being Compilers' § 250.72.

POWER TO CONTRACT: For various facilities, see Compilers' §§ 17.71 to 17.78.

390.4 Board of regents; body corporate; rights, seal.

Sec. 4. The board of regents shall constitute the body corporate, with the right, as such, of suing and being sued, of making and using a common seal, and altering the same.

HISTORY: CL 1857, 2186;—CL 1871, 3484;—How. 4908;—CL 1897, 1784;—CL 1915, 1159;—CL 1929, 7767;—CL 1948, 390.4.

390.5 Board of regents; powers.

Sec. 5. The regents shall have power to enact ordinances, by-laws and regulations for the government of the university; to elect a president, to fix, increase and reduce the regular number of professors and tutors, and to appoint the same, and to determine the amount of their salaries, Provided, That there shall always be at least 1 professor of homoeopathy in the department of medicine.

HISTORY: Am. 1855, p. 232, Act 100, Eff. May 15;—CL 1857, 2187;—CL 1871, 3485;—How. 4909;—CL 1897, 1785;—CL 1915, 1160;—CL 1929, 7768;—CL 1948, 390.5.

The proviso in this section is undoubtedly superseded by Act 63 of 1873, see footnote under Compilers' § 390.41.

PRESIDENT: EX OFFICIO MEMBERSHIP: The president of the University of Michigan is an ex officio member of the following boards:

Board of regents of University of Michigan, Const. VIII, 5;

State board of control for vocational education, Act 149 of 1919, being Compilers' § 395.1 et seq.

POWERS OF REGENTS: See notes to Compilers' § 390.3.

390.6 Board of regents; power of removal of president, professor or tutor.

Sec. 6. They shall have power to remove the president, and any professor or tutor, when the interest of the university shall require it.

HISTORY: CL 1857, 2188;—CL 1871, 3486;—How. 4910;—CL 1897, 1786;—CL 1915, 1161;—CL 1929, 7769;—CL 1948, 390.6.

390.7 Board of regents; appointive power.

Sec. 7. They shall have power to appoint a secretary, librarian, treasurer, steward, and such other officers as the interests of the institution may require, who shall hold their offices at the pleasure of the board, and receive such compensation as the board may prescribe.

HISTORY: CL 1857, 2189;—CL 1871, 3487;—How. 4911;—CL 1897, 1787;—CL 1915, 1162;—CL 1929, 7770;—CL 1948, 390.7.

390.8 University of Michigan; departments.

Sec. 8. The university shall consist of at least 3 departments,

1. A department of literature, science and the arts.
2. A department of law
3. A department of medicine

4. Such other departments may be added as the regents shall deem necessary, and the state of the university fund shall allow.

HISTORY: CL 1857, 2190;—CL 1871, 3488;—How. 4912;—CL 1897, 1788;—CL 1915, 1163;—CL 1929, 7771;—CL 1948, 390.8.

DEPARTMENTS: See notes to Compilers' § 390.1.

HOMEOPATHIC MEDICAL DEPARTMENT: See Compilers' § 390.41.

390.9 Provision for special courses.

Sec. 9. The regents shall provide for the arrangement and selection of a course or courses of study in the university, for such students as may not desire to pursue the usual collegiate course, in the department of literature, science and the arts, embracing the ancient languages, and to provide for the admission of such students without previous examination, as to their attainments in said languages, and for granting such certificates at the expiration of such course or term of such students, as may be appropriate to their respective attainments.

HISTORY: CL 1857, 2191;—CL 1871, 3489;—How. 4913;—CL 1897, 1789;—CL 1915, 1164;—CL 1929, 7772;—CL 1948, 390.9.

390.10 Repealed. 1957, p. 90, Act 87, Eff. Sep. 27.

Section provided for keeping set of meteorological tables at University of Michigan.

390.11 Authority of regents; president and faculty; degrees.

Sec. 11. The immediate government of the several departments shall be entrusted to the president and the respective faculties; but the regents shall have power to regulate the course of instruction, and prescribe, under the advice of the professorships, the books and authorities to be used in the several departments; and also to confer such degrees and grant such diplomas as are usually *conferred and granted by other similar institutions.

HISTORY: CL 1857, 2193;—CL 1871, 3491;—How. 4915;—CL 1897, 1791;—CL 1915, 1166;—CL 1929, 7774;—CL 1948, 390.11.

*NOTE: It is evident the word "confered" should be "conferred".

390.12 Fees and tuition; free courses.

Sec. 12. The fee of admission to the regular university course in the department of literature, science and the arts, shall not exceed 10 dollars; but such course or courses of instruction as may be arranged under the provisions of section 9 of this act shall be open without fee to the citizens of this state.

HISTORY: CL 1857, 2194;—CL 1871, 3492;—How. 4916;—CL 1897, 1792;—CL 1915, 1167;—CL 1929, 7775;—CL 1948, 390.12.

390.13 Fees and tuition; residents of state.

Sec. 13. The university shall be open to all persons resident of this state, without charge of tuition, under the regulations prescribed by the regents, and to all other persons, under such regulations and restrictions as the board may prescribe.

HISTORY: CL 1857, 2195;—CL 1871, 3493;—How. 4917;—CL 1897, 1793;—CL 1915, 1168;—CL 1929, 7776;—CL 1948, 390.13.

390.14 Fees and tuition; payment to treasurer; expenditures.

Sec. 14. The moneys received from such source shall be paid to the treasurer, and so much thereof as shall be necessary for the purpose, shall be expended by the regents in keeping the university buildings in good condition and repair, and the balance shall be appropriated for the increase of the library.

HISTORY: CL 1857, 2196;—CL 1871, 3494;—How. 4918;—CL 1897, 1794;—CL 1915, 1169;—CL 1929, 7777;—CL 1948, 390.14.

390.15 Board of regents; annual report to superintendent of public instruction.

Sec. 15. The board of regents shall make an exhibit of the affairs of the university, in each year, to the superintendent of public instruction, setting forth the condition of the university, and its branches, the amount of receipts and expenditures, and the number of professors, tutors, and other officers, and the compensation of each, the number of students in the several departments, and in the different classes, the books of instruction used, an estimate of the expenses for the ensuing year, together with

such other information and suggestions as they may deem important, or the superintendent of public instruction may require, to embody in his report.

HISTORY: CL 1857, 2197;—Am. 1859, p. 769, Act 219, Imd. Eff. Feb. 15;—CL 1871, 3495;—How. 4919;—CL 1897, 1795;—CL 1915, 1170;—CL 1929, 7778;—CL 1948, 390.15.

390.16 Interest on university fund; use for erection of buildings.

Sec. 16. From the increase arising from the interest of the university fund, the board of regents may erect from time to time, such buildings as are necessary for the uses of the university, on the grounds set apart for the same; but no such buildings shall be erected until provisions shall be made for the payment of the existing indebtedness of the university, nor until 1 branch of the university shall be established in each judicial circuit of the state.

HISTORY: CL 1857, 2198;—CL 1871, 3496;—How. 4920;—CL 1897, 1796;—CL 1915, 1171;—CL 1929, 7779;—CL 1948, 390.16.

390.17 Interest on university fund; use for improvement of grounds and purchase of apparatus.

Sec. 17. The board of regents shall have power to expend so much of the interest arising from the university fund, as may be necessary for the improving and ornamenting the university grounds, for the purchase of philosophical, chemical, meteorological, and other apparatus and to keep the same in good condition.

HISTORY: CL 1857, 2199;—CL 1871, 3497;—How. 4921;—CL 1897, 1797;—CL 1915, 1172;—CL 1929, 7780;—CL 1948, 390.17.

390.18 Branches of university; limitations; support.

Sec. 18. As soon as the income of the university interest fund will admit, it shall be the duty of the board of regents to organize and establish branches of the university, 1 at least, in each judicial circuit or district of the state, and to establish all needful rules and regulations for the government of the same. They shall not give to any such branch the right of *conferring degrees, nor appropriate a sum exceeding 1,500 dollars, in any 1 year, for the support of any such branch.

HISTORY: CL 1857, 2200;—CL 1871, 3498;—How. 4922;—CL 1897, 1798;—CL 1915, 1173;—CL 1929, 7781;—CL 1948, 390.18.

*NOTE: It is evident the word "conferring" should be "confering".

390.19 Branches of university; establishment.

Sec. 19. The regents may establish and organize a branch or branches, by the creation of a trusteeship for the local management of the same, or they may in their discretion select for a branch, under the restrictions aforesaid, any chartered literary institution in the state.

HISTORY: CL 1857, 2201;—CL 1871, 3499;—How. 4923;—CL 1897, 1799;—CL 1915, 1174;—CL 1929, 7782;—CL 1948, 390.19.

390.20 Board of regents; meeting, quorum.

Sec. 20. The meetings of the board may be called in such manner as the regents shall prescribe; 5 of them shall constitute a quorum for the transaction of business, and a less number may adjourn from time to time.

HISTORY: CL 1857, 2202;—CL 1871, 3500;—How. 4924;—CL 1897, 1800;—CL 1915, 1175;—CL 1929, 7783;—CL 1948, 390.20.

390.21 Repealed. 1957, p. 90, Act 87, Eff. Sep. 27.

Section provided for board of visitors and made it duty of such board to examine condition of University of Michigan and report result to superintendent.

390.22 Board of regents and visitors; expenses, reimbursement from university fund interest.

Sec. 22. The regents and visitors of the university shall each receive pay for the actual and necessary expenses incurred by them in the performance of their duties, which shall be paid out of the university interest fund.

HISTORY: CL 1857, 2204;—CL 1871, 3502;—How. 4926;—CL 1897, 1802;—CL 1915, 1177;—CL 1929, 7785;—CL 1948, 390.22.

390.23 Required signatures for orders on treasurer.

Sec. 23. All orders on the treasurer shall be signed by the secretary, and countersigned by the president.

HISTORY: CL 1857, 2205;—CL 1871, 3503;—How. 4927;—CL 1897, 1803;—CL 1915, 1178;—CL 1929, 7786;—CL 1948, 390.23.

Sec. 24. (This was a repeal section.)

HISTORY: CL 1857, 2206;—CL 1871, 3504;—How. 4928;—CL 1915, 1179;—CL 1929, 7787;—Rep. 1945, p. 402, Act 267, Imd. Eff. May 25.

ACT REPEALED: Ch. 57, R.S. 1846.

Act 245, 1965, p. 419; Imd. Eff. Jul. 21.

AN ACT to establish an institute of gerontology; to prescribe its functions; and to make an appropriation for its operation.

The People of the State of Michigan enact:

390.31 Institute of gerontology; establishment, authorization; purpose.

Sec. 1. There may be established by the university of Michigan and Wayne state university jointly, an institute of gerontology for the purpose of developing new and improved programs for helping older people in this state, for the training of persons skilled in working with the problems of the aged, for research related to the needs of our aging population, and for conducting community service programs in the field of aging.

HISTORY: New 1965, p. 419, Act 245, Imd. Eff. Jul. 21.

390.32 Institute of gerontology; duties and functions.

Sec. 2. The institute shall:

(1) In the field of training,

(a) Stimulate and contribute to training in gerontology in the various schools and departments of the universities.

(b) Offer specialized interdisciplinary training in gerontology at the graduate and postgraduate levels for those entering or already working in the field.

(2) In the fields of research and publications,

(a) Encourage, foster and conduct research in all important areas of gerontology.

(b) Provide research support for university instructional staff and other investigators in gerontology.

(3) In the field of community service, organize and promote programs of community education and services in the field of aging, and shall conduct courses and educational activities designed to serve those working with our older citizens.

HISTORY: New 1965, p. 419, Act 245, Imd. Eff. Jul. 21.

390.33 Institute of gerontology; establishment; rules and regulations.

Sec. 3. The institute shall be established by, and governed in accordance with the rules and regulations of the board of governors of Wayne state university and the board of regents of the university of Michigan.

HISTORY: New 1965, p. 419, Act 245, Imd. Eff. Jul. 21.

Act 128, 1875, p. 156; Eff. Aug. 3.

AN ACT for the establishment of a homeopathic medical department of the university of Michigan.

The People of the State of Michigan enact:

390.41 Homeopathic medical department; establishment, authority of board of regents.

Sec. 1. The board of regents of the university of Michigan are hereby authorized to establish a homeopathic medical college as a branch or department of said university, which shall be located at the city of Ann Arbor.

HISTORY: How. 4932;—Am. 1895, p. 554, Act 257, Imd. Eff. June 3;—CL 1929, 7786;—CL 1948, 390.41.

(The amendment provided for the removal of the department to Detroit, but it was declared unconstitutional in *Sterling v. Regents*, 110 Mich. 369, 68 N.W. 253, leaving the original section 1 to stand as set out above.)

PROFESSORS OF HOMEOPATHY: Act 63, 1873, omitted from compilations of 1897 and 1915, but included in How. 4930 and CL 1929, 7790, probably superseding proviso in Compilers' § 390.5, provided as follows: Sec. 1. *The People of the State of Michigan enact*, That the board of regents of the university of Michigan shall, on or before the fifteenth day of July in the year 1873, appoint, install, and thereafter maintain 2 professors of homeopathy in the department of medicine of the university, to wit: One professor of theory and practice, and 1 professor of *materia medica*, who shall receive the like salary and be entitled to all the rights and privileges of other professors in said department of medicine.

Sec. 2. (This was an appropriation section.)

HISTORY: How. 4933;—CL 1897, 1804;—CL 1915, 1180;—CL 1929, 7789;—Rep. 1933, p. 5, Act 5, Imd. Eff. Feb. 13.

Act 36, 1895, p. 124; Eff. Aug. 30.

AN ACT to enable the regents of the university to take and hold in perpetual trust land or other property.

The People of the State of Michigan enact:

390.51 Board of regents; holding property in trust.

Sec. 1. That it shall be competent for the regents of the university to take by gift, devise or bequest and hold in perpetuity any land or other property in trust for any purpose not inconsistent with the objects and purposes of the university.

HISTORY: CL 1897, 1809;—CL 1915, 1186;—CL 1929, 7795;—CL 1948, 390.51.

Act 86, 1899, p. 126; Imd. Eff. May 26.

AN ACT to enable the regents of the university of Michigan to receive any money or other property for the ultimate use of the university and to invest the same in the best manner possible subject to the payment of the net income or any portion thereof derived therefrom to any specified person or persons then living, during the life or lives of such person or persons.

The People of the State of Michigan enact:

390.61 Board of regents; receipt and investment of donations, life incomes.

Sec. 1. That the regents of the university of Michigan are authorized to enter into agreements to receive, and to receive from any one and in any manner, money or other property for the ultimate use of the university, to invest the same in the best manner possible, and to pay the net income derived therefrom, or any portion of the same, to any person or persons living at the time such money or property is received, during the life or lives of such person or persons. Said regents at the time of receiving such money or property may enter into agreements that all or part of such net income may be paid to the person or persons designated during such life or lives. Donations of money or property received under the provisions specified by this act shall not be sub-

ject to the provisions of Act No. 140 of the Public Acts of 1895, unless so agreed by the donors and the regents of the university.

HISTORY: CL 1915, 1187;—CL 1929, 7798;—CL 1948, 390.61.

NOTE: Act 140 of 1895, above referred to, is CL 1929, 153 and 154, and was repealed by Act 45, 1937.

390.71, 390.72 Repealed. 1957, p. 178, Act 157, Eff. Sep. 27.

Sections provided annual appropriation for university hospitals during summer vacations and provided for annual assessment upon taxable property.

Act 43, 1897, p. 47; Eff. Aug. 30.

AN ACT to provide for the analysis of water in use by the public in certain cases.

The People of the State of Michigan enact:

390.81 Water analysis by university; submission of sample.

Sec. 1. That in any case where any city, village or township in this state shall be supplied with water for domestic uses by any individual, company or corporation, city or village, or where there is within such city, village or township, any water in swales, wells, rivers or other places, which might be the cause of disease or epidemic, a sample of such water may be sent to the university of Michigan for analysis by the mayor of such city or village, or the president of such village, or by any alderman or trustee of such village, or by the supervisor of any such township, upon the resolution of the common council of such city, or board of trustees of such village, or the township board of such township, for that purpose duly passed.

HISTORY: CL 1897, 4484;—CL 1915, 5146;—CL 1929, 7799;—CL 1948, 390.81.

390.82 Water analysis by university; statement of results; cost.

Sec. 2. Upon receipt of such sample the regents of the university of Michigan shall cause a correct analysis of such sample of water to be made, and a correct statement of the properties contained therein, with a further statement whether or not such sample contains any substance deleterious to health, and return such analysis together with the statement aforesaid to the person so sending the same, free of charge except the actual cost of materials and animals used in making such analysis and experiment.

HISTORY: CL 1897, 4485;—CL 1915, 5147;—CL 1929, 7800;—CL 1948, 390.82.

390.83 Water analysis by university; record; second analysis not required within one year of first.

Sec. 3. It shall be the duty of the board of regents of the university of Michigan to cause a record to be kept of every sample of water received under and by virtue of this statute, and in no case shall a second analysis be required of the same water within 1 year except in case of the breaking out of some disease among the consumers of such water, and then only upon the certificate of at least 2 physicians engaged in active practice in that community that in their opinion such disease arises from the use of said water.

HISTORY: CL 1897, 4486;—CL 1915, 5148;—CL 1929, 7801;—CL 1948, 390.83.

Act 36, 1943, p. 33; Eff. Jul. 1.

AN ACT to repeal Act No. 285 of the Public Acts of 1937, entitled "An act to create the Michigan child guidance institute, for inquiring into the causes of child delinquency and improving methods of treatment therefor and coordinating the functions of various public and private agencies in examining and caring for such children; to prescribe the powers and duties of the institute; to prescribe the persons eligible for examination thereby; to declare the effect of this act; and to make an appropriation

therefor," and to transfer certain funds, property and records to the regents of the university of Michigan.

The People of the State of Michigan enact:

390.91 Michigan child guidance institute; abolition.

Sec. 1. Act No. 285 of the Public Acts of 1937 is hereby repealed, and the Michigan child guidance institute is hereby abolished.

HISTORY: CL 1948, 390.91.

390.92 Michigan child guidance institute; transfer of property to regents of university.

Sec. 2. All office furniture and equipment, case records, property and funds in the possession of the Michigan child guidance institute on June 30, 1943, shall be transferred to and become the property of the regents of the university of Michigan and shall be used as the regents shall direct for the continuing study of child delinquency and its causes, or for such other purposes as the regents may determine, to further scientific and educational purposes.

HISTORY: CL 1948, 390.92.

390.93 Effective date of act.

Sec. 3. This act shall take effect on July 1, 1943.

HISTORY: CL 1948, 390.93.

Act 269, 1909, p. 462; Eff. Sep. 1.

AN ACT to revise the laws relating to Michigan state university; and to prescribe the powers and duties of the board of trustees of Michigan state university. Am. 1955, p. 41, Act 37, Eff. Jul. 1;—Am. 1963, 2nd Ex. Ses., p. 67, Act 50, Eff. Jan. 1, 1964.

The People of the State of Michigan enact:

390.101 Michigan state university; name, purpose.

Sec. 1. The state educational institution at East Lansing shall hereafter be known by the name of "Michigan state university". Michigan state university shall provide the inhabitants of this state with the means of acquiring a thorough knowledge of agriculture and all its allied branches, of mechanic arts, of domestic art, of domestic science, of military tactics and of military engineering, and to this end it shall afford such instruction in science, art and literature as, in the judgment of its governing body, will promote the object of the institution. Wherever reference is made in any law to "Michigan agricultural college" or "Michigan state college of agriculture and applied science", or "Michigan state university of agriculture and applied science", such reference shall be construed to mean "Michigan state university".

HISTORY: CL 1915, 1233;—Am. 1925, p. 217, Act 153, Eff. May 13;—CL 1929, 7855;—CL 1948, 390.101;—Am. 1955, p. 41, Act 37, Eff. Jul. 1;—Am. 1963, 2nd Ex. Ses., p. 67, Act 50, Eff. Jan. 1, 1964.

This act entirely supersedes Act 188 of 1861 as amended by Acts 28 of 1867, 180 of 1871, 145 of 1873, 157 of 1873, 221 of 1875, 202 of 1901 and 308 of 1905, being CL 1897, 1834-1867;—Rep. 1915, p. 406, Act 240, Eff. Aug. 24, being CL 1929, 120. See also Acts 130 of 1855, 145 of 1857, and 235 of 1859.

390.102 Michigan state university; government by board of trustees.

Sec. 2. The government of Michigan state university is vested in the board of trustees of Michigan state university. The president of the university shall be ex officio a

member of the board without the right to vote and shall preside at meetings of the board. Any reference in this law to "state board of agriculture" shall be construed to mean board of trustees of Michigan state university.

HISTORY: CL 1915, 1234;—CL 1929, 7856;—CL 1948, 390.102;—Am. 1963, 2nd Ex. Ses., p. 67, Act 50, Eff. Jan. 1, 1964.

390.103 Board of trustees; compensation, expenses.

Sec. 3. The members of the board of trustees shall serve without compensation, but shall receive the actual and necessary expenses incurred by them in the performance of the duties of their office.

HISTORY: CL 1915, 1235;—CL 1929, 7857;—CL 1948, 390.103;—Am. 1963, 2nd Ex. Ses., p. 67, Act 50, Eff. Jan. 1, 1964.

390.104 Board of trustees; meetings, quorum.

Sec. 4. The board shall meet quarterly at stated times at Michigan state university and may meet at such other times and places as it may determine. Five members shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

HISTORY: CL 1915, 1236;—CL 1929, 7858;—CL 1948, 390.104;—Am. 1963, 2nd Ex. Ses., p. 67, Act 50, Eff. Jan. 1, 1964.

Name of Michigan agricultural college changed, see Compilers' § 390.101.

390.105 Board of trustees; organization.

Sec. 5. At its first meeting the board shall elect a secretary and a treasurer, each of whom shall give bonds satisfactory to the board to secure the faithful performance of the duties of his office. The board may elect such other officers as it deems advisable. Officers shall hold office at the pleasure of the board. No member of the board shall be eligible to election as secretary or treasurer.

HISTORY: CL 1915, 1237;—CL 1929, 7859;—CL 1948, 390.105;—Am. 1963, 2nd Ex. Ses., p. 67, Act 50, Eff. Jan. 1, 1964.

Name of Michigan agricultural college changed, see Compilers' § 390.101.

390.106 State board of agriculture; successor of prior board; supervisory powers; control of property; rules.

Sec. 6. The state board of agriculture created by the present constitution is the successor of the state board of agriculture created by Act No. 188 of the Public Acts of 1861, and the title to all property held in trust, or otherwise, by said state board of agriculture created by said Act No. 188 of the Public Acts of 1861, shall, when this act takes effect, vest in the state board of agriculture created by the present constitution. The state board of agriculture shall have the general control and supervision of the Michigan agricultural college, the farm pertaining thereto and lands or other property, which now or hereafter may belong to said college; of all appropriations made by the state or by congress for the support of said college, or for the support of the experiment station or any substation, or for any other purpose for which said college is created; and also the management of all lands that may hereafter be donated by the national government to this state in trust for the promotion of agricultural and industrial pursuits. The state board of agriculture may receive, hold and manage any property granted or devised to it or to the Michigan agricultural college to promote any of the objects for which said college is created. The board shall have plenary power to adopt such ordinances, by-laws and regulations not in conflict with this act as it may deem necessary to secure the successful operation of the college and to promote its designed objects.

HISTORY: CL 1915, 1238;—CL 1929, 7860;—CL 1948, 390.106.

Name of Michigan agricultural college changed, see Compilers' § 390.101.

LANDS: Agricultural college lands, see Compilers' §§ 322.171 to 322.181.

GIFTS, GRANTS OR DEVISES: See Compilers' § 354.351 et seq.

390.107 State board of agriculture; power to fix salaries and remove professors and employees.

Sec. 7. The board shall fix the salary of the president, professors and other employes, and shall prescribe their respective duties; and it may remove any of these when the interests of the college shall require it.

HISTORY: CL 1915, 1239;—CL 1929, 7861;—CL 1948, 390.107.

390.108 State board of agriculture; courses of instruction; degrees and certificates.

Sec. 8. The board shall have power to establish and regulate the courses of instruction and prescribe, with the advice of the faculty, the books to be used in the institution; and to confer such degrees and grant such diplomas and certificates as are usually conferred and granted by other institutions for similar attainments.

HISTORY: CL 1915, 1240;—CL 1929, 7862;—CL 1948, 390.108.

390.109 State board of agriculture; disposition of moneys.

Sec. 9. The board shall direct the disposition of any moneys appropriated by the legislature or by congress for the agricultural college, for any experiment stations in connection therewith; and of any moneys otherwise received for the above purposes.

HISTORY: CL 1915, 1241;—CL 1929, 7863;—CL 1948, 390.109.

390.110 State board of agriculture; experiment station.

Sec. 10. The board shall continue to apply the funds received from the United States government for an agricultural experiment station, referred to in Act No. 46 of the Public Acts of 1889, to the purposes for which said experiment station was established and in accordance with the acts of congress making appropriations therefor; and it shall apply all other funds received from the same source in accordance with the terms under which they were appropriated.

HISTORY: CL 1915, 1242;—CL 1929, 7864;—CL 1948, 390.110.

NOTE: Act 46 of 1889, above referred to, is Compilers' §§ 390.231 and 392.232.

FUNDS: For other funds received from the same source, see Compilers' §§ 390.241 and 390.252.

390.111 State board of agriculture; vesting of certain swamp lands.

Sec. 11. All swamp lands in the townships of Lansing and Meridian, in the county of Ingham, and in the townships of DeWitt and Bath, in the county of Clinton, hitherto granted and vested in the state board of agriculture, for the exclusive use and benefit of the Michigan agricultural college, shall, so far as they remain unsold, continue to vest in said board for the purpose above mentioned.

HISTORY: CL 1915, 1243;—CL 1929, 7865;—CL 1948, 390.111.

390.112 State board of agriculture; sale of swamp lands, terms, deeds.

Sec. 12. The state board of agriculture shall have authority to sell and dispose of any portion of the swamp lands mentioned in the preceding section of this act, and use the same or the proceeds thereof for the purpose of draining, fencing or in any manner improving other portions of said land, or for the promotion of the purposes of the Michigan agricultural college. The terms and conditions of the sale of the portions of the above described lands thus disposed of, shall be prescribed by the state board of agriculture, and the deeds of the same, executed and acknowledged in their official capacity by the chairman and secretary of the state board of agriculture, shall be good and valid by law.

HISTORY: CL 1915, 1244;—CL 1929, 7866;—CL 1948, 390.112.

390.113 Faculty; president, duties.

Sec. 13. The president, professors and associate professors of the Michigan agricultural college shall constitute the faculty, which shall select some suitable person to act as secretary of the faculty. The president of the college shall be the president of the faculty, and shall be the official channel of communication between the faculty and

the state board of agriculture. He shall be the administrative head of the college and, as such, shall be responsible for carrying into effect the ordinances, rules and regulations of the faculty and of the state board of agriculture.

HISTORY: CL 1915, 1245;—CL 1929, 7867;—CL 1948, 390.113.

390.114 Faculty; rules and regulations.

Sec. 14. The faculty shall pass all rules and regulations necessary to the government and discipline of the college and for the preservation of morals, decorum and health.

HISTORY: CL 1915, 1246;—CL 1929, 7868;—CL 1948, 390.114.

390.115 Faculty; control of laboratories and library.

Sec. 15. The faculty shall have charge of the laboratories, library and museums of the institution.

HISTORY: CL 1915, 1247;—CL 1929, 7869;—CL 1948, 390.115.

390.116 Subordinate officers under direction of president.

Sec. 16. The subordinate officers and employes, not members of the faculty, shall be under the direction of the president, and in the recess of the board, removable at his discretion, and he may fill vacancies that may be thus or otherwise created; his action in these respects shall be submitted to the approval of the state board of agriculture at its next meeting.

HISTORY: CL 1915, 1248;—CL 1929, 7870;—CL 1948, 390.116.

390.117 State board of agriculture; extension and experimental work, statistical reports.

Sec. 17. The board shall have power to carry on, through the faculty and officers of the college, such college extension work, such experimental work, both at the college and elsewhere throughout the state, including the publication of bulletins, and extend such educational assistance to the farmers and artisans of the state, as, in its judgment, may be for the best interests of the people at large. The board may, in its discretion, gather and publish information in regard to the resources of the state, the character of the soil in various parts, the character and quantity of crops raised, the domestic animals, the manufactures and any other statistical matter relating to Michigan.

HISTORY: CL 1915, 1249;—CL 1929, 7871;—CL 1948, 390.117.

EXTENSION WORK: Acceptance of federal grant, see Compilers' §§ 390.281 and 390.281. Cooperation from counties, see Compilers' § 285.51.

BULLETINS: See Compilers' § 390.291 et seq.

EDUCATIONAL ASSISTANCE: By state department of agriculture, see Compilers' § 285.5.

390.118 State board of agriculture; payment of expenses of employee attendance at meetings and tours of inspection.

Sec. 18. The board shall have power to expend the funds appropriated for the support of the college in paying the expenses of the president, secretary, professors, or other employes of the college, in attending meetings at which, in their judgment, it is desirable that the college should be represented; in inspecting the buildings, equipment, and work of other institutions; and also in accompanying students on tours of inspection to such objects of interest as are germane to their work in college.

HISTORY: CL 1915, 1250;—CL 1929, 7872;—CL 1948, 390.118.

390.119 State board of agriculture; secretary, office, records.

Sec. 19. The secretary shall have his office in the Michigan state college. It shall be his duty to keep a record of the transactions of the state board of agriculture, of the Michigan state college, and the experiment station, which shall be open at all times for the inspection of any citizen of the state. He shall have the custody of all books, papers, documents, records and other property which may be deposited in his office.

HISTORY: CL 1915, 1251;—CL 1929, 7873;—Am. 1933, p. 158, Act 115, Eff. Oct. 17;—CL 1948, 390.119.

Name of Michigan agricultural college changed, see Compilers' § 390.101.

390.120 State board of agriculture; business manager, appointment, powers and duties, records, annual financial report.

Sec. 20. The president, subject to the direction of the state board of agriculture, shall appoint a business manager of the Michigan state college who shall have the general charge, under the direction of the president and the state board of agriculture, of the financial affairs of the institution, and of any other financial matter with the administration of which the state board of agriculture may be charged; all moneys due to the institution or received in its behalf, shall be collected and received by the business manager, and deposited by him with the treasurer of the state board of agriculture; and all funds so deposited shall be subject to warrants signed by the president of the college and the business manager or their duly authorized agents. The business manager shall render monthly a full and complete account of all moneys received and all warrants drawn on the treasurer, as the business manager of the college, and shall file and preserve all vouchers, receipts, correspondence, or other papers relating to it. He shall keep in his office a complete record of all financial transactions, in such manner as may be approved by the board and the state accountant, and shall annually, at the close of the fiscal year, make a full and detailed report of the financial affairs of the institution, together with such statistical matter as may be of interest.

HISTORY: CL 1915, 1252;—CL 1929, 7874;—Am. 1933, p. 158, Act 115, Eff. Oct. 17;—CL 1948, 390.120.

390.121 State board of agriculture and Michigan state college; secretary, salary.

Sec. 21. The secretary shall receive as compensation for his services as secretary of the state board of agriculture, such salary as the legislature shall determine, to be paid monthly from the state treasury, in the same manner as is provided by law for the payment of salaries of state officers, and as secretary of the Michigan state college of agriculture and applied science, and of the experiment station, such salary as the state board of agriculture shall determine, to be paid from the college and experiment station funds.

HISTORY: CL 1915, 1253;—CL 1929, 7875;—Am. 1933, p. 153, Act 110, Imd. Eff. June 10;—CL 1948, 390.121.

390.122 Department heads; annual reports to president of college.

Sec. 22. The several heads of departments of the college and of divisions of the experiment station, shall annually make written and detailed reports of the work in their hands to the president of the college, which reports shall be published in the annual report of the secretary of the state board of agriculture.

HISTORY: CL 1915, 1254;—CL 1929, 7876;—CL 1948, 390.122.

390.123 Students; qualifications, tuition.

Sec. 23. The state board of agriculture shall have power to determine and establish the qualifications of students for admission to the college, and all students having a lawful residence in this state and meeting the established requirements for admission, shall have the privileges of the institution without the payment of tuition, but the board may require tuition of students from other states and countries and fix the amount thereof.

HISTORY: CL 1915, 1255;—CL 1929, 7877;—CL 1948, 390.123.

Sec. 24. (This was a repeal section.)

HISTORY: CL 1915, 1256;—CL 1929, 7878;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

ACTS NOT REPEALED: By above section: Act 210, 1897, which was superseded by Act 137, 1899, also excepted from the repeal, being Compilers' §§ 390.301-390.306. Act 232, 1901, as amended by Act 303, 1905, and Act 266, 1907, also excepted from the repeal, is Compilers' §§ 390.222-390.225.

Act 35, 1970, p. 89; Imd. Eff. Jul. 1.

AN ACT to establish an institution of higher education having authority to grant baccalaureate degrees, known as Oakland university; to provide for the board of con-

trol, the organization of such board and the vesting of assets in such board; and granting and confirming the powers of such board.

The People of the State of Michigan enact:

390.151 Oakland university; establishment, location; board of control.

Sec. 1. There is established a state institution of higher education having authority to grant baccalaureate degrees, known as Oakland university to be located in Oakland county. The institution shall be maintained by the state and its facilities shall be made available equally and upon the same basis to all qualified residents of this state. The institution shall be governed by a board of control which shall be a body corporate. The board of control shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. Until changed by resolution of the board, the body corporate shall be known as the "board of control of Oakland university", hereinafter referred to as "the board" with the right of suing and being sued, adopting a seal and altering the same.

HISTORY: New 1970, p. 89, Act 35, Imd. Eff. Jul. 1.

390.152 Board of control; members, terms.

Sec. 2. The board shall consist of 8 members who shall hold office for terms of 8 years and who shall be appointed by the governor by and with the advice and consent of the senate, except of the members first appointed 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years. The president of the institution shall be ex officio a member of the board without the right to vote.

HISTORY: New 1970, p. 89, Act 35, Imd. Eff. Jul. 1.

390.153 Board of control; officers; treasurer, bond; limitations.

Sec. 3. The board shall elect from its membership a chairman and such other officers as it deems necessary. Officers shall serve terms of 1 year and until their successors shall have been elected and qualified. The board shall also appoint a president, a secretary, a treasurer and other such officers as it deems necessary. Before permitting the treasurer to enter upon the duties of his office, the board shall require him to file his bond to the people of this state with such sureties and in such sum not less than the amount of money likely to be in his possession as the board may designate. No officer shall have the power to incur obligations or to dispose of the board's property or funds, except in pursuance of a vote of the board.

HISTORY: New 1970, p. 89, Act 35, Imd. Eff. Jul. 1.

390.154 Board of control; quorum, rules; powers.

Sec. 4. A majority of the members of the board shall form a quorum for the transaction of business. The board by majority vote of its membership may enact rules, by-laws and regulations for the conduct of its business and for the government of the institution and amend same; fix tuition and other fees and charges, appoint and remove personnel as the interests of the institution, the mandates of due process, and the policy of the institution on academic tenure may require, determine the compensation to be paid for services and materials, confer such degrees and grant such diplomas as are usually conferred or granted by other similar institutions, offer technical, vocational and occupational programs of less than 4 years collegiate degree level, receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, to promote any of the purposes of the college, enter into any agreements, not inconsistent with this act, as may be desirable in the conduct of its affairs, and in behalf of the state lease or dispose of any property which comes into its possession, provided that in so doing it shall not violate any condition or trust to which such property may be subject. The board shall assume and agree to pay any and all lia-

bilities heretofore incurred by the board of trustees of Michigan state university for and on behalf of Oakland university, effective with the date of this act. This act is intended to implement, clarify and confirm in the board the constitutional powers customarily exercised by the board of control of institutions of higher education established by law having authority to grant baccalaureate degrees. Enumeration of powers in this act shall not be deemed to exclude any such powers not expressly excluded by law.

HISTORY: New 1970, p. 90, Act 35, Imd. Eff. Jul. 1.

390.155 Transfer of assets and facilities to Oakland university.

Sec. 5. The present assets and facilities of the Oakland branch of Michigan state university constitute the properties of Oakland university and upon the effective date of this act, transfer of the properties shall be made to Oakland university.

HISTORY: New 1970, p. 90, Act 35, Imd. Eff. Jul. 1.

390.156 Board of control; borrowing power; acquisition of property.

Sec. 6. The board shall not borrow money on its general faith and credit, nor create any liens upon its property except as herein provided. The board may acquire land or acquire or erect buildings or alter, equip or maintain them, to be used as residence halls, apartments, dining facilities, student centers, health centers, parking structures, stadiums, athletic fields, gymnasiums, auditoriums and other educational facilities. After the legislature by concurrent resolution has approved the acquisition or construction of such facilities, the board may borrow money issuing notes or bonds under such terms and provisions as it deems best to finance or refinance such facilities, the necessary site or sites therefor, and including, but not limited to, capitalized interest and a debt service reserve in connection with such notes or bonds, and shall obligate itself for the repayment thereof, together with interest thereon, solely out of (a) income and revenues from such facilities, or other such facilities heretofore or hereafter acquired, (b) special fees and charges required to be paid by the students deemed by it to be benefited thereby, (c) funds to be received as gifts, grants or otherwise from the state or federal government or any agency thereof or any public or private donor, if, prior to issuance of such notes or bonds, the state, federal government or agency thereof or other donor has contracted to pay to the board or to the holder of such notes or bonds definite amounts of money as determined by formula or otherwise, (d) the proceeds of or delivery of any notes or bonds issued hereunder, and (e) any combination of (a), (b), (c), and (d).

HISTORY: New 1970, p. 90, Act 35, Imd. Eff. Jul. 1.

390.157 Bonds, notes or other obligations; purchase by state prohibited.

Sec. 7. Bonds, notes or other obligations issued under the provisions of this act shall not be purchased by the state of Michigan.

HISTORY: New 1970, p. 90, Act 35, Imd. Eff. Jul. 1.

390.158 Board of control; ordinances, adoption, amendment or repeal; violation, penalty.

Sec. 8. The board may adopt, amend and repeal such ordinances, not inconsistent with this act, as it may deem necessary and in the interest of the health, safety, and welfare of persons using the property and facilities of Oakland university. Such ordinances shall be adopted by affirmative vote of the majority of the board, to be effective upon the date of publication of the ordinance. The violation of any such ordinance shall be a misdemeanor punishable by a fine of not more than \$100.00 or imprisonment for not more than 90 days or both.

HISTORY: New 1970, p. 90, Act 35, Imd. Eff. Jul. 1.

390.159 Effective date of act.

Sec. 9. This act shall become effective July 1, 1970.

HISTORY: New 1970, p. 91, Act 35, Imd. Eff. Jul. 1.

Act 27, 1937, p. 32; Imd. Eff. Apr. 30.

AN ACT to accept the benefits of an act of the *seventh-fourth congress, approved June 29, 1935, known as the Bankhead-Jones act, or Public Act No. 182, entitled "An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges."

The People of the State of Michigan enact:

390.161 Bankhead-Jones act; provisions accepted by legislature.

Sec. 1. The provisions of an act of congress enacted by the seventy-fourth congress of the United States in the first session thereof known as the Bankhead-Jones act, or Public Act No. 182, entitled "An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges approved June 29, 1935," are hereby accepted by the legislature of the state of Michigan.

HISTORY: CL 1948, 390.161.

NOTE: The Bankhead-Jones Act, above referred to, is 7 U.S.C.A. § 343c et seq.

*COMPILERS' NOTE: The word "seventh-fourth" in the title should be "seventy-fourth".

Act 211, 1863, p. 364; Eff. Jun. 22.

AN ACT to establish a military school in connection with the agricultural college.

The People of the State of Michigan enact:

390.171 Military courses; establishment.

Sec. 1. That in addition to the course of instruction already provided by law for the agricultural college of this state, there shall be added military tactics and military engineering.

HISTORY: CL 1871, 3569;—How. 5013;—CL 1897, 1875;—CL 1915, 1274;—CL 1929, 7879;—CL 1948, 390.171.

MILITARY SCIENCE: See also Compilers' § 390.101.

390.172 Military courses; rules and regulations by state board of agriculture; exemption.

Sec. 2. The state board of agriculture is hereby authorized and required to make such additional rules and regulations for the government and control of the agricultural college as may be necessary to carry into effect the provisions of section 1 of this act: Provided however, That military courses mentioned in section 1 shall not be required of any student who is a member of the Michigan national guard, and who satisfactorily participates in scheduled drills and training periods as prescribed.

HISTORY: CL 1871, 3570;—How. 5014;—CL 1897, 1876;—CL 1915, 1275;—CL 1929, 7880;—CL 1948, 390.172;—Am. 1949, p. 413, Act 290, Eff. Sep. 23.

390.173 Military courses; arms and supplies; instructors; limitation on expense.

Sec. 3. The state board of agriculture shall by and with the advice and consent of the governor, the adjutant general and quartermaster general, procure at the expense of the state, all such arms, accoutrements, books and instruments, and appoint such

additional professors and instructors as in their discretion may be necessary to carry into effect the provisions of this act, Provided: That nothing in this act shall be construed to authorize the incurring of any indebtedness against the state, or the expenditure of money beyond the appropriations made to the agricultural college.

HISTORY: CL 1871, 3571;—How. 5015;—CL 1897, 1877;—CL 1915, 1276;—CL 1929, 7881;—CL 1948, 390.173.

ARMS AND ACCOUTREMENTS: By Act 165 of 1883 being How. 5051a, the quartermaster general is "authorized, with the advice and consent of the military board, to deposit with the state board of agriculture at the Agricultural College, arms and accoutrements for the use of said college."

Act 97, 1907, p. 115; Eff. Sep. 28.

AN ACT to provide for the establishment of a department of veterinary science at the Michigan agricultural college.

The People of the State of Michigan enact:

390.201 Department of veterinary science; establishment.

Sec. 1. The state board of agriculture is hereby authorized and empowered to establish a department at the Michigan agricultural college, to be known as the department of veterinary science.

HISTORY: CL 1915, 1277;—CL 1929, 7882;—CL 1948, 390.201.

390.202 Department of veterinary science; classrooms, staff, course of study, degrees.

Sec. 2. The said state board of agriculture may provide suitable accommodations for class and demonstrating rooms; may appoint such professors of veterinary science and such tutors, demonstrators and other instructors as may from time to time be necessary; may furnish all necessary apparatus and appliances for the study of veterinary science; may prescribe and regulate the course of study; may make such rules and regulations as may be necessary, and may grant to each student satisfactorily completing the prescribed course of study a diploma and confer upon each such student the degree of "Doctor of Veterinary Science."

HISTORY: CL 1915, 1278;—CL 1929, 7883;—CL 1948, 390.202.

Act 232, 1901, p. 361; Eff. Sep. 5.

AN ACT to extend aid to the Michigan state college of agriculture and applied science. Am. 1927, p. 925, Act 386, Imd. Eff. Jun. 2.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: Am. 1905, p. 475, Act 303, Imd. Eff. June 17;—Am. 1907, p. 336, Act 266, Imd. Eff. June 27;—Am. 1913, p. 607, Act 324, Imd. Eff. May 13;—Am. 1915, p. 188, Act 114, Imd. Eff. April 29;—CL 1915, 1257;—Am. 1923, p. 304, Act 192, Imd. Eff. May 15;—Am. 1927, p. 925, Act 386, Imd. Eff. June 2;—CL 1929, 7884;—Am. 1931, p. 546, Act 320, Imd. Eff. June 16;—Am. 1932, 1st Ex. Ses., p. 5, Act 3, Imd. Eff. April 14;—Rep. 1935, p. 24, Act 12, Imd. Eff. April 3.

This section provided a mill tax. For present appropriation, see Compilers' § 390.151.

REPEAL: This act was expressly excepted from repeal by Act 269 of 1909, CL 1929, 7878 (for Act 269, 1909, see Compilers' § 390.101 et seq.); and by Act 98, 1919, see Compilers' § 21.16.

390.222 Agricultural college interest fund; use; excess; maintenance of certain departments.

Sec. 2. Any amount standing to the credit of the college in the agricultural college interest fund, June 30, 1901, may, in the discretion of the Michigan state board of agriculture, be used for building or other extraordinary expenses, and any amount raised by this act in excess of the amount needed for current expenses during any fiscal year may be used for building and other extraordinary purposes in the discretion of the said

board: Provided, That no building or other extraordinary outlay shall be commenced until the accumulation under this act is sufficient to complete the building or other extraordinary undertaking: Provided further, That the Michigan state board of agriculture shall maintain at all times a sufficient corps of instructors in all the courses of study of the agricultural college as at present constituted, so as to afford proper means and facilities for instruction and graduation in each of the courses of study of the said agricultural college, the same being known as the agricultural department, the mechanical department and the woman's department; shall support and maintain the upper peninsula experiment station, and such other experiment stations as have been established, including the printing and binding of all bulletins as at present provided by law, and shall make a fair and equitable division of the funds provided by this act in accord with the wants and needs of said courses of study and said experiment stations as they shall become apparent. Should the state board of agriculture fail at any time to maintain any of said departments as herein provided, the terms of this act shall be suspended until further action by the legislature.

HISTORY: CL 1915, 1258;—CL 1929, 7885;—CL 1948, 390.222.

390.223 Agriculture and related sciences; institutes, reading courses and lectures; establishment.

Sec. 3. The state board of agriculture is hereby authorized to hold institutes and to establish and maintain courses of reading and lectures for instruction in the various branches of agriculture, mechanic arts, domestic economy, and the related sciences, which courses of reading, instruction and lectures shall be conducted, governed and controlled by Act No. 137 of the Public Acts of 1899 providing for the same: Provided, That the number of one-day institutes shall be determined by said state board of agriculture.

HISTORY: CL 1915, 1259;—CL 1929, 7886;—Am. 1933, p. 16, Act 19, Imd. Eff. Feb. 28;—CL 1948, 390.223.

NOTE: For Act 137 of 1899, above referred to, See Compilers' repealed § 390.301 et seq.

390.224 Appropriation; disbursement.

Sec. 4. The appropriation made by the provisions of this act shall be paid out of the general fund in the state treasury to the treasurer of the Michigan state board of agriculture at such times and in such amounts as the general accounting laws of the state prescribe, and the disbursing officer shall render his accounts to the auditor general thereunder.

HISTORY: CL 1915, 1260;—CL 1929, 7887;—CL 1948, 390.224.

390.225 Expenditure of surplus; submission of plans, special purposes.

Sec. 5. Whenever the Michigan state board of agriculture contemplates expending any portion of the surplus accumulated under this act for any building, or any system of sewerage, ventilation or heating, plans shall be submitted to the state board of corrections and charities, as required by section 2229, Compiled Laws of 1897. But whenever the surplus is used for any other special purpose, the board shall certify to the auditor general the purpose and amount set aside for the same.

HISTORY: CL 1915, 1261;—CL 1929, 7888;—CL 1948, 390.225.

NOTE: CL 1897, 2229, above referred to, is Compilers' § 21.77.

BOARD OF CORRECTIONS AND CHARITIES: Abolished; powers and duties transferred to state department of social welfare, see Compilers' § 400.19.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1915, 1262;—CL 1929, 7889;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 46, 1889, p. 53; Imd. Eff. Apr. 12.

AN ACT giving the assent of the legislature of the state of Michigan to the grant of moneys from the United States by act of congress approved March second, 1887, being an act to establish agricultural experiment stations in connection with the colleges

established in the several states under the provisions of an act of congress approved July second, 1862, and acts supplementary thereto.

The People of the State of Michigan enact:

390.231 Agricultural experiment stations; establishment, legislative assent.

Sec. 1. That the legislative assent required by section 9, of act of congress approved March second, 1887, being an act entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July second, 1862, and acts supplementary thereto," is hereby given, and the moneys thereby given are accepted under the conditions and terms in said act named.

HISTORY: How. 5012d;—CL 1897, 1871;—CL 1915, 1266;—CL 1929, 7890;—CL 1948, 390.231.

NOTE: For the act approved March 2, 1887, above referred to, see 7 U.S.C.A. § 361 et seq.

EXPERIMENT STATIONS: Duty of state board of agriculture, see Compilers' § 390.110.

390.232 Agricultural experiment stations; use of moneys.

Sec. 2. That the moneys derived by authority of said act shall be exclusively used in support of the department designated as "an agricultural experiment station" in connection with the state agricultural college of Michigan.

HISTORY: How. 5012e;—CL 1897, 1872;—CL 1915, 1267;—CL 1929, 7891;—CL 1948, 390.232.

Act 106, 1925, p. 145; Eff. Aug. 27.

AN ACT to provide for the assent of the state of Michigan to the purposes of the grants of money authorized by the act of the congress of the United States, entitled "An act to authorize the more complete endowment of agricultural experiment stations, and for other purposes", approved February 24, 1925; and to provide for the acceptance and use of all funds appropriated pursuant to said act.

The People of the State of Michigan enact:

390.241 Agricultural experiment stations; more complete endowment, state assent.

Sec. 1. The state of Michigan assents to the purposes of the grants of money authorized by the act of the congress of the United States, entitled "An act to authorize the more complete endowment of agricultural experiment stations, and for other purposes", approved February 24, 1925.

HISTORY: CL 1929, 7892;—CL 1948, 390.241.

NOTE: For the act approved February 24, 1925, above referred to, see 7 U.S.C.A. § 370 et seq.

390.242 Agricultural experiment stations; receipt of federal funds.

Sec. 2. The state board of agriculture is authorized and empowered to receive all funds appropriated by the federal government pursuant to the provisions of said act of congress and to receive the grants made under the provisions of said act of congress for the benefit of the experiment station of the Michigan agricultural college, and to use them in accordance with the terms and conditions expressed in the aforesaid act of congress.

HISTORY: CL 1929, 7893;—CL 1948, 390.242.

Act 20, 1909, p. 26; Eff. Sep. 1.

AN ACT giving the assent of the legislature of the state of Michigan to the grant of moneys from the United States by act of congress, approved March 16, 1906, being an

act to provide for an increased annual appropriation for agricultural experimental stations and regulating the expenditure thereof.

The People of the State of Michigan enact:

390.251 Agricultural experiment stations; increased appropriation, legislative assent.

Sec. 1. The legislative assent required by section 2 of an act of congress, approved March 16, 1906, being an act, entitled "An act to provide for an increased annual appropriation for agricultural experimental stations and regulating the expenditure thereof," is hereby granted and the moneys thereby appropriated are accepted under the conditions and terms named in said act.

HISTORY: CL 1915, 1270;—CL 1929, 7894;—CL 1948, 390.251.

NOTE: For the act approved March 16, 1906, above referred to, see 7 U.S.C.A. § 309.

390.252 Agricultural experiment stations; use of moneys.

Sec. 2. All moneys derived by authority of said act shall be exclusively used in support of the department designated as "an agricultural experimental station" in connection with the state agricultural college of Michigan.

HISTORY: CL 1915, 1271;—CL 1929, 7895;—CL 1948, 390.252.

Act 65, 1915, p. 112; Imd. Eff. Apr. 21.

AN ACT giving the assent of the legislature of the state of Michigan to the grant of moneys from the United States by act of congress approved May 8, 1914, entitled "An act to provide for co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States department of agriculture," and designating the officer to whom the payments are to be made.

The People of the State of Michigan enact:

390.261 Co-operative agricultural extension work; legislative assent; acceptance of money.

Sec. 1. The legislative assent required by section 3 of an act of congress, approved May 8, 1914, being an act entitled "An act to provide for co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States department of agriculture," is hereby granted, and the moneys thereby given are accepted under the terms and conditions expressed in the act of congress aforesaid.

HISTORY: CL 1915, 1272;—CL 1929, 7896;—CL 1948, 390.261.

NOTE: For the act approved May 8, 1914, above referred to, see 7 U.S.C.A. § 341 et seq.

EXTENSION WORK: Power of state board of agriculture in relation to, see Compilers' § 390.117.

390.262 Co-operative agricultural extension work; federal aid, disposition of funds.

Sec. 2. The moneys derived by authority of said act shall be exclusively used in the support of co-operative agricultural extension work, to be carried on by the Michigan state college of agriculture and applied science, and the business manager of the state board of agriculture is hereby designated as the officer to whom such funds should be paid.

HISTORY: CL 1915, 1273;—CL 1929, 7897;—Am. 1933, p. 159, Act 116, Eff. Oct. 17;—CL 1948, 390.262.

Act 80, 1891, p. 85; Eff. Oct. 2.

AN ACT giving the assent of the legislature of the state of Michigan to the grant of moneys from the United States by act of congress approved August thirtieth, 1890, being an act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress, approved July second, 1862.

The People of the State of Michigan enact:

390.271 Agricultural college endowment; legislative assent; acceptance of money.

Sec. 1. That the legislative assent required by section 2 of act of congress, approved August thirtieth, 1890, being an act entitled, "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress approved July second, 1862," is hereby given and the moneys thereby given are accepted under the conditions and terms in said act named.

HISTORY: CL 1897, 1873;—CL 1915, 1266;—CL 1929, 7696;—CL 1948, 390.271.

NOTE: For the act approved Aug. 30, 1890, above referred to, see 7 U.S.C.A. § 301 et seq.

390.272 Agricultural college endowment; use of money.

Sec. 2. That the moneys derived by authority of said act shall be used exclusively in support of the state agricultural college of Michigan.

HISTORY: CL 1897, 1874;—CL 1915, 1269;—CL 1929, 7699;—CL 1948, 390.272.

Act 56, 1929, p. 97; Eff. Aug. 28.

AN ACT giving the assent of the legislature of the state of Michigan to the grant of moneys from the United States by act of congress approved May 22, 1928, entitled "An act to provide for the further development of agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act, entitled 'An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts,' approved July 2, 1862, and all acts supplementary thereto, and the United States department of agriculture", and designating the officer to whom the payments are to be made; and to make an appropriation for such purposes.

The People of the State of Michigan enact:

390.281 Co-operative agricultural extension work; further development, legislative assent; acceptance of money.

Sec. 1. The legislative assent required by the act of congress approved May 22, 1928, entitled "An act to provide for the further development of agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act, entitled 'An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts,' approved July 2, 1862, and all acts supplementary thereto, and the United States department of agriculture", is hereby granted, and the moneys thereby given are hereby accepted under the terms and conditions expressed in the act of congress aforesaid.

HISTORY: CL 1929, 7900;—CL 1948, 390.281.

NOTE: For the Act approved May 22, 1928, above referred to, see 7 U.S.C.A. §§ 343a, 343b.

For the act approved July 2, 1862, above referred to, see 7 U.S.C.A. §§ 301-306.

EXTENSION WORK: Power of state board of agriculture in relation to, see Compilers' 390.117.

390.282 Co-operative agricultural extension work; federal aid, disposition of funds.

Sec. 2. The moneys derived by authority of said act shall be used exclusively for the further development of agricultural extension work, as provided in said act, and the business manager of the state board of agriculture is hereby designated as the officer to whom such funds shall be paid.

HISTORY: CL 1929, 7901;—Am. 1933, p. 160, Act 117, Eff. Oct. 17;—CL 1948, 390.282.

Act 81, 1885, p. 78; Imd. Eff. May 11.

AN ACT to provide for the publication of useful information derived from experiments made in the different departments at the agricultural college.

The People of the State of Michigan enact:

390.291 Agricultural college experiment bulletin; publication.

Sec. 1. That the state board of agriculture be and they are hereby authorized to provide from time to time in bulletin form for the dissemination among the people of this state, and through the medium of the public press, the results of experiments made in any of the different departments of the agricultural college, and such other information that they may deem of sufficient importance to require it to come to the immediate knowledge of the farmers and horticulturists of the state.

HISTORY: How. 5012a;—CL 1897, 1868;—CL 1915, 1263;—CL 1929, 7906;—CL 1948, 390.291.

BULLETIN: See also Compilers' § 390.117.

390.292, 390.293 Repealed. 1957, p. 89, Act 84, Eff. Sep. 27.

Sections provided for publication of articles prepared by professors of certain sciences and for an audit.

390.301-390.306 Repealed. 1957, p. 89, Act 85, Eff. Sep. 27.

Sections authorized state board of agriculture to hold institutes, maintain reading courses and lectures; and publish annual report.

Act 9, 1955 (1st Ex. Ses.), p. 821; Imd. Eff. Nov. 10.

AN ACT to provide for the establishment of a highway traffic safety center at Michigan state university; to authorize appropriations therefor; and to authorize the state board of agriculture to utilize gifts and loans of material and money.

The People of the State of Michigan enact:

390.311 Highway traffic safety center; establishment.

Sec. 1. The state board of agriculture is hereby authorized and empowered to establish a highway traffic safety center at Michigan state university.

HISTORY: New 1955, 1st Ex. Ses., p. 821, Act 9, Imd. Eff. Nov. 10.

390.312 Highway traffic safety center; accommodations for research, instruction, distribution of information, demonstration programs.

Sec. 2. The state board of agriculture may provide suitable accommodations for class and demonstration rooms and such other facilities as may be necessary for research and the study of highway traffic safety problems and for the teaching of courses, the distribution of information and the conducting of demonstration programs relating to highway traffic safety wherever necessary.

HISTORY: New 1955, 1st Ex. Ses., p. 821, Act 9, Imd. Eff. Nov. 10.

390.313 Highway traffic safety center; personnel, apparatus, rules and regulations.

Sec. 3. The state board of agriculture may employ for the center, and may assign thereto, such professors, instructors, tutors, demonstrators and such other persons as from time to time may be considered necessary and may furnish all necessary apparatus and appliances for research and the study of highway traffic safety problems and for the teaching of courses related thereto, including extension courses and demonstrations, and may prescribe and regulate the courses offered and may make such rules and regulations for the operation of the center as may be necessary.

HISTORY: New 1955, 1st Ex. Ses., p. 821, Act 9, Imd. Eff. Nov. 10.

390.314 Highway traffic safety center; appropriations, loans, donations.

Sec. 4. There is hereby authorized to be appropriated from time to time such sums as may be necessary for the purposes of this act, and the state board of agriculture may utilize for the purposes of this act any loans, donations or gifts of material or money as may be made available to it.

HISTORY: New 1955, 1st Ex. Ses., p. 821, Act 9, Imd. Eff. Nov. 10.

Act 174, 1905, p. 241; Imd. Eff. Jun. 7.

AN ACT to change the title of the presiding officer of the board of control of the Michigan college of mines from president to chairman.

The People of the State of Michigan enact:

390.341 Michigan college of mines; board of control, presiding officer, title change.

Sec. 1. The presiding officer of the board of control of the Michigan college of mines who is now designated as president shall hereafter be designated as chairman.

HISTORY: CL 1915, 1308;—CL 1929, 7932;—CL 1948, 390.341.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 1308;—CL 1929, 7933;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 70, 1885, p. 68; Imd. Eff. May 1.

AN ACT to establish and regulate the Michigan technological university. Am. 1927, p. 7, Act 3, Eff. Sep. 5;—Am. 1963, 2nd Ex. Ses., p. 65, Act 49, Eff. Jan. 1, 1964.

The People of the State of Michigan enact:

390.351 Michigan technological university; name, purpose.

Sec. 1. The institution established in the Upper Peninsula known as the Michigan college of mining and technology, referred to in the constitution of 1963 as the Michigan college of science and technology, is continued after January 1, 1964, under the name of Michigan technological university, and shall be maintained for the purpose and under the regulations contained in this act. The institution shall provide the inhabitants of this state with the means of acquiring a thorough knowledge of the mineral industry in its various phases, and of the application of science to industry, as exemplified by the various engineering courses offered at technological institutions, and shall seek to promote the welfare of the industries of the state, insofar as the funds provided shall permit and the board of control shall deem advisable.

HISTORY: How. 5025a;—CL 1897, 1894;—CL 1915, 1299;—Am. 1927, p. 7, Act 3, Eff. Sept. 5;—CL 1929, 7921;—CL 1948, 390.351;—Am. 1963, 2nd Ex. Ses., p. 65, Act 49, Eff. Jan. 1, 1964.

390.352 Michigan technological university; board of control; appointment, membership; compensation, expenses, powers and duties.

Sec. 2. The government of the Michigan technological university, the conduct of its affairs, and the control of its property shall be vested in a board of 8 members, who shall be known as the "board of control of the Michigan technological university", and who shall be appointed by the governor, by and with the advice and consent of the senate. The president of the institution shall be ex officio a member of the board without the right to vote. The members of the board shall serve without compensation, but shall receive their actual and necessary expenses incurred in the performance of the duties of their office.

A majority of the members of the board of control may enact, amend and repeal rules, bylaws and regulations for the conduct of its business and for the government of the institution; fix tuition and other fees and charges; appoint or remove personnel as the interests of the institution and the generally accepted principles of academic tenure permit or require; determine compensation to be paid for services and property; confer degrees and grant diplomas usually conferred or granted by other similar institutions; receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, which will promote any of the purposes of its institution; enter into any agreement not inconsistent with this act as may be desirable in the conduct of its affairs; and lease or dispose of any property which comes into its possession, but in so doing it shall not violate any condition or trust to which such property may be subject. All powers customarily exercised by the governing board of a college or university are vested in the board. The enumeration of powers herein is not deemed to exclude any of such powers not expressly excluded by law.

HISTORY: How. 5025b;—CL 1897, 1885;—CL 1915, 1300;—Am. 1927, p. 7, Act 3, Eff. Sep. 5;—CL 1929, 7922;—CL 1948, 390.352;—Am. 1963, 2nd Ex. Ses., p. 65, Act 49, Eff. Jan. 1, 1964.

390.353 Board of control; meetings, quorum, officers, bond.

Sec. 3. Meetings of the board of control may be called at such place and time and in such manner as they may direct, and all meetings may be lawfully adjourned at their pleasure. Five members of the board shall form a quorum for business, and any 2 may hold a meeting open by adjournment, from time to time, not more than 2 weeks in all, provided a quorum shall not be present at the time appointed for such meeting. The board may elect 1 of its members or may designate the president of the institution to preside at board meetings. The board shall elect a secretary, a treasurer, and such other officers as it deems necessary. Officers shall hold office at the pleasure of the board. No member of the board shall be eligible to election as the secretary or treasurer. The secretary and the treasurer each shall give a bond satisfactory to the board to secure the faithful performance of the duties of his office. No money shall be paid out, nor any contract be made, or act done, involving the payment of money or the disposal of property, except in pursuance of a vote of the board.

HISTORY: How. 5025c;—CL 1897, 1886;—CL 1915, 1301;—CL 1929, 7923;—CL 1948, 390.353;—Am. 1956, p. 38, Act 31, Eff. Aug. 11;—Am. 1963, 2nd Ex. Ses., p. 65, Act 49, 1md. Eff. Jan. 1, 1964.

390.354 Board of control; securing of buildings and equipment; faculty, appointment, discharge.

Sec. 4. As soon as the means in its hands will permit, without incurring indebtedness, said board shall proceed to obtain a suitable location, and lease or erect such buildings, and procure such furniture, apparatus, library, and implements, as may be necessary for the successful operation of said school, and to appoint a principal, and

such other teachers and assistants as the board may deem expedient, with salaries, to be paid from time to time, as it may agree, and to regulate their duties; but no agreement shall be valid whereby such board shall be prevented from discharging any one in their employ upon 2 months previous notice.

HISTORY: How. 5025d;—CL 1897, 1887;—CL 1915, 1302;—CL 1929, 7924;—CL 1948, 390.354.

390.355 Michigan college of mining and technology; courses of instruction, tuition; fees; supplies; free school, declaration; scholarships; short courses.

Sec. 5. The courses of instruction shall embrace such branches of practical and theoretical knowledge as will, in the opinion of the board, promote the objects of the college. The college shall be open to all students resident of this state and to all other students under such regulations and restrictions as the board of control may prescribe in accordance with the laws. The board may require tuition and fees of all students and fix the amount thereof. Reasonable charges shall be made against any student for incidental expenses and use of laboratories and apparatus and for all material consumed; but the board shall not be obliged to furnish books, apparatus or other materials for the use of students. As to all charges mentioned in this section, the board shall have the power to remit the same in whole or in part in the case of deserving and needy students who are bona fide residents of Michigan by establishing scholarships or otherwise. If the United States congress shall pass any act for assistance toward the support of the institution to be dependent on the institution being free to all citizens of the United States, the board of control shall have the power to declare the institution to be free, in accordance with such act of congress, and such declaration shall have the same force and effect as if the same were made by an act of the legislature of this state. The board shall have power to provide, under such rules and regulations as they shall prescribe, for such short courses of instruction as may be helpful to students who are not candidates for a degree, and may prescribe reasonable fees for the same.

HISTORY: How. 5025e;—Am. 1897, p. 87, Act 81, Eff. Aug. 30;—CL 1897, 1888;—Am. 1903, p. 353, Act 224, Eff. Sept. 17;—CL 1915, 1303;—Am. 1925, p. 18, Act 11, Eff. Aug. 27;—Am. 1927, p. 7, Act 3, Eff. Sept. 5;—CL 1929, 7925;—CL 1948, 390.355;—Am. 1959, p. 124, Act 123, Imd. Eff. Jul. 8;—Am. 1961, p. 277, Act 189, Eff. Sep. 8.

390.356 Michigan college of mining and technology; curriculum; admission and discipline of students; degrees and diplomas.

Sec. 6. The course of study, the terms and the hours of instruction shall be regulated by the board, who shall also have power to make all such rules and regulations concerning the admission, control and discipline of students, and other matters, as may be deemed necessary for the good government of the institution and the convenience and transaction of its business, and also to confer such degrees and grant such diplomas as are usually conferred and granted by other similar institutions.

HISTORY: Am. 1889, p. 10, Act 9, Imd. Eff. Feb. 23;—How. 5025f;—CL 1897, 1889;—CL 1915, 1304;—CL 1929, 7926;—CL 1948, 390.356.

390.357 Michigan college of mining and technology; contraction of debt; control of property; mining business.

Sec. 7. No debt shall be contracted beyond or apart from the actual means at the disposal of the institution. The board may dispose of or lease any property donated to the state for the purposes of said school, or which may be acquired in payment of debts, except of such as is necessary for the accommodation of the school. The board shall not enter upon the business of mining, or pursue the same, except so far as it may be deemed necessary in the course of instruction, nor shall they purchase any lands beyond what are required for the reasonable accommodation of the school.

HISTORY: How. 5025g;—CL 1897, 1890;—CL 1915, 1305;—CL 1929, 7927;—CL 1948, 390.357.

390.358 Michigan college of mining and technology; collection of minerals; report.

Sec. 8. It shall be the duty of said board to provide for obtaining and establishing a complete collection of minerals of the upper peninsula, and properly classifying the same; the board shall on or before the first day of December in each year next preceding the regular session of the legislature, make a report of its doings to the superintendent of public instruction, and shall transmit therewith a general report showing their receipts and expenditures during the period for which the report is made, as well as the general affairs of said school.

HISTORY: How. 5025h;—Am. 1897, p. 88, Act 81, Eff. Aug. 30;—CL 1897, 1891;—CL 1915, 1306;—CL 1929, 7928;—CL 1948, 390.358.

390.359 Repealed. 1963, 2nd Ex. Ses., p. 66, Act 49, Eff. Jan. 1, 1964.

Section provided that vacancies in Michigan technological university board could be filled by governor.

Sec. 10.

HISTORY: How. 5025j.

This section dealt with appropriation of \$15,000 for the year 1885 and \$10,000 for the year 1886.

390.360 Michigan technological university; vesting of property.

Sec. 10. The board of control of the Michigan technological university is the successor of the board of control of the Michigan college of mining and technology, and all property held in trust or otherwise by, or in the custody, control or management of the Michigan college of mining and technology, or the board of control of the Michigan college of mining and technology, shall, when this act takes effect, vest in the Michigan technological university or the board of control of the Michigan technological university.

HISTORY: Add. 1927, p. 8, Act 3, Eff. Sep. 5;—CL 1929, 7930;—CL 1948, 390.360;—Am. 1963, 2nd Ex. Ses., p. 66, Act 49, Eff. Jan. 1, 1964.

390.361 Michigan technological university; acceptance of gifts; cooperation; agreements.

Sec. 11. The board of control may receive, hold and manage any gift, funds, or property granted or devised to it, or to the institution, to promote any of the purposes of the institution. The board may cooperate with other educational institutions, governmental bodies, industries, or persons, in such manner and degree as, in its judgment, will promote the welfare of the institution and of the industries of Michigan. The board may enter into agreements, not inconsistent with this act, as may be desirable, in its judgment, in the conduct of such matters and the management, control and administration of the affairs of the institution.

HISTORY: Add. 1927, p. 8, Act 3, Eff. Sep. 5;—CL 1929, 7931;—CL 1948, 390.361;—Am. 1963, 2nd Ex. Ses., p. 66, Act 49, Eff. Jan. 1, 1964.

390.362 Repealed. 1969, p. 56, Act 26, Eff. Jan. 1, 1970.

Section provided that Sault Ste. Marie branch of Michigan technological university, was to be permanent establishment of institution and required that branch be operated as part of institution.

390.363 Michigan college of mining and technology; rules and regulations, publication; violation, penalty.

Sec. 13. The board of control may adopt reasonable rules and regulations for the safety, health, welfare and protection of the people and for the protection and preservation of its property and property in or under the custody, control and management of the board. When the rules and regulations are adopted, posted on the premises to which they pertain, and also published in newspapers circulated in Baraga, Chippewa and Houghton counties, they shall constitute ordinances. Any violation of such ordinances is a misdemeanor, punishable by a fine of not more than \$100.00 or imprisonment for not more than 60 days, or both. Nothing in this act permits the board to establish a police force.

HISTORY: Add. 1962, p. 95, Act 105, Eff. Mar. 28, 1963.

Act 9, 1938 (Ex. Ses.), p. 23; Imd. Eff. Sep. 8.

AN ACT to authorize the board of control of the Michigan College of Mining and Technology to borrow money for the purpose of financing the erection and operation of residence halls, housing units, and social centers at said college, and to repeal all acts and parts of acts inconsistent therewith. Am 1945, p. 128, Act 125, Imd. Eff. Apr. 27.

The People of the State of Michigan enact:

390.371 Michigan college of mining and technology; residence halls housing units, and social centers, erection and operation; authority of board of control.

Sec. 1. The board of control of the Michigan College of Mining and Technology is authorized to:

(a) Acquire, purchase, or erect from time to time at the said college such residence halls and housing units as may be required for the good of the institution.

(b) Acquire, purchase, or erect buildings, rooms and facilities to be used as social centers for the students and faculty members of said institution separate from or combined with residence halls when in its judgment the same may be required for the good of the institution.

(c) Rent the rooms and facilities in such residence halls and housing units and provide board to the students, faculty members, guests and employes of said institution at such rates as will insure a reasonable excess of income over operation expense.

(d) Collect from each student enrolled in the said college a reasonable fee for the use of or maintenance of social centers provided for them under the provisions of this act.

(e) Hold the funds derived from the operation of such residence halls and housing units or fees collected for the use of or maintenance of social centers and spend the same for repairs, replacements and betterments, including the payment of indebtedness resulting from the erection or purchase of residence halls and housing units or buildings, rooms and facilities to be used as social centers.

(f) Exercise full control and complete management of such residence halls, housing units, and social centers.

HISTORY: Am. 1945, p. 128, Act 125, Imd. Eff. April 27;—CL 1948, 390.371.

CITED IN OTHER SECTIONS: Sections 390.371 to 390.375 are cited in § 550.709.

390.372 Michigan college of mining and technology; title of real estate, held by board of control.

Sec. 2. The title of all real estate and improvements acquired and erected under the provisions of this act shall be taken and held in the name of the board of control of the Michigan college of mining and technology.

HISTORY: CL 1948, 390.372.

390.373 Michigan college of mining and technology; board of control, borrowing power, issuance of obligations.

Sec. 3. In carrying out the above power, said board may borrow money, pledging the rents and income received from the residence halls and housing units in excess of all operating expenses, for the discharge of loans so executed, and/or pledging the fees charged the students for the use and maintenance of social centers provided for them

under this act and any revenue derived from the operation of the said centers for the discharge of loans so executed: Provided, That any obligations issued under the provisions of this act shall contain the provisions of section 4 of this act printed on the face thereof.

HISTORY: Am. 1945, p. 128, Act 125, Imd. Eff. April 27;—CL 1948, 390.373.

390.374 Michigan college of mining and technology; obligations, payment.

Sec. 4. No obligations hereunder shall ever be or become a charge against the state of Michigan, nor shall the same become a lien on or secured by any property, real, personal or mixed, of the state or the board of control of said college, but all such obligations, including principal and interest, shall be payable solely:

(a) From the net rents and income obtained from the operation of residence halls and housing units, pledged or otherwise.

(b) Fees charged students for the use of or maintenance of social centers provided for them under the provisions of this act.

(c) Gifts and bequests made to the board of control of the Michigan College of Mining and Technology for the express purpose of financing, partially or completely, the purchase or construction at said college of residence halls, housing units, or social centers for students and faculty members, or for retiring outstanding indebtedness as herein created.

HISTORY: Am. 1945, p. 128, Act 125, Imd. Eff. April 27;—CL 1948, 390.374.

390.375 Michigan state college of mining and technology; prohibition of state to purchase bonds or obligations.

Sec. 5. Bonds or obligations issued under the provisions of this act shall not be purchased by the state of Michigan.

HISTORY: CL 1948, 390.375.

Sec. 6. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 250, 1929, p. 609; Eff. Aug. 28.

AN ACT to authorize actions and suits by and against the board of control of the Michigan college of mining and technology, or its successor, for the construction of terms, purposes and conditions of written instruments making or fixing the terms of gifts of money or property to or for the use and benefit of said college, or its predecessors or successors, or their respective boards of control, or for the use of students, faculty members or employees, of such institutions, or for an accounting of property held under the terms of such instruments.

The People of the State of Michigan enact:

390.381 Michigan college of mining and technology; grounds for suits or legal actions by or against board of control; judgment or decree.

Sec. 1. Whenever any money or property shall have been or hereafter shall be devised, bequeathed or given by any will, deed, bill of sale or other written instrument, or subject to the terms of any written instrument, to or for the use of the Michigan college of mining and technology, or its board of control, or to or for the use of any of its predecessors or successors or their respective boards of control, or to said institution or any of its predecessors and successors, or its or their respective boards of control, for the use of students, faculty members or employees of the same, and it shall be deemed by the board of control of said institution or its successor, or by any interested person, or by any trustee or trustees under any such written instrument, necessary or desirable

to have the terms, purposes or conditions of any such written instrument construed by an action or suit, or to have an accounting in court of the property so held, the then board of control of such institution or of its successor may and shall be made a party plaintiff or defendant, by its then name, to any such action or suit, and therein such board of control or its successor shall represent and act for the said college and its predecessors or successors, and their respective boards of control, and for each and all such beneficiaries not specifically designated in such instrument who may be interested in the distribution of any part of the principal or income arising from any such devise, bequest or gift; and judgment or decree in said action or suit shall be binding upon all so represented.

HISTORY: CL 1929, 7934;—CL 1948, 390.381.

GIFTS, GRANTS OR DEVISES: See Act 258 of 1915, being Compilers' §§ 554.351 to 554.353 and Act 373 of 1925, being Compilers' §§ 554.381 and 554.382.

390.382 Suits or actions; institution, process, abatement.

Sec. 2. Any such action or suit authorized by section 1 of this act to be brought by said board of control may be instituted by authority of a vote and in the name of the board of control of the Michigan college of mining and technology, or its successor; and in any such suit where said board of control, or its successor, is made a party defendant, service of process may be had upon such board of control, or its successor, by serving any process in the usual way upon the chairman or secretary of such board of control or its successor, which shall constitute full and complete service upon said board of control or its successor, and each member thereof. No death, resignation or other change in the membership of said board of control, or its successor, shall affect any such suit after the same has been instituted or service of process had as aforesaid upon such board of control or its successor.

HISTORY: CL 1929, 7935;—CL 1948, 390.382.

Act 26, 1969, p. 55; Eff. Jan. 1, 1970.

AN ACT to establish an institution of higher education having authority to grant baccalaureate degrees, known as Lake Superior state college; to implement section 6 of article 8 of the constitution of the state of Michigan by providing for the appointment of the first board of control, the organization of such board and the vesting of assets in such board; granting and confirming the powers of such board; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

390.391 Lake Superior state college; establishment, location; board of control; name.

Sec. 1. There is established a state institution of higher education having authority to grant baccalaureate degrees, known as Lake Superior state college to be located at Sault Ste. Marie. The institution shall be maintained by the state and its facilities shall be made available equally and upon the same basis to all qualified residents of this state. The institution shall be governed by a board of control which shall be a body corporate. The board of control shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. Until changed by resolution of the board, the body corporate shall be known as the "board of control of Lake Superior state college", hereinafter referred to as "the board" with the right of suing and being sued, adopting a seal and altering the same.

HISTORY: New 1969, p. 55, Act 26, Eff. Jan. 1, 1970.

390.392 Board of control; members; term.

Sec. 2. The board shall consist of 8 members who shall hold office for terms of 8 years and who shall be appointed by the governor by and with the advice and consent of the senate, except of the members first appointed 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years. The president of the institution shall be ex officio a member of the board without the right to vote.

HISTORY: New 1969, p. 55, Act 26, Eff. Jan. 1, 1970.

390.393 Board of control; election of officers; treasurer's bond; limitations.

Sec. 3. The board shall elect from its membership a secretary, a treasurer and such other officers as it deems necessary. Officers shall serve terms of 1 year and until their successors shall have been elected and qualified. Before permitting the treasurer to enter upon the duties of his office, the board shall require him to file his bond to the people of this state with such sureties and in such sum not less than the amount of money likely to be in his possession as the board may designate. No officer shall have the power to incur obligations or to dispose of the board's property or funds, except in pursuance of a vote of the board.

HISTORY: New 1969, p. 55, Act 26, Eff. Jan. 1, 1970.

390.394 Board of control; quorum for business transaction; rules and regulations; powers.

Sec. 4. A majority of the members of the board shall form a quorum for the transaction of business. The board by majority vote of its membership may enact rules, by-laws and regulations for the conduct of its business and for the government of the institution and amend same; fix tuition and other fees and charges, appoint and remove personnel as the interests of the institution, the mandates of due process, and the policy of the institution on academic tenure may require, determine the compensation to be paid for services and materials, confer such degrees and grant such diplomas as are usually conferred or granted by other similar institutions, offer technical, vocational and occupational programs of less than 4 years collegiate degree level, receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, to promote any of the purposes of the college, enter into any agreements, not inconsistent with this act, as may be desirable in the conduct of its affairs, and in behalf of the state lease or dispose of any property which comes into its possession, provided that in so doing it shall not violate any condition or trust to which such property may be subject. This act is intended to implement, clarify and confirm in the board the constitutional powers customarily exercised by the board of control of institutions of higher education established by law having authority to grant baccalaureate degrees. Enumeration of powers in this act shall not be deemed to exclude any such powers not expressly excluded by law.

HISTORY: New 1969, p. 55, Act 26, Eff. Jan. 1, 1970.

390.395 Sault Ste. Marie facilities; transfer to Lake Superior state college.

Sec. 5. The present facilities of the Sault Ste. Marie branch of Michigan technological university constitute the physical properties of Lake Superior state college and upon the effective date of this act, transfer of the physical properties shall be made to Lake Superior state college.

HISTORY: New 1969, p. 56, Act 26, Eff. Jan. 1, 1970.

390.396 Board of control; borrowing power; repayment; pledge.

Sec. 6. The board shall not borrow money on its general faith and credit, nor create any liens upon its property. The board may acquire land or acquire or erect buildings or alter, equip or maintain them, to be used as residence halls, apartments, dining facilities, student centers, health centers, parking structures, stadiums, athletic fields, gymnasiums, auditoriums and other educational facilities. After the legislature by con-

current resolution has approved the acquisition or construction of such facilities, the board may borrow money issuing notes or bonds under such terms and provisions as it deems best to finance such facilities and shall obligate itself for the repayment thereof, together with interest thereon, solely out of (a) income and revenues from such facilities, or other such facilities heretofore or hereafter acquired, (b) special fees and charges required to be paid by the students deemed by it to be benefited thereby, (c) funds to be received as gifts, grants or otherwise from the state or federal government or any agency thereof or any public or private donor, if, prior to issuance of such notes or bonds, the state, federal government or agency thereof or other donor has contracted to pay to the board or to the holder of such notes or bonds definite amounts of money as determined by formula or otherwise, (d) the proceeds of or delivery of any notes or bonds issued hereunder, and (e) any combination of (a), (b), (c) and (d).

HISTORY: New 1969, p. 56, Act 26, Eff. Jan. 1, 1970.

390.397 Repeal.

Sec. 7. Section 12 of Act No. 70 of the Public Acts of 1885, as amended, being section 390.362 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1969, p. 56, Act 26, Eff. Jan. 1, 1970.

390.398 Bonds; purchase by state prohibited.

Sec. 8. Bonds, notes or other obligations issued under the provisions of this act shall not be purchased by the state of Michigan.

HISTORY: New 1969, p. 56, Act 26, Eff. Jan. 1, 1970.

390.399 Effective date of act.

Sec. 9. This act shall become effective January 1, 1970.

HISTORY: New 1969, p. 56, Act 26, Eff. Jan. 1, 1970.

390.401-390.421 Repealed. 1957, p. 90, Act 86, Eff. Sep. 27;—1961, p. 5, Act 5, Eff. Sep. 8;—1963, 2nd Ex. Ses., p. 36, Act 31, Eff. Jan. 1, 1964;—1964, p. 573, Act 287, Eff. Aug. 28.

Sections revised and consolidated laws relative to state board of education.

390.431 Repealed. 1964, p. 573, Act 287, Eff. Aug. 28.

Section authorized board of education to prescribe courses of study, to grant diplomas and to issue teachers' certificates.

390.451-390.456 Repealed. 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

Sections authorized state board of education to erect and operate facilities to foster athletics, dramatics, music and other activities, and to borrow money for such purposes.

390.471-390.473 Repealed. 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

Sections established normal school in central Michigan.

390.481, 390.482 Repealed. 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

Sections fixed relations of existing normal schools.

390.491-390.496 Repealed. 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

Sections provided for establishment of normal school at Marquette, and made appropriation therefor.

390.511-390.515 Repealed. 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

Sections provided for establishment of normal school in western part of state, made appropriations therefor, and provided for tax.

390.531-390.537 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections provided for establishment of normal school in northern part of southern peninsula, and made appropriation therefor.

390.541, 390.542 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections provided for establishment of normal school in county of Gogebic and made appropriation therefor.

Act 48, 1963 (2nd Ex. Ses.), p. 62; Eff. Jan. 1, 1964.

AN ACT to provide for the continuation of Central Michigan university, Eastern Michigan university, Northern Michigan university and Western Michigan university; and to provide for the organization, powers and duties of their boards of control; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

390.551 Central, Eastern, Northern and Western Michigan universities; continuation; boards of control, appointment, terms, vacancy.

Sec. 1. The established state institutions known as Central Michigan university, Eastern Michigan university, Northern Michigan university and Western Michigan university are continued under these names. Each institution shall be governed by a separate 8-member board of control. The governor shall appoint the board members by and with the advice and consent of the senate for terms of 8 years commencing on January 1, except that the first boards shall be appointed so that the terms of 2 members of each board shall expire on December 31, 1964, 1966, 1968 and 1970. When a vacancy occurs other than by the expiration of a term, the governor shall fill the vacancy by appointment by and with the advice and consent of the senate for the remainder of the unexpired term.

HISTORY: New 1963, 2nd Ex. Ses., p. 62, Act 48, Eff. Jan. 1, 1964.

390.552 Boards of control; officers, expenses.

Sec. 2. The president of each institution is ex officio a member of its board of control without the right to vote. A board may elect one of its members or may designate the president of the institution to preside at board meetings. A board shall elect a secretary, a treasurer, and such other officers as it deems necessary. Officers shall hold office at the pleasure of the board. No member of the board shall be eligible to election as secretary or treasurer. The secretary and the treasurer each shall give a bond satisfactory to the board to secure the faithful performance of the duties of his office. No officer may incur obligations or dispose of his board's property or funds, except pursuant to a vote of the board. Board members shall receive their necessary traveling and other expenses, to be paid out of the general fund.

HISTORY: New 1963, 2nd Ex. Ses., p. 62, Act 48, Eff. Jan. 1, 1964.

390.553 Boards of control; general supervision, powers and duties.

Sec. 3. A board of control shall have general supervision of its institution, the control and direction of all funds of the institution, and such other powers and duties as may be prescribed by law.

HISTORY: New 1963, 2nd Ex. Ses., p. 63, Act 48, Eff. Jan. 1, 1964.

390.554 Boards of control; specified powers and duties.

Sec. 4. A majority of the members of a board of control shall constitute a quorum. A majority of its members may enact, amend and repeal rules, bylaws and regulations for the conduct of its business and for the government of its institution; fix tuition and other fees and charges; appoint or remove personnel as the interests of the institution and the generally accepted principles of academic tenure permit or require; determine compensation to be paid for services and property; confer degrees and grant diplomas usually conferred or granted by other similar institutions; receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, which will promote any of the purposes of its institution; enter into any agreement not inconsistent with this act as may be desirable in the conduct of its affairs; and lease or dispose of any property which comes into its possession, but in so doing it shall not violate any condition or trust to which such property may be subject.

All powers customarily exercised by the governing board of a college or university are vested in each board. The enumeration of powers herein is not deemed to exclude any of such powers not expressly excluded by law.

HISTORY: New 1963, 2nd Ex. Ses., p. 63, Act 48, Eff. Jan. 1, 1964.

390.555 Boards of control; body corporate, actions, seal.

Sec. 5. A board of control is a body politic and corporate. It may purchase, have, hold, possess and enjoy to itself and its successors all the real and personal property of every kind now belonging to its respective institution or hereafter acquired by it and may grant, alien, invest, sell and dispose of the same; may sue and be sued, plead and be impleaded in all the courts in this state; and may have, alter and use a seal.

HISTORY: New 1963, 2nd Ex. Ses., p. 63, Act 48, Eff. Jan. 1, 1964.

390.556 State board of education; division and transfer of funds to respective boards of control.

Sec. 6. All property and funds of the state board of education, established under the 1908 state constitution, now held for the use and benefit of a specific institution shall become property and funds of the board of control of that institution. Such state board of education shall make all necessary divisions of property and funds held for the use and benefit of more than one institution, and shall make all necessary conveyances of property and funds to each board of control.

HISTORY: New 1963, 2nd Ex. Ses., p. 63, Act 48, Eff. Jan. 1, 1964.

390.557 State board of education; contracts, assignment.

Sec. 7. All contracts and obligations of the state board of education, established under the 1908 state constitution, for the use and benefit of a specific institution are continued and are binding upon the board of control of that institution. If more than one institution will receive a benefit from a single contract and the state has an obligation, the boards of control of the institutions receiving the benefit shall divide and share the obligation in proportion to the benefit received. Such state board of education shall make appropriate arrangements with the board of control of each institution for the assignment of rights and duties under continuing contracts or obligations but such arrangement shall not impair the obligation of any contract or create a breach thereof. If an impairment or breach would otherwise occur, then the contract or obligation shall continue as that of such state board of education and its successor state board of education under the 1963 state constitution but for the use and benefit of the specific institution concerned.

HISTORY: New 1963, 2nd Ex. Ses., p. 63, Act 48, Eff. Jan. 1, 1964.

390.558 Boards of control; borrowing powers; pledge of revenues; approval.

Sec. 8. A board of control shall not borrow money on its general faith and credit, nor create any liens upon its property. A board, after approval by the legislature, may acquire land or acquire or erect buildings, or alter, equip or maintain them, to be used as residence halls, apartments, dining facilities, student centers, health centers, stadiums, athletic fields, gymnasiums, auditoriums, parking structures and other educational facilities. A board may borrow money under such terms and provisions as it deems best to finance such facilities, and shall obligate itself for the repayment thereof, together with interest thereon, solely out of the income and revenues from such facilities, or other such facilities heretofore or hereafter acquired, or from special fees and charges required to be paid by the students deemed by it to be benefited thereby, or any combination thereof.

HISTORY: New 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964;—Am. 1964, p. 19, Act 14, Imd. Eff. Apr. 6;—Am. 1969, p. 29, Act 16, Imd. Eff. May 23.

390.559 Boards of control; teacher training schools, maintenance; contracts.

Sec. 9. A board of control shall maintain in connection with the training of teachers fully equipped training schools as schools of observation and practice. A board may contract with the board of education of any school district near its institution to use the schools and school property of the school district as schools of observation and practice, and may furnish equipment, teachers, administrators, employees and facilities deemed necessary to provide the observation and practice. The boards of education of these school districts may enter into such contracts and confer upon the boards of control their duties as are prescribed by law and deemed necessary by the school boards and board of control to carry out the provisions herein. Any contract heretofore entered into between the state board of education and the board of education of a school district for the purpose of providing observation and practice is continued as a binding contract between the board of control of the institution covered by such contract and the board of education of the school district.

HISTORY: New 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

390.560 Boards of control; public school teaching, courses of study.

Sec. 10. Each institution shall instruct persons in the science and art of teaching in the public schools of the various school districts of the state. Each board of control shall prescribe appropriate courses of study for the preparation and training of persons for such teaching.

HISTORY: New 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

390.561 Repeals.

Sec. 11. Act No. 261 of the Public Acts of 1895, being sections 390.471 to 390.473 of the Compiled Laws of 1948, Act No. 175 of the Public Acts of 1897, being sections 390.481 and 390.482 of the Compiled Laws of 1948, Act No. 51 of the Public Acts of 1899, being sections 390.491 to 390.496 of the Compiled Laws of 1948, Act No. 156 of the Public Acts of 1903, being sections 390.511 to 390.515 of the Compiled Laws of 1948, Act No. 15 of the Public Acts of 1937, as amended, being sections 390.451 to 390.456 of the Compiled Laws of 1948, and Act No. 108 of the Public Acts of 1941, as amended, being section 390.581 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

390.562 Effective date of act.

Sec. 12. This act shall take effect on January 1, 1964.

HISTORY: New 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

390.571 Repealed. 1955, p. 150, Act 100, Eff. Oct. 14.

Section changed name of Michigan state normal school to Michigan state normal college.

390.581 Repealed. 1963, 2nd Ex. Ses., p. 64, Act 48, Eff. Jan. 1, 1964.

Section changed names of central state teachers college, western state teachers college, and northern state teachers college.

Act 222, 1970, p. 606; Imd. Eff. Nov. 24.

AN ACT to authorize the board of control of northern Michigan university to adopt ordinances respecting persons and property and to provide for the enforcement of the ordinances.

The People of the State of Michigan enact:

390.591 Northern Michigan university; board of control; ordinance powers.

Sec. 1. The board of control of northern Michigan university, hereinafter referred to as the board, may adopt ordinances, subject to constitutional and other law:

(a) For the protection, benefit, government and control of persons who are within the boundaries of lands over which the board has jurisdiction.

(b) For the protection, benefit, government and control of property over which the board has jurisdiction.

HISTORY: New 1970, p. 806, Act 222, Imd. Eff. Nov. 24.

390.592 Ordinances; adoption, publication, recording, inspection.

Sec. 2. The ordinances shall be adopted by a majority of the members of the board. The ordinances shall take effect upon publication in a newspaper regularly circulated within Marquette county. All ordinances shall be promptly recorded in a book called "the record of ordinances" and the book, or an accurate copy thereof, shall be maintained available for public inspection in the office of the secretary of the board.

HISTORY: New 1970, p. 806, Act 222, Imd. Eff. Nov. 24.

390.593 Violations, misdemeanor.

Sec. 3. The board may provide that a violation of its ordinances is a a misdemeanor.

HISTORY: New 1970, p. 806, Act 222, Imd. Eff. Nov. 24.

390.594 Enforcement; jurisdiction; procedure; appeals; fines, costs.

Sec. 4. The enforcement of any ordinance shall be by law enforcement officers of this state, of the county, township or city where the violation of any such ordinance occurs, or by deputized law-enforcement officers employed by the university. A violation of an ordinance may be enforced in any court having jurisdiction over misdemeanors in the political subdivision in which the violation occurs. The procedure in such court shall be governed by statute and its ordinary rules of procedure. Appeals may be taken in the same manner as in other misdemeanor cases in such court. Fines collected by the court shall be paid to the treasurer of the political subdivision in which the offense is tried within 30 days after collection, and costs shall be handled in the same manner as provided for costs imposed for violation of misdemeanors under state statutes.

HISTORY: New 1970, p. 806, Act 222, Imd. Eff. Nov. 24.

390.601, 390.602 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections authorized counties of 500,000 population or over to establish teachers' college, to tax, borrow money and issue bond for support thereof, and provided for board of control.

390.631-390.635 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections authorized boards of education of cities having population of 500,000 or over and comprising a single school district to establish and maintain colleges and other institutions of higher education.

Act 183, 1956, p. 338; Imd. Eff. Apr. 22.

AN ACT to establish and regulate a state institution of higher learning to be known as Wayne state university; to fix the membership and the powers of its governing board; to authorize the transfer to it by school districts and municipal corporations of certain property and funds; and to provide retirement privileges for its employees.

The People of the State of Michigan enact:

390.641 Wayne state university; establishment, board of governors.

Sec. 1. There is hereby established a state institution of higher education to be located in the industrial area of southeastern Michigan. The institution shall be maintained by the state of Michigan, and its facilities shall be made equally available and upon the same basis to all qualified residents of this state. The conduct of its affairs and control of its property shall be vested in a board of governors, the members of which shall constitute a body corporate known as the "board of governors of Wayne

state university," hereinafter referred to as "the board," with the right as such of suing and being sued, of adopting a seal, and altering the same.

HISTORY: New 1956, p. 338, Act 183, Imd. Eff. Apr. 22.

390.642 Repealed. 1963, 2nd Ex. Ses., p. 68, Act 51, Eff. Jan. 1, 1964.

Section provided for temporary board of governors of Wayne State University.

390.643 Board of governors; election, term.

Sec. 3. There is established a "board of governors of Wayne state university" to consist of 8 members who shall be nominated and elected in accordance with the election laws of this state. The president of the university shall be ex officio a member of the board without the right to vote and shall preside at meetings of the board.

HISTORY: New 1956, p. 339, Act 183, Imd. Eff. Apr. 22;—Am. 1963, 2nd Ex. Ses., p. 68, Act 51, Eff. Jan. 1, 1964.

390.644 Board of governors; general supervision; compensation, expenses.

Sec. 4. The board of governors of Wayne state university shall have general supervision of Wayne state university, and the direction and control of all university funds, and shall perform such other duties as may be prescribed by law. Members of the board shall serve without compensation but shall be entitled to actual and necessary expenses incurred in connection with the duties of their office.

HISTORY: New 1956, p. 339, Act 183, Imd. Eff. Apr. 22;—Am. 1963, 2nd Ex. Ses., p. 68, Act 51, Eff. Jan. 1, 1964.

390.645 Board of governors; officers, powers; treasurer's bond.

Sec. 5. The board shall elect a secretary, a treasurer, and such other officers as it deems necessary. No member of the board shall be eligible to election as secretary or treasurer. Officers shall serve terms of 1 year and until their successors shall have been elected and qualified. Before permitting the treasurer to enter upon the duties of his office, the board shall require him to file his bond to the people of this state with such sureties and in such sum not less than the amount of money likely to be in his possession as the board may designate. No officer shall have the power to incur obligations or to dispose of the board's property or funds, except in pursuance of a vote of the board.

Quorum, powers.

A majority of the members of the board shall form a quorum for the transaction of business. The board by majority vote of its membership may enact rules, bylaws and regulations for the conduct of its business and for the government of the institution, and amend same; may fix tuition and other fees and charges, appoint or remove such personnel as the interests of the institution and the generally accepted principles of academic tenure permit or require, determine the compensation to be paid for services and materials, confer such degrees and grant such diplomas as are usually conferred or granted by other similar institutions, receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, to promote any of the purposes of the university, enter into any agreements, not inconsistent with this act, as may be desirable in the conduct of its affairs and in behalf of the state lease or dispose of any property which comes into its possession, provided that in so doing it shall not violate any condition or trust to which such property may be subject. It is the intention hereof to vest in the board all powers customarily exercised by the governing board of a college or university and the enumeration of the powers herein shall not be deemed to exclude any of such powers not expressly excluded by law.

HISTORY: New 1956, p. 339, Act 183, Imd. Eff. Apr. 22;—Am. 1963, 2nd Ex. Ses., p. 68, Act 51, Eff. Jan. 1, 1964.

390.646 Board of governors; borrowing power.

Sec. 6. The board shall not borrow money on its general faith and credit, nor create any liens upon its property. The board, however, may borrow money to be used to ac-

quire land or to acquire or erect buildings, or to alter, equip, or maintain them, to be used as dormitories, student centers, stadiums, athletic fields, gymnasiums, auditoriums, and other related activities, and it shall obligate itself for the repayment thereof, together with interest thereon, solely out of the fund derived from rentals or other income from the use and operation of the property so acquired, or from special fees and charges required to be paid by the students deemed by it to be benefited thereby; and may pledge all or any part of the fund as security therefor.

HISTORY: New 1956, p. 339, Act 183, Imd. Eff. Apr. 22.

390.647 Transfer of property and funds to board of governors; retirement provisions for employees.

Sec. 7. Any school district or county or municipal corporation in said area possessed of any funds or property, real or personal, which it may desire to devote to promoting higher education may transfer and convey such funds and property to the board, and in connection therewith attach any conditions or restrictions consistent with the purposes of the institution and acceptable to the board. If the properties of any operating college or university are transferred by a school district and accepted by the board, then the school district also shall be authorized to transfer to the board all records, papers, and documents of the college or university and all properties held in trust by said school district for the benefit of such college or university, but subject to the terms of such trusts; and all employees and faculty of the college or university shall become the employees of the board. If at the time of such transfer the faculty or employees are under the provisions of chapter 2 of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.301 to 38.355, inclusive, of the Compiled Laws of 1948, then such faculty and employees shall remain under the provisions thereof and as they may hereafter be amended, in the same manner and with the same rights and obligations that they would have had, had there been no such transfer; and the board shall make such provisions for paying contributions to the retirement board as would have been required under the terms of said chapter 2 from the school district: Provided, however, That the board shall as soon as may be feasible formulate recommendations for submission to the legislature concerning a permanent plan or program for retirement benefits for said faculty and other employees. If such faculty and employees are also under the provisions of a contract between such school district and the state retirement board for coverage under title II of the federal social security act, such faculty and employees shall remain under the provisions thereof until such time as the board shall be able to enter into a contract for the continuance thereof; and in the meantime the said board shall pay to the school district such amounts as are required by the terms of the coverage contract.

HISTORY: New 1956, p. 340, Act 183, Imd. Eff. Apr. 22.

390.648 Board of governors; power of condemnation.

Sec. 8. The board shall be deemed a state agency, and as such shall have the right to acquire property as provided under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 340, Act 183, Imd. Eff. Apr. 22.

390.649 Board of governors; appropriations.

Sec. 9. There is hereby appropriated to the board of governors of Wayne state university from the general fund of the state the sum of \$3,239,633.00: Provided, however, That the funds herein appropriated shall not be expended by said board until and unless there shall have been transferred to said board the properties now owned by the board of education of the city of Detroit and used in the present operations of Wayne state university: And further provided, That the said board of education of the

city of Detroit shall have appropriated to the said board of governors or have contracted with it for the payment of the sum of \$10,000,000.00 for each of the fiscal years commencing with July 1, 1956, 1957 and 1958. Such contract for payment may be conditioned upon the receiving by the said board of education from the state aid fund for the support of Wayne state university of sums substantially equivalent to those received for this purpose in the fiscal year commencing July 1, 1955.

HISTORY: New 1956, p. 340, Act 183, Imd. Eff. Apr. 22.

Act 162, 1969, p. 325; Imd. Eff. Aug. 5.

AN ACT to establish a state-supported school of osteopathic medicine; to establish and fix the membership of an advisory board for the school; and to provide for its assignment to an established 4-year state institution of higher education.

The People of the State of Michigan enact:

390.661 State school of osteopathic medicine; establishment; location; dean; operation by board of control.

Sec. 1. A school of osteopathic medicine is established and shall be located as determined by the state board of education at an existing campus of a state university with an existing school or college of medicine. The school must be headed by an osteopathic physician serving as the dean of the school of osteopathic medicine. The dean shall be responsible for the development and maintenance of the school in osteopathic medicine. The school shall be maintained by the state and its facilities shall be made equally available and on the same basis to all qualified residents of this state. Clinical services in osteopathy shall be given chiefly in affiliated osteopathic hospitals. The conduct of the affairs of the school shall be vested in the board of control of the institution of higher education to which the school is assigned.

HISTORY: New 1969, p. 326, Act 162, Imd. Eff. Aug. 5.

390.662 Michigan osteopathic medicine advisory board; members, appointment, terms.

Sec. 2. An advisory board is established to be known as the Michigan Osteopathic Medicine Advisory Board and shall consist of 6 members to be appointed by the governor for terms of 6 years, except of the members first appointed 2 each shall serve for 2, 4 and 6 years. The dean of the school of osteopathic medicine shall be an ex officio member of the advisory board. In addition, the dean of the existing school or college of medicine shall be an ex officio member of the advisory board.

HISTORY: New 1969, p. 326, Act 162, Imd. Eff. Aug. 5.

390.663 Osteopathic medicine advisory board; officers, election, terms, powers and duties.

Sec. 3. The board may elect 1 of its members, or may designate the dean of the school of osteopathy to preside at board meetings. The board shall elect from its membership a secretary and such other officers as it deems necessary. Officers shall serve terms of 1 year and until their successors shall have been elected and qualified. No officer shall have the power to incur obligations or to dispose of property or funds, except in pursuance of a vote of the advisory board and with concurrence of the board of control of the institution of higher education to which the school is assigned. The advisory board shall advise the board of control on all matters of pertinence to the school of osteopathic medicine.

HISTORY: New 1969, p. 326, Act 162, Imd. Eff. Aug. 5.

390.664 Osteopathic medicine advisory board; quorum, rules and regulations, recommendations.

Sec. 4. A majority of the members of the advisory board constitutes a quorum for the transaction of its business. The board by majority vote of its members may adopt rules and bylaws for the conduct of its business; recommend regulations for the operation of the school; recommend tuition and other fees and charges; recommend the appointment or removal of such personnel as the interests of the school and the generally accepted principles of academic tenure permit or require; and recommend the compensation to be paid for services and materials.

HISTORY: New 1969, p. 326, Act 162, Imd. Eff. Aug. 5.

390.665 Board of control; powers and duties.

Sec. 5. The board of control may confer appropriate degrees and grant diplomas for which accreditation has been received from appropriate national accreditation authorities; receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, to promote any of the purposes of the school of osteopathic medicine; enter into agreements, not inconsistent with this act, as may be desirable in the conduct of the affairs of the university; and in behalf of the state lease or dispose of any property which comes into its possession, if in so doing it does not violate any condition or trust to which such property may be subject. All powers customarily exercised by the governing board of a college or university are vested in the board of control of the institution of higher education to which the school of osteopathic medicine is assigned and the enumeration of powers herein shall not be deemed to exclude any powers not expressly excluded by law.

HISTORY: New 1969, p. 326, Act 162, Imd. Eff. Aug. 5.

390.666 Effective date of act.

Sec. 6. This act shall become effective when the school of osteopathic medicine is assigned by the state board of education as prescribed in section 1, and when such affiliation is accepted by the board of control of the established state institution of higher education. The state board of education shall determine the assignment of the school to an established institution of higher education within 90 days of the enactment of this act.

HISTORY: New 1969, p. 327, Act 162, Imd. Eff. Aug. 5.

Act 99, 1969, p. 187; Eff. Mar. 20, 1970.

AN ACT to require members of boards of control of state institutions of higher education to be residents of this state.

The People of the State of Michigan enact:

390.681 Boards of control of state institutions of higher education; membership, eligibility.

Sec. 1. A person shall not be eligible to membership on the board of control of any state supported institution of higher education who is not a registered elector of this state.

HISTORY: New 1969, p. 187, Act 99, Eff. Mar. 20, 1970.

Act 23, 1963 (2nd Ex. Ses.), p. 29; Eff. Jan. 1, 1964.

AN ACT to provide for the election, appointment and terms of office of members of boards of control of certain state institutions of higher education.

The People of the State of Michigan enact:

390.691 Regents of university of Michigan; extension of terms.

Sec. 1. The terms of office of the regents of the university of Michigan, who are holding office on January 1, 1964, and whose terms would otherwise expire on December 31, 1965, 1967, 1969 and 1971 shall continue for 1 year. Two regents shall be elected in each general November election beginning in 1966 for terms of 8 years to commence on January 1 following their election.

HISTORY: New 1963, 2nd Ex. Ses., p. 29, Act 23, Eff. Jan. 1, 1964.

390.692 Trustees of Michigan state university and governors of Wayne state university; extension of terms; appointment of new members.

Sec. 2. The terms of office of the members of the board of trustees of Michigan state university and the board of governors of Wayne state university, who are holding office on January 1, 1964, and whose terms would otherwise expire on December 31, 1965, 1967 and 1969 shall continue for 1 year. Two members of each of such boards shall be elected in each general November election for terms of 8 years to commence on January 1 following their election. The governor shall appoint 2 members each of the board of trustees and of the board of governors for terms expiring on December 31, 1964.

HISTORY: New 1963, 2nd Ex. Ses., p. 29, Act 23, Eff. Jan. 1, 1964.

390.693 Effective date of act.

Sec. 3. This act shall take effect on January 1, 1964.

HISTORY: New 1963, 2nd Ex. Ses., p. 29, Act 23, Eff. Jan. 1, 1964.

Act 72, 1857, p. 183; Eff. May 19.

AN ACT amendatory to the several acts in relation to the Wesleyan Seminary at Albion, and the Albion Female Collegiate Institute.

The People of the State of Michigan enact:

390.701 Albion college; creation, trustees; successor to rights and property of certain institutions.

Sec. 1. Charles M. Ranger, Eugene Allen, John G. Brown, William Dawe, James H. Simpson, John Graham, E. J. Phelps, Albert Beebe, Edward N. Parsons, Thomas Cox, Charles W. Baldwin, Frank P. Glazier, David D. Erwin, Dempster D. Martin and Edward A. Elliott are hereby constituted and continued a body corporate by the name of Albion college, and shall be trustees of said corporation with the classification which now exists in the board of trustees of said Albion college, for the purpose of maintaining and conducting an institution of learning located at the city of Albion in the county of Calhoun in the state of Michigan; and the said Albion college shall be and hereby is vested with all the corporate powers, privileges and rights of the Wesleyan seminary at Albion and the Albion female college as heretofore existing, except as hereby changed or altered and with all the corporate property of said previously existing corporations as fully to all intents and purposes as before vested in the said previously existing corporations.

HISTORY: CL 1915, 11073;—CL 1929, 8127;—CL 1948, 390.701.

This Act appears here as it was amended by Act 79, 1907, p. 89, Imd. Eff. May 8.

FORMER ACTS: Relating to this institution are: Act of 1835, p. 118, Act 11 of 1845, and Act 9 of 1845.

GENERAL CORPORATION PROVISIONS: See Compilers' § 450.1 et seq.

390.702 Board of trustees; filling of vacancies; election by church conferences and alumni association; term; eligibility of graduates.

Sec. 2. The power to fill vacancies occurring in the board of trustees of said Albion college by death, expiration of term of office, or otherwise, is hereby and hereafter vested in the Michigan annual conference of the Methodist Episcopal Church and in the Detroit annual conference of the Methodist Episcopal Church and in the alumni association of said Albion college, so that each of said annual conferences shall elect 2 trustees in each and every year and shall fill vacancies occurring in the classification belonging to each of said annual conferences to serve for the unexpired term of the person or persons whose places he or they may be elected to fill. Each of said trustees elected for a regular term shall hold his office for the term of 3 years and until his successors shall be elected. The election in said annual conference shall be by ballot. Each trustee so elected shall receive a certificate of his election from the secretary of the annual conference by which he is elected, and such certificate shall be recorded in the office of the county clerk in the county of Calhoun, state of Michigan. The alumni association of said Albion college shall, at its annual meeting in June of each year, elect by such method as the association shall from time to time direct, except as hereinafter provided, 1 trustee whose election shall be certified by a certificate signed by the secretary of said association, and such certificate shall be recorded as above in the office of the county clerk in the county of Calhoun, state of Michigan. Trustees so elected shall serve for a regular term of 3 years and said association may elect, for the purpose of filling vacancies, trustees who shall serve for the unexpired term of the vacancy so filled. If any person so elected as a trustee shall be a graduate of said college, in order to be eligible to said office, he shall have graduated at least 5 years previous to the time of entering upon his said office, and no person graduating from said college shall be qualified to vote at any election of trustees by said alumni until the year following his graduation, and it shall be understood that no member of the alumni association is eligible to vote in the election of said trustees except graduates of the college of liberal arts.

HISTORY: CL 1915, 11074;—CL 1929, 8128;—CL 1948, 390.702.

VOTING BY MAIL: Right of members of alumni association, see Compilers' § 390.791.

390.702a Board of trustees; additional members.

Sec. 2-a. The board of trustees of Albion college as heretofore constituted, is hereby authorized to increase the number of trustees in said board by the election of not more than 14 additional trustees, the same to be elected for such terms and by such process as said board of trustees shall determine, said trustees to be known and designated as board trustees, and to possess all the rights, powers and privileges of the other members of said board.

HISTORY: Add. 1913, p. 60, Act 41, Eff. Aug. 14;—CL 1915, 11075;—Am. 1929, p. 259, Act 112, Imd. Eff. April 30;—CL 1929, 8129;—CL 1948, 390.702a.

390.703 Board of trustees; powers; course of study; conferring of degrees.

Sec. 3. The said trustees shall have power to make by-laws for their own government and for the government of the institution; to elect or appoint the faculty or board of instruction of said college; to prescribe the course of study; to attend the examinations of the classes; to regulate the government and instruction of students and manage the affairs of said corporation in such manner as they think best calculated to promote and carry out the objects contemplated in this act. They shall have power to confer the bachelor's degree upon such persons as shall have completed satisfactorily to the faculty and said trustees the course of study prescribed. They shall have power to confer the master's degree on such graduates of Albion college or of other institutions of similar grade as they shall judge worthy, and they shall have power, also, to confer such honorary degrees as are usually conferred by colleges and universities and

shall have all other powers and privileges belonging to colleges according to the laws of this state: Provided always, That the course of study for graduation shall be equal to that which is required in the university of Michigan.

HISTORY: CL 1915, 11076;—CL 1929, 8130;—CL 1948, 390.703.

390.704 Board of trustees; election of president of college, ex officio member; quorum.

Sec. 4. The president of said Albion college shall be elected by the board of trustees and by virtue of his office of president shall be a member of said board of trustees with all the powers and privileges of a trustee, so that the whole number of trustees of said college as herein provided shall be 33 and no more, except as herein provided. A majority of the trustees shall constitute a quorum for the transaction of business.

HISTORY: CL 1915, 11077;—Am. 1929, p. 259, Act 112, Imd. Eff. April 30;—CL 1929, 8131;—CL 1948, 390.704.

390.705 Powers of corporation.

Sec. 5. The said corporation shall be capable of suing and being sued and receiving by gift, will or bequest, property, real and personal, and of holding and conveying the same. The said corporation shall have power to make and use a common seal, and to alter the same at pleasure.

HISTORY: CL 1915, 11078;—CL 1929, 8132;—CL 1948, 390.705.

390.705a Board of trustees; custodians of endowment funds.

Sec. 5-a. The said board of trustees shall be the custodians of the endowment fund of said college and shall control the investment of the funds held for endowment purposes, whether general or special. Said board, in its management of said funds, may employ committees, individuals, banks, trust companies or other agents and may fix the compensation to be paid for services and the guaranties to be required.

HISTORY: Add. 1923, p. 3, Act 1, Imd. Eff. Feb. 16;—CL 1929, 8133;—CL 1948, 390.705a.

390.706 Act declared public; non-user of privileges; misnomer in instrument.

Sec. 6. This act shall be and hereby is declared to be a public act; no non-user of any of the privileges hereby granted to the said corporation shall create or produce a forfeiture of the same and no misnomer of said corporation in any deed, will, testament, gift, grant, demise or other instrument, contract or conveyance shall defeat or vitiate the same, provided that the corporation be sufficiently described to ascertain the intent.

HISTORY: CL 1915, 11079;—CL 1929, 8134;—CL 1948, 390.706.

GIFTS, GRANTS AND DEVICES: See Compilers' § 554.351 et seq.

390.707 Board of trustees; election by alumni association.

Sec. 7. When the total number of persons who have graduated from Albion college with the bachelor's degree shall have reached 800, the alumni association of said Albion college shall be empowered to elect 4 trustees instead of 3 and to keep that number of representatives in the board of trustees as provided in section 2 of this act; when the entire number of graduates with the bachelor's degree shall have reached 900, said alumni association may, as hereinbefore provided, elect and maintain 5 representatives in said board of trustees, and when the total number of graduates with the bachelor's degree shall have reached 1,000, then and thereafter said alumni association shall be empowered to elect and maintain 6 trustees, as provided in section 2, making the total number of trustees, including the president of the college, 33, and no more.

HISTORY: CL 1915, 11080;—Am. 1929, p. 259, Act 112, Imd. Eff. April 30;—CL 1929, 8135;—CL 1948, 390.707.

VOTING BY MAIL: See Compilers' § 390.791.

390.708 Visitors; appointment; report of board of trustees.

Sec. 8. The Michigan and Detroit annual conferences of the Methodist Episcopal Church and the alumni association of Albion college shall have the power to appoint

visitors to said college, and the superintendent of public instruction for the state may appoint 3 visitors annually; the board of trustees shall make a full report of the state and condition of said college to the Michigan and Detroit annual conferences of the Methodist Episcopal Church and to the alumni association at each annual session, and to the superintendent of public instruction of the state, who shall incorporate the same in his annual report or so much thereof as he may deem proper.

HISTORY: CL 1915, 11081;—CL 1929, 8136;—CL 1948, 390.708.

Secs. 9-12.

HISTORY: CL 1915, 11082-11085;—Rep. 1923, p. 3, Act 1, Imd. Eff. Feb. 16.

These sections provided for the endowment fund committee and its duties. See Compilers' § 390.707.

Sec. 9. (This was a repeal section.)

HISTORY: CL 1915, 11086;—Renum. 1923, p. 3, Act 1, Imd. Eff. Feb. 16;—CL 1929, 8137;—Rep. 1945, p. 402, Act 267, Imd. Eff. May 25.

Act 278, 1965, p. 471; Imd. Eff. Jul. 22.

AN ACT to establish and regulate a state institution of higher education known as Saginaw Valley college; and to fix the membership and the powers of its governing board. Am. 1966, p. 29, Act 14, Imd. Eff. Apr. 6.

The People of the State of Michigan enact:

390.711 Saginaw Valley college; establishment; location; maintenance; board of control.

Sec. 1. There is established a state institution of higher education known as Saginaw Valley college to be located in a 3-county area comprising the counties of Bay, Midland and Saginaw. The institution shall be maintained by the state and its facilities shall be made equally available and upon the same basis to all qualified residents of this state. The conduct of its affairs and control of its property shall be vested in a board of control, the members of which shall constitute a body corporate known as the "board of control of Saginaw Valley college", hereinafter referred to as "the board" with the right of suing and being sued, adopting a seal and altering the same.

HISTORY: New 1965, p. 471, Act 278, Imd. Eff. Jul. 22;—Am. 1966, p. 29, Act 14, Imd. Eff. Apr. 6.

390.712 Board of control; members, terms.

Sec. 2. There is established a "board of control", to consist of 8 members to be appointed by the governor with the advice and consent of the senate for terms of 8 years, except of the members first appointed 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years. The president of the institution shall be ex officio a member of the board without the right to vote.

HISTORY: New 1965, p. 471, Act 278, Imd. Eff. Jul. 22.

390.713 Board of control; officers; term, treasurer's bond; incurring debts of disposing of board property or funds.

Sec. 3. The board of control may elect 1 of its members or may designate the president to preside at board meetings. The board shall elect from its membership a secretary, a treasurer and such other officers as it deems necessary. Officers shall serve terms of 1 year and until their successors shall have been elected and qualified. Before permitting the treasurer to enter upon the duties of his office, the board shall require him to file his bond to the people of this state with such sureties and in such sum not less than the amount of money likely to be in his possession as the board may designate. No officer shall have the power to incur obligations or to dispose of the board's property or funds, except in pursuance of a vote of the board.

HISTORY: New 1965, p. 471, Act 278, Imd. Eff. Jul. 22.

390.714 Board of control; selection of site for college; raising of funds.

Sec. 4. The board of control, with the approval of the state board of education and the Michigan legislature, shall be responsible for the selection and acquisition of a suitable site for the location of the Saginaw Valley college and shall raise the sum of \$4,000,000.00, which sum shall include the value of the site, by a method other than state and local taxation, within 120 days of the effective date of this act, which amount shall be deemed the minimum amount of assets required to become a state institution of higher education pursuant to the provisions of this act.

HISTORY: New 1965, p. 471, Act 278, Imd. Eff. Jul. 22;—Am. 1966, p. 30, Act 14, Imd. Eff. Apr. 6.

390.715 Board of control; quorum; rules and regulations; powers.

Sec. 5. A majority of the members of the board shall form a quorum for the transaction of business. The board by majority vote of its membership may enact rules, by-laws and regulations for the conduct of its business and for the government of the institution and amend same; fix tuition and other fees and charges, appoint or remove such personnel as the interests of the institution and the generally accepted principles of academic tenure permit or require, determine the compensation to be paid for services and materials, confer such degrees and grant such diplomas as are usually conferred or granted by other similar institutions, receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, to promote any of the purposes of the college, enter into any agreements, not inconsistent with this act, as may be desirable in the conduct of its affairs, and in behalf of the state lease or dispose of any property which comes into its possession, provided that in so doing it shall not violate any condition or trust to which such property may be subject. It is the intention hereof to vest in the board all powers customarily exercised by the governing board of a college or university and the enumeration of the powers herein shall not be deemed to exclude any of such powers not expressly excluded by law.

HISTORY: New 1965, p. 472, Act 278, Imd. Eff. Jul. 22.

390.716 Board of control; borrowing power; repayment; pledge.

Sec. 6. The board shall not borrow money on its general faith and credit, nor create any liens upon its property. With the approval of the legislature the board may borrow money to be used to acquire land or to acquire or erect buildings, or to alter, equip or maintain them, to be used as dormitories, student centers, stadiums, athletic fields, gymnasiums, auditoriums and other related activities, and it shall obligate itself for the repayment thereof, together with interest thereon solely out of the fund derived from rentals or other income from the use and operation of the property so acquired, or from special fees and charges required to be paid by the students deemed by it to be benefited thereby; and may pledge all or any part of the fund as security therefor.

HISTORY: New 1965, p. 472, Act 278, Imd. Eff. Jul. 22.

Act 95, 1943, p. 132; Imd. Eff. Apr. 13.

AN ACT to renew and extend the corporate existence of Hillsdale College; and to declare the effect of this act.

The People of the State of Michigan enact:

390.731 Hillsdale college; corporate existence renewed and extended.

Sec. 1. The corporate existence of Hillsdale college, which expired on July 17, 1922, is hereby renewed and extended until July 17, 1952, and Hillsdale college, whose corporate existence is hereby renewed and extended, shall hold and own all of the prop-

erty held and owned by said Hillsdale college before its renewal, and shall be liable to all its debts, liabilities and obligations, as fully as if its former corporate term had not expired; and the officers thereof, who were such, de jure or de facto shall hold and continue in their offices until their successors shall be duly elected and qualified. A franchise fee of \$10.00 and a filing fee of \$5.00 shall be paid to the corporation and securities commission on the filing of said renewal application.

HISTORY: CL 1948, 390.731.

390.732 Hillsdale college; acts and powers validated.

Sec. 2. All acts and powers exercised by Hillsdale college shall, if within the charter of said Hillsdale college, be valid as if its former corporate term had not expired.

HISTORY: CL 1948, 390.732.

Territorial Laws, p. 1131, vol. III, approved Apr. 22, 1833.

AN ACT to incorporate the Michigan and Huron Institute.

Be it enacted by the Legislative Council of the Territory of Michigan:

390.751 Kalamazoo college; board of trustees, officers.

Sec. 1. That from and after the passage of this act, Caleb Eldred, William Meek, Wm. Duncan, H. H. Comstock, Nathaniel Millard, John Clark, F. P. Browning, Anson Brown, John Booth, B. B. Kercheval, Thos. W. Merrill, John S. Twiss, C. H. Swain, Robert Powell, Stephen Goodman, and C. A. Lamb, of said Territory, be, and they and their successors are hereby made, constituted, and established a body politic and corporate, with perpetual succession, by the name and style of Kalamazoo college (being the same body politic and corporate organized as "The Michigan and Huron Institute,") and that by the name and style of Kalamazoo college they and their successors shall forever be able and capable in law of suing and being sued, impleading and being impleaded, answering and being answered unto, in all suits whatsoever in law and equity, and to have and use a common seal, and to alter the same at pleasure, and that the above named persons and their successors in office shall be the trustees and together shall constitute a board of trustees and shall have and exercise the power and franchise herein granted, until others be, in the same manner herein provided, elected and appointed in their places; that they and their successors shall, by election by ballot, supply all vacancies, whether caused by death, resignation or other means, and said board of trustees, and their successors in office, shall annually appoint from their number a chairman, who shall preside at the meetings of said board of trustees and give the casting vote in case of equal division, who shall have and exercise all the powers conferred by law and by the board of trustees; a secretary who shall register the proceedings of said meetings; and a treasurer who shall keep the books and funds, subject at all times to the control, inspection and government of said board of trustees.

HISTORY: CL 1948, 390.751;—Am. 1955, p. 79, Act 50, Imd. Eff. Apr. 29.

390.752 Kalamazoo college; purpose of corporation, affiliation.

Sec. 2. The particular business and object of this corporation shall be to establish, endow, conduct and maintain an institution of higher learning, to be known as "Kalamazoo college", and affording instruction in the branches of education usually taught in colleges and universities, with special emphasis on the liberal arts and sciences. As an institution sponsored by and affiliated with the American Baptist convention, the training and instruction shall be offered in a thoroughly christian environment in keeping with the traditions of a church-related institution.

HISTORY: CL 1948, 390.752;—Am. 1955, p. 79, Act 50, Imd. Eff. Apr. 29.

390.753 Board of trustees; affiliation, quorum, term of office, honorary trustees.

Sec. 3. (a) The board of trustees may, by a resolution adopted by 2/3 of the mem-

bers thereof, fix the number of members to constitute the board: Provided, That the number of trustees constituting the board of trustees shall be not less than 15 nor more than 54 in number: And provided further, That 33-1/3% of the trustees shall be members in good standing of Baptist churches affiliated with the American Baptist convention. Nine trustees shall constitute a quorum for the transaction of business at any meeting of said board. At the first meeting of said board of trustees, they shall divide themselves into 3 classes of 1/3 of the whole number of each as nearly as possible. The term of office of the first class shall terminate at the expiration of the first year; of the second class shall terminate at the end of the second year; and of the third class shall terminate at the end of the third year, so that 1/3 of the number of trustees shall be chosen by said board of trustees annually by ballot.

(b) The board may elect non-voting honorary trustees without limit as to number. Honorary trustees shall not be included in the number of trustees constituting the board of trustees.

HISTORY: Am. 1887, p. 210, Local Act 390, Imd. Eff. Mar. 15;—Am. 1941, p. 14, Act 16, Imd. Eff. Mar. 11;—CL 1948, 390.753—Am. 1955, p. 79, Act 50, Imd. Eff. Apr. 29.

390.754 Board of trustees; selection of president.

Sec. 4. The board of trustees shall have the power to appoint or elect and to remove from office a president of said institution who shall, in the judgment of said board of trustees, be a learned christian gentleman.

HISTORY: Am. 1887, p. 211, Local Act 390, Imd. Eff. Mar. 15;—Am. 1941, p. 14, Act 16, Imd. Eff. Mar. 11;—CL 390.754;—Am. 1955, p. 80, Act 50, Imd. Eff. Apr. 29.

390.755 Treasurer, agents, bonds.

Sec. 5. The treasurer and all other agents, when required by the trustees, shall, before entering upon the duties of their office, give bonds in such penal sum as the board of trustees may require for the security of any funds coming into their hands and to secure the carrying out of any authority given them.

HISTORY: Add. 1955, p. 80, Act 50, Imd. Eff. Apr. 29.

Former section 390.755 (Sec. 5, Territorial Laws, p. 1131, vol. III) provided an effective date. It was repealed by Act 50, 1955, section 2, p. 81, Imd. Eff. April 29.

390.756 Nonsectarian enrollment; expulsion, suspension.

Sec. 6. Kalamazoo college shall be open to persons of all religious denominations but the profession of any religious faith shall not be required of those who become students. All persons may, however, be expelled or suspended from the privileges of said college whenever in the judgment of the president of the college or of the board of trustees or of any other person or committee designated by the board of trustees, it shall be deemed for the best interests of the college.

HISTORY: Add. 1955, p. 80, Act 50, Imd. Eff. Apr. 29.

390.757 Fiscal affairs; restricted donations; conveyances.

Sec. 7. The college and the trustees thereof shall have and are hereby vested with the power to acquire by purchase, gift, loan, grant, donation or otherwise for the use and benefit of the corporation, real estate, personal property and money, and may sell, use, hold, manage, invest and reinvest, lease, improve, mortgage, assign, convey and dispose of such real estate, personal property and money so acquired in such manner as the board of trustees shall deem necessary and desirable in carrying out the objects of this corporation. Any funds or property received from a donor and designated by the donor for a particular purpose shall be used for such purpose so long as such purpose exists: Provided, The purpose be not inconsistent with the general objects of this corporation. Any conveyance of real estate shall be executed by such officers and agents of the college as shall be designated by resolution of the board of trustees.

HISTORY: Add. 1955, p. 80, Act 50, Imd. Eff. Apr. 29.

390.758 Inspection by legislature of college.

Sec. 8. Said college shall, at all times, be open to the inspection of any committee or other agent appointed by the legislature and it shall be the duty of the officers of said college, at all times, to exhibit to any committee, or agents appointed by the legislature, a full and complete statement of the general or particular concerns of the college.

HISTORY: Add. 1955, p. 80, Act 50, Imd. Eff. Apr. 29.

390.759 Honors and degrees; earned degrees.

Sec. 9. The board of trustees shall have the power to confer the honors and degrees usually granted by collegiate institutions. Earned degrees shall be conferred only on persons who shall have passed through a course of studies deemed by the board to be equivalent to that prescribed by the regents of the university of Michigan for candidates for degrees and who have been recommended by the faculty of Kalamazoo college as being worthy thereof.

HISTORY: Add. 1955, p. 80, Act 50, Imd. Eff. Apr. 29.

390.760 Board of trustees; powers, delegation of authority, relation with American Baptist convention.

Sec. 10. The trustees shall have the power and authority to make and amend rules, regulations and by-laws which they shall deem necessary and proper for conducting the affairs of the board and for conducting the affairs and business and securing the objects of the corporation, and generally shall have the right to do and transact all business necessary for carrying out the purposes of this corporation, or which is incidental thereto, as fully and effectually as any natural person or body politic or corporate has the power to manage the concerns belonging to such person or body, including the right to delegate authority and to act through officers, an executive committee, and other committees or agents which the trustees may designate: Provided, That any of the provisions of this charter which directly relate to the relationship between Kalamazoo college and the American Baptist convention shall not be amended except with the consent of 2/3 of the members of the board of trustees.

HISTORY: Add. 1955, p. 81, Act 50, Imd. Eff. Apr. 29.

Act 142, 1964, p. 135; Eff. Aug. 28.

AN ACT to authorize the state department of education to provide minimum requirements for nonincorporated privately operated institutions which purport to offer degrees, diplomas or certificates based on education beyond high school, or education for transfer to institutions of higher learning. Am. 1969, p. 334, Act 167, Imd. Eff. Aug. 5.

The People of the State of Michigan enact:

390.771 Nonincorporated private educational institutions; standards; exemptions.

Sec. 1. The state department of education may approve or disapprove educational programs, which are post high school in nature designed for transfer of credit, which purport to lead to diplomas, certificates or degrees, in terms of minimum standards which the department may establish with regard to (a) housing space and administrative facilities; (b) educational programs leading to such diplomas, certificates or degrees; (c) laboratory, library and teaching facilities; and (d) instructional staff, for any privately operated institution not incorporated under the provisions of Act No. 327 of the Public Acts of 1931, as amended, being sections 450.1 to 450.192 of the Compiled Laws of 1948, when such an institution is operated by a person, group of persons, partnership, partnership association, limited partnership association, or any other form of association. The department may establish minimum general requirements for any degree, diploma or certificate to be offered by such an institution. Nonincorporated, pri-

vately operated institutions organized to offer post high school programs for students who will transfer to institutions of higher learning shall be within the jurisdiction of the department of education for purposes of this act. Schools licensed by other agencies, boards or commissions, which review the curriculum prior to the issuance or renewal of a license, shall be exempt from the provisions of this act.

HISTORY: New 1964, p. 135, Act 142, Eff. Aug. 28;—Am. 1969, p. 335, Act 167, Imd. Eff. Aug. 5.

390.772 Failure to meet standards; resulting courses of action.

Sec. 2. If such an educational institution fails to meet minimum standards specified by the state department of education, the department may enjoin the institution to meet the requirements within a specified period of time. If the institution fails to do so, the department may take such legal action as it deems necessary to cause the owners or administrators of the institution to refrain from offering any part or all of such educational programs which the department shall have found to be inadequate. It is the intent of this act that such educational institutions shall meet minimum standards equivalent to those for institutions incorporated under the provisions of Act No. 327 of the Public Acts of 1931, as amended.

HISTORY: New 1964, p. 135, Act 142, Eff. Aug. 28;—Am. 1969, p. 335, Act 167, Imd. Eff. Aug. 5.

Act 86, 1905, p. 116; Imd. Eff. May 3.

AN ACT to provide for voting by mail by members of certain alumni associations.

The People of the State of Michigan enact:

390.791 Graduate organizations; voting by mail.

Sec. 1. Alumni associations or other organizations composed of graduates of any degree-granting educational institution within the state of Michigan and duly authorized to elect trustees or other members of the governing body of their respective institutions, may, and such associations or other organizations are hereby empowered to permit duly qualified members, not present at the time and place appointed for the election of such trustees, to cast their votes in writing under such rules and regulations for the reception, canvass and return of such votes as each such association or organization may adopt.

HISTORY: CL 1915, 10675;—CL 1929, 8158;—CL 1948, 390.791.

ALBION COLLEGE: Alumni vote for trustees, see Compilers' § 390.702.

Act 114, 1949, p. 116; Eff. Sep. 23.

AN ACT to accept on behalf of the people of the state of Michigan the Ferris Institute at Big Rapids; to provide for its continuance as a state institution under the name of Ferris State College; and to create a board of control for the Ferris State College, and to prescribe its powers and duties. Am. 1963, p. 98, Act 87, Imd. Eff. May 8.

The People of the State of Michigan enact:

390.801 Ferris state college; continuation, operation.

Sec. 1. The legislature on behalf of the people of the state of Michigan hereby accepts the gift of the Ferris Institute at Big Rapids, Michigan, together with all properties, real, personal and mixed, owned in connection with the operation of the Ferris Institute. The Ferris Institute shall be continued as a state institution under the name of Ferris Institute, and after June 30, 1963, under the name of Ferris State College. As a state institution it shall continue to operate in accordance with the policies and cur-

ricula established through the years. Because of the specialized educational function of Ferris Institute, in changing the name of Ferris Institute to Ferris State College, it is expressly understood by the legislature that the college will not at any time in the future request that it be established as a state university.

HISTORY: New 1949, p. 116, Act 114, Eff. Sep. 23;—Am. 1963, p. 99, Act 87, Imd. Eff. May 8.

390.802 Ferris state college; board of control, members, terms, expenses, powers.

Sec. 2. There is hereby created a board of control for the institution, as a state institution, which shall consist of 8 members to be appointed by the governor, by and with the advice and consent of the senate, for terms of 8 years each, except that of the members first appointed, 2 members shall be appointed for terms of 2 years each, 2 members for terms of 4 years each, 2 members for terms of 6 years each, and 2 members for terms of 8 years each, and the terms of office of the first members of the board shall commence on July 1, 1950. Members of the board shall qualify by taking and filing the constitutional oath of office. Members of the board shall serve until the appointment and qualification of their successors. Members of the board may be removed by the governor for misfeasance, malfeasance or nonfeasance in office. Vacancies in the board shall be filled by the governor for the unexpired term in like manner as original appointments. The board shall be a body corporate and shall have power to contract and be contracted with. Members of the board shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in performance of official duties. The board shall have control and management of the institution, and is hereby authorized to incur such expenses and to employ such personnel as shall be necessary in carrying out its functions. The board is hereby authorized to accept gifts, grants or devises of property, real, personal or mixed, for the benefit of the institution. The board is further authorized and empowered to do any other act or acts necessary in the proper management of the institution as a state institution.

HISTORY: New 1949, p. 117, Act 114, Eff. Sep. 23;—Am. 1963, p. 99, Act 87, Imd. Eff. May 8.

390.803 Ferris state college; board of control, powers and duties.

Sec. 3. A majority of the members of the board of control shall constitute a quorum. A majority of its members may enact, amend and repeal rules, bylaws and regulations for the conduct of its business and for the government of the institution; fix tuition and other fees and charges; appoint or remove personnel as the interests of the institution and the generally accepted principles of academic tenure permit or require; determine compensation to be paid for services and property; confer degrees and grant diplomas usually conferred or granted by other similar institutions and, also, this institution shall continue to offer vocational and occupational programs of less than 4 years collegiate degree level of the nature established throughout the years and shall further develop educational opportunities of such nature; receive, hold and manage any gift, grant, bequest or devise of funds or property, real or personal, absolutely or in trust, which will promote any of the purposes of the institution; enter into any agreement not inconsistent with this act as may be desirable in the conduct of its affairs; and lease or dispose of any property which comes into its possession, but in so doing it shall not violate any condition or trust to which such property may be subject. All powers customarily exercised by the governing board of a college or university are vested in the board. The enumeration of powers herein is not deemed to exclude any of such powers not expressly excluded by law.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 29, Act 22, Imd. Eff. Dec. 27.

Act 55, 1953, p. 50; Imd. Eff. May 8.

AN ACT to authorize the board of control of Ferris institute to borrow money for the purpose of financing the erection and operation of residence halls, housing units, social centers, health residences and facilities, and structures designed for the fostering of athletics, dramatics, music and other similar activities at said institute. Am. 1959, p. 316, Act 214, Imd. Eff. Jul. 30.

The People of the State of Michigan enact:

390.821 Ferris institute; board of control, powers.

Sec. 1. The board of control of Ferris institute is authorized to:

(a) Acquire, purchase or erect such residence halls and housing units as may be required for the good of the institution.

(b) Acquire, purchase or erect buildings, rooms and facilities to be used as social centers for the students and faculty members, separate from or combined with residence halls, when in its judgment the same may be required for the good of the institution.

(c) Acquire, purchase or erect such health residences and facilities as may be required for the good of the institution and furnish, equip and operate the same.

(d) Acquire, purchase or erect such structures designed for fostering of athletics, dramatics, music and other similar activities as may be required for the good of the institution and furnish, equip and operate the same.

(e) Rent the rooms and facilities in such residence halls and housing units and provide board to the students, faculty members, guests and employees at such rates as will insure a reasonable excess of income over operation expense.

(f) Collect from each student a reasonable fee for the use of or maintenance of social centers provided for them under the provisions of this act.

(g) Collect from each student a reasonable fee as a part of his tuition fee for the services, treatment and benefits to which the student is entitled from the health service maintained by the institution.

(h) Collect from each student a reasonable fee for the use of or maintenance of structures designed for the fostering of athletics, dramatics, music and similar activities provided for them under the provisions of this act.

(i) Hold the funds derived from the operation of such residence halls and housing units or fees collected for the use of or maintenance of social centers, health residences and facilities, or fees collected for the use of and maintenance of structures designed to foster athletics, dramatics, music and other similar activities, and spend the same for repairs, replacements and betterments, including the payment of indebtedness resulting from the erection or purchase of residence halls and housing units or buildings, rooms and facilities to be used as social centers, or for health residences and facilities, or structures designed to foster athletics, dramatics, music and other similar activities.

(j) Exercise full control and complete management of such residence halls, housing units and social centers, health residences and facilities, and structures designed for the fostering of athletics, dramatics, music and other similar activities.

HISTORY: New 1953, p. 50, Act 55, Imd. Eff. May 8;—Am. 1959, p. 316, Act 214, Imd. Eff. Jul. 30.

390.822 Board of control; title to realty.

Sec. 2. The title of all real estate and improvements acquired and erected under the provisions of this act shall be taken and held in the name of the board of control of Ferris institute.

HISTORY: New 1953, p. 50, Act 55, Imd. Eff. May 8;—Am. 1959, p. 317, Act 214, Imd. Eff. Jul. 30.

390.823 Board of control; borrowing power.

Sec. 3. In carrying out the above power, the board may borrow money, pledging the rents and income received from the residence halls and housing units in excess of all operating expenses, for the discharge of loans so executed, or pledging the fees charged the students for the use and maintenance of social centers, health residences, and facilities and structures designed for the fostering of athletics, dramatics, music and other similar activities, provided for them under this act and any revenue derived from the operation of the facilities for the discharge of loans so executed. Any obligations issued under the provisions of this act shall contain the provisions of section 4 of this act printed on the face thereof.

HISTORY: New 1953, p. 50, Act 55, Imd. Eff. May 8;—Am. 1959, p. 317, Act 214, Imd. Eff. Jul. 30.

390.824 Payment of loans.

Sec. 4. No obligations hereunder shall ever be or become a charge against the state of Michigan, nor shall the same become a lien on or secured by any property, real, personal or mixed, of the state or the board of control, but all such obligations, including principal and interest, shall be payable solely:

(a) From the net rents and income obtained from the operation of residence halls and housing units, pledged or otherwise;

(b) Fees charged students for the use of or maintenance of social centers, health residences, and facilities and structures designed for the fostering of athletics, dramatics, music and other similar activities, provided for them under the provisions of this act; and

(c) Gifts and bequests made to the board of control of Ferris institute for the express purpose of financing, partially or completely, the purchase or construction at said institute of residence halls, housing units, social centers for students and faculty members, health residences, and facilities and structures designed for the fostering of athletics, dramatics, music and other similar activities, or for retiring outstanding indebtedness as herein created.

HISTORY: New 1953, p. 50, Act 55, Imd. Eff. May 8;—Am. 1959, p. 317, Act 214, Imd. Eff. Jul. 30.

390.825 Bonds; purchase by state unlawful.

Sec. 5. Bonds or obligations issued under the provisions of this act shall not be purchased by the state of Michigan.

HISTORY: New 1953, p. 51, Act 55, Imd. Eff. May 8.

Act 120, 1960, p. 135; Eff. Aug. 17.

AN ACT to establish an institution of higher education having authority to grant baccalaureate degrees to be known as Grand Valley state college; to implement the state constitution by providing for the appointment of the board of control, the organization of the board, and the vesting of assets in the board; and to grant and confirm the powers of the board. Am. 1963, 2nd Ex. Ses., p. 30, Act 24, Eff. Jan. 1, 1964;—Am. 1970, p. 33, Act 13, Imd. Eff. Apr. 10.

The People of the State of Michigan enact:

390.841 Grand Valley state college; establishment; location; board of control.

Sec. 1. There is established a state institution of higher education having authority to grant baccalaureate degrees to be known as Grand Valley state college and located in Allendale township, Ottawa county. The institution shall be maintained by the state and its facilities shall be made equally available and upon the same basis to all quali-

fied residents of this state. The institution shall be governed by a board of control which shall be a body corporate. The board of control shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. The board shall be known as the "board of control of Grand Valley state college", hereinafter referred to as "the board", with the right of suing and being sued, adopting a seal and altering the same.

HISTORY: New 1960, p. 135, Act 120, Eff. Aug. 17;—Am. 1963, 2nd Ex. Ses., p. 30, Act 24, Eff. Jan. 1, 1964;—Am. 1970, p. 33, Act 13, Imd. Eff. Apr. 10.

390.842 Board of control; members, appointment, terms; president.

Sec. 2. There is established a "board of control", to consist of 8 members to be appointed by the governor with the advice and consent of the senate for terms of 8 years. The president of the institution shall be ex officio a member of the board without the right to vote.

HISTORY: New 1960, p. 135, Act 120, Eff. Aug. 17;—Am. 1963, 2nd Ex. Ses., p. 30, Act 24, Eff. Jan. 1, 1964.

390.843 Board of control; officers, election; treasurer's bond.

Sec. 3. The board of control may elect one of its members or may designate the president to preside at board meetings. The board shall elect a secretary, a treasurer and such other officers as it deems necessary, none of them of whom shall be members of the board. Officers shall serve terms of 1 year and until their successors shall have been elected and qualified. Before permitting the treasurer to enter upon the duties of his office, the board shall require him to file his bond to the people of this state with such sureties and in such sum not less than the amount of money likely to be in his possession as the board may designate. No officer shall have the power to incur obligations or to dispose of the board's property or funds, except in pursuance of a vote of the board.

Board of control, quorum, powers and duties.

A majority of the members of the board shall form a quorum for the transaction of business. The board by majority vote of its membership may enact rules, bylaws and regulations for the conduct of its business and for the government of the institution, and amend same; fix tuition and other fees and charges, appoint or remove such personnel as the interests of the institution and the generally accepted principles of academic tenure permit or require, determine the compensation to be paid for services and materials, confer such degrees and grant such diplomas as are usually conferred or granted by other similar institutions, receive, hold and manage any gift, grant, bequest, or devise of funds or property, real or personal, absolutely or in trust, to promote any of the purposes of the college, enter into any agreements, not inconsistent with this act, as may be desirable in the conduct of its affairs, and in behalf of the state lease or dispose of any property which comes into its possession, provided that in so doing it shall not violate any condition or trust to which such property may be subject. It is the intention hereof to vest in the board all powers customarily exercised by the governing board of a college or university and the enumeration of the powers herein shall not be deemed to exclude any of such powers not expressly excluded by law.

HISTORY: New 1960, p. 135, Act 120, Eff. Aug. 17;—Am. 1963, 2nd Ex. Ses., p. 30, Act 24, Eff. Jan. 1, 1964.

390.844 Board of control; borrowing power; acquisition of property.

Sec. 4. The board shall not borrow money on its general faith and credit, nor create any liens upon its property except as herein provided. The board may acquire land or acquire or erect buildings, or alter, equip or maintain them, to be used as residence halls, apartments, dining facilities, student centers, health centers, parking structures, stadiums, athletic fields, gymnasiums, auditoriums and other educational facilities. After the legislature by concurrent resolution has approved the acquisition or construction of such facilities, the board may borrow money issuing notes or bonds under

such terms and provisions as it deems best to finance such facilities, the necessary site or sites therefor, and including, but not limited to, capitalized interest and a debt service reserve in connection with such notes or bonds, with interest thereon, solely out of (a) income and revenues from any such facilities, or any other such facilities heretofore or hereafter acquired, (b) special fees and charges required to be paid by the students deemed by it to be benefited thereby, (c) funds to be received as gifts, grants or otherwise from the state or federal government or any agency thereof or any public or private donor, if, prior to issuance of such notes or bonds, the state, federal government or agency thereof or other donor has contracted to pay to the board or to the holder of such notes or bonds definite amounts of money as determined by formula or otherwise, (d) the proceeds of or delivery of any notes or bonds issued hereunder, and (e) any combination of (a), (b), (c) and (d).

HISTORY: New 1980, p. 136, Act 120, Eff. Aug. 17;—Am. 1986, p. 172, Act 149, Imd. Eff. Jun. 24;—Am. 1970, p. 33, Act 13, Imd. Eff. Apr. 10.

390.845 Legislative intent.

Sec. 5. This act is intended to implement, clarify and confirm in the board the constitutional powers customarily exercised by the board of control of institutions of higher education established by law having authority to grant baccalaureate degrees.

HISTORY: Add. 1970, p. 34, Act 13, Imd. Eff. Apr. 10.

Act 63, 1955, p. 104; Imd. Eff. May 20.

AN ACT making an appropriation to the board of regents of the university of Michigan to be expended in connection with the installation of 2-year university programs in cooperation with the Flint junior college.

The People of the State of Michigan enact:

390.851 University of Michigan board of regents; temporary appropriation for two-year university programs.

Sec. 1. There is hereby appropriated from the general fund of the state the sum of \$37,000.00 to the regents of the university of Michigan to be expended for completion of program plans and for expenses preliminary to organization of a 2-year university program in cooperation with the Flint junior college.

The regents of the university of Michigan are directed to present to the 1956 session of the legislature completed organizational plans for said college together with a budget covering estimated requirements for the beginning of senior college operations in September of 1956.

HISTORY: New 1955, p. 104, Act 63, Imd. Eff. May 20.

Act 21, 1963 (2nd Ex. Ses.), p. 27; Eff. Jan. 1, 1964.

AN ACT to provide for the names and boards of control of certain state institutions of higher education.

The People of the State of Michigan enact:

390.861 State institutions of higher education; names; boards of control, appointment, vacancy.

Sec. 1. The institutions of higher education established in this state and referred to in the 1963 constitution as Michigan college of science and technology, now known as Michigan college of mining and technology, Ferris institute and Grand Valley state

college, now known as Grand Valley college, are continued after January 1, 1964 under the names of Michigan technological university, Ferris state college and Grand Valley state college. Each institution shall be governed by a separate 8-member board of control. The governor shall appoint the board members by and with the advice and consent of the senate for terms of 8 years commencing on January 1, with not more than 2 terms expiring in the same year. When a vacancy occurs other than by the expiration of a term, the governor shall fill the vacancy by appointment by and with the advice and consent of the senate for the remainder of the unexpired term.

HISTORY: New 1963, 2nd Ex. Ses., p. 27, Act 21, Eff. Jan. 1, 1964.

390.862 Michigan technological university; board of control; terms.

Sec. 2. The successors to the offices of the members of the board of control of Michigan technological university whose terms expire on June 9, 1965, 1967 and 1969 shall be appointed on or after January 1, 1967, 1969 and 1971. Holders of the present terms of office shall continue to exercise their powers and duties until their successors have been appointed and have taken office. The governor shall appoint 2 additional members to this board of control on or after January 1, 1964 for terms expiring on December 31, 1964.

HISTORY: New 1963, 2nd Ex. Ses., p. 28, Act 21, Eff. Jan. 1, 1964.

390.863 Ferris state college; board of control; terms.

Sec. 3. The successors to the offices of the members of the board of control of Ferris state college whose terms expire on June 30, 1964, 1966, 1968 and 1970 shall be appointed on or after January 1, 1965, 1967, 1969 and 1971. Holders of the present terms of office shall exercise their powers and duties until their successors have been appointed and have taken office.

HISTORY: New 1963, 2nd Ex. Ses., p. 28, Act 21, Eff. Jan. 1, 1964.

390.864 Grand Valley state college; board of control; terms.

Sec. 4. The successors to the offices of the members of the board of control of Grand Valley state college whose terms expire on August 16, 1964, 1966 and 1968 shall be appointed for 8-year terms. The successors to the 2 terms expiring on August 16, 1964, shall be appointed on or after January 1, 1965 for terms commencing on January 1, 1965. The successors to 2 of the 3 terms expiring on August 16, 1966, shall be appointed on or after January 1, 1967 for terms commencing on January 1, 1967, and the successor to the third term shall be appointed on or after January 1, 1971 for a term commencing on January 1, 1971. The successors to 2 of the 3 terms expiring on August 16, 1968, shall be appointed on or after January 1, 1969 for terms commencing on January 1, 1969, and the successor to the third term shall be appointed on or after January 1, 1971 for a term commencing on January 1, 1971. Holders of the present terms of office shall continue to exercise their powers and duties until their successors have been appointed and have taken office. Where terms of office for 3 members expire at the same time, but the successors are to be appointed under this section at different times, the governor shall determine which board members shall continue in office for the different extended terms.

HISTORY: New 1963, 2nd Ex. Ses., p. 28, Act 21, Eff. Jan. 1, 1964.

390.865 Appointments; advice and consent of senate.

Sec. 5. All appointments under this act shall be made by and with the advice and consent of the senate.

HISTORY: New 1963, 2nd Ex. Ses., p. 28, Act 21, Eff. Jan. 1, 1964.

390.866 Effective date of act.

Sec. 6. This act shall take effect on January 1, 1964.

HISTORY: New 1963, 2nd Ex. Ses., p. 28, Act 21, Eff. Jan. 1, 1964.

390.871-390.883 Repealed. 1966, p. 611, Act 331, Eff. Oct. 1.

Sections provided for community college districts.

Act 291, 1967, p. 619; Imd. Eff. Aug. 1.

AN ACT to authorize state universities and colleges to enact parking, traffic and pedestrian ordinances and to provide for the enforcement of the ordinances; and to dispose of fines collected.

The People of the State of Michigan enact:

390.891 Traffic ordinances; enactment; enforcement at state universities and colleges.

Sec. 1. The governing boards of state universities and colleges may each enact parking, traffic and pedestrian ordinances for the government and control of their respective campuses and may provide that violation of such ordinance is a misdemeanor punishable by a fine of not to exceed \$25.00 for each violation: Provided, That enforcement of such ordinances shall be by law enforcement officers of the state of Michigan, county, township or city wherein the violation of any such ordinance occurs. Such ordinance shall be in substantial conformity with the uniform traffic code promulgated pursuant to the provisions of Act No. 62 of the Public Acts of 1956, being sections 257.951 to 257.954 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 619, Act 291, Imd. Eff. Aug. 1.

390.892 Violations; enforcement; procedure; appeals; disposition of fines.

Sec. 2. Violation of such ordinances may be enforced in any court having jurisdiction over misdemeanors in the political subdivision where the violation occurs. The procedure in such court shall be governed by its ordinary rules of procedure. Appeals may be taken in the same manner as in misdemeanor cases in such court. Fines collected by the court for ordinance violations shall be paid to the treasurer of the political subdivision in which the offense is tried within 30 days after collection, and costs shall be handled in the same manner as provided for costs imposed for violation of misdemeanors under state statutes.

HISTORY: New 1967, p. 619, Act 291, Imd. Eff. Aug. 1.

Act 259, 1955, p. 453; Imd. Eff. Jun. 29.

AN ACT to aid in the sound development of junior and community college programs maintained by public school districts and to provide for the appropriation of moneys from the state general fund in furtherance of this objective.

The People of the State of Michigan enact:

390.901 Junior and community college programs; development.

Sec. 1. It is declared to be the policy of the state to further the development of approved junior and community colleges to supplement existing state supported colleges and universities in providing educational programs and facilities for the first 2 years of college study.

HISTORY: New 1955, p. 453, Act 259, Imd. Eff. Jun. 29.

390.902 Junior and community college funds; distribution to public school districts.

Sec. 2. The public school districts entitled to any distribution hereunder shall include those public school districts which now maintain an approved junior college,

community college, or university, and those public school districts which may hereafter secure the approval of the state superintendent of public instruction with the advice and counsel of the state board of education for the establishment of such a college.

HISTORY: New 1955, p. 453, Act 259, Imd. Eff. Jun. 29.

390.903 Junior and community college funds; enrollment unit, maximum apportionment.

Sec. 3. The money herein appropriated shall be distributed by the superintendent of public instruction to public school districts maintaining an approved college or a university upon the basis of their enrollments in junior or community college credit courses. The enrollment unit shall be a full time program for an academic year. Part time and shorter periods of enrollments shall be equated to this unit. No distribution under the terms of this act, when added to any other funds received by the public school district from the state for maintaining such college credit courses shall be made in excess of \$190.00 per full and equated enrollment nor 1/2 of the total operational costs excluding capital outlay and debt service.

HISTORY: New 1955, p. 453, Act 259, Imd. Eff. Jun. 29;—Am. 1956, p. 296, Act 156, Imd. Eff. Apr. 16.

390.904 Junior and community college programs; appropriation; pro rata reduction.

Sec. 4. For the fiscal year commencing July 1, 1956, there is hereby appropriated from the general fund the sum of \$1,935,000.00 for distribution in accordance herewith. Should the amount appropriated be inadequate to meet the distribution provided for herein, the amount received by each school district shall be reduced proportionately.

HISTORY: New 1955, p. 453, Act 259, Imd. Eff. Jun. 29;—Am. 1956, p. 296, Act 156, Imd. Eff. Apr. 16.

Act 193, 1964, p. 264; Imd. Eff. Jan. 1, 1965.

AN ACT to create the state board for public community and junior colleges; and to provide for its organization and functions.

The People of the State of Michigan enact:

390.911 State board for public community and junior colleges; creation; membership, appointment, terms, vacancy.

Sec. 1. The state board for public community and junior colleges is created and consists of 8 members. The state board of education shall appoint the members who shall hold office for terms of 8 years commencing on February 1, 1965, except that of the members first appointed, 2 members each shall be appointed for terms of 2, 4, 6 and 8 years. The state board of education shall fill a vacancy on the board for the unexpired term. The superintendent of public instruction shall be ex officio a member of the board without the right to vote.

HISTORY: New 1964, p. 264, Act 193, Imd. Eff. Jan. 1, 1965.

CITED IN OTHER SECTIONS: Sections 390.911 to 390.916 are cited in § 16.410.

390.912 State board for public community and junior colleges; oath, meeting, organization; officers.

Sec. 2. The members of the state board for public community and junior colleges shall take the constitutional oath of office. As soon as convenient after the first mem-

bers of the board are appointed they shall meet and organize by electing from their number a chairman, a secretary and such other officers as the board desires which officers shall be elected annually.

HISTORY: New 1964, p. 264, Act 193, Imd. Eff. Jan. 1, 1965.

390.913 State board for public community and junior colleges; quorum.

Sec. 3. A majority of the members of the state board for public community and junior colleges shall constitute a quorum. The board may transact all necessary business at any meeting at which a quorum is present.

HISTORY: New 1964, p. 264, Act 193, Imd. Eff. Jan. 1, 1965.

390.914 State board for public community and junior colleges; compensation, expenses, accounting, offices.

Sec. 4. The officers and members of the state board for public community and junior colleges shall receive compensation for their actual services in amounts fixed by the legislature and also their necessary expenses to be paid by the state treasurer out of the general fund in accordance with general accounting practices of the department of administration. The department of administration shall furnish suitable offices for the board.

HISTORY: New 1964, p. 264, Act 193, Imd. Eff. Jan. 1, 1965.

390.915 State board for public community and junior colleges; general supervision and planning, appropriations.

Sec. 5. The state board for public community and junior colleges, at least once each year, shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support.

HISTORY: New 1964, p. 264, Act 193, Imd. Eff. Jan. 1, 1965.

390.916 Effective date of act.

Sec. 6. This act shall take effect on January 1, 1965.

HISTORY: New 1964, p. 264, Act 193, Imd. Eff. Jan. 1, 1965.

Act 295, 1969, p. 545; Imd. Eff. Aug. 11.

AN ACT to establish the higher education facilities authority; to prescribe its powers and duties; to authorize the authority to borrow money and issue bonds for educational facilities; to exempt such bonds from taxation; and to authorize the authority to lend money to nonprofit educational institutions in this state for capital improvement.

The People of the State of Michigan enact:

390.921 Higher education facilities authority act; short title.

Sec. 1. This act shall be known and may be cited as the "higher education facilities authority act".

HISTORY: New 1969, p. 545, Act 295, Imd. Eff. Aug. 11.

390.922 Higher education facilities authority act; definitions.

Sec. 2. As used in this act:

- (a) "Authority" means the higher education facilities authority created by this act.
- (b) "Institution for higher learning" or "institution" means a non-state supported, nonprofit educational institution within the state authorized by law to provide a program of education beyond the high school level.
- (c) "Educational facility" means a structure available for use as a dormitory or other housing facility, including housing facilities for students, a dining hall, student union, administration building, academic building, library, laboratory, research facility, class-

room, athletic facility, health care facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(d) "Bond" includes a note, or other obligation issued by the authority for borrowed money.

(e) "Educational loan" means a loan made by the authority to an institution.

HISTORY: New 1969, p. 546, Act 295, Imd. Eff. Aug. 11.

390.923 Higher education facilities authority; creation; membership.

Sec. 3. A nonprofit authority is created as an agency and instrumentality of the state to be known as the "higher education facilities authority". The authority shall consist of the members of the higher education facilities commission created by Act No. 233 of the Public Acts of 1964, as amended, being sections 390.941 to 390.948 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 546, Act 295, Imd. Eff. Aug. 11.

390.924 Higher education facilities authority; powers.

Sec. 4. The authority shall have all the powers necessary to carry out and effectuate the purposes and provisions of this act, including but not limited to the following powers:

(a) To sue and be sued, to have a seal and alter the same at pleasure, to have perpetual succession, to make, execute and deliver contracts, conveyances and other instruments necessary to the exercise of its powers and to make and amend bylaws.

(b) To accept gifts, grants, loans and other aids from any person, corporation or governmental agency.

(c) To lend money to educational institutions for the purpose of assisting in the acquisition of additional educational facilities, and to accept security for money so lent.

(d) To enforce its rights under mortgage, contracts or agreements, including foreclosure and court actions.

(e) To acquire, hold and dispose of real or personal property as necessary for the accomplishment of the purpose of this act.

(f) To procure insurance against any loss in connection with its property, assets or activities.

(g) To borrow money and to issue its bonds and provide for the rights of the holders thereof and to secure such bonds by mortgage, assignment or pledge of any or all of its properties including any part of the security for its educational loans. The state shall not be liable on any bonds of the authority and the bonds shall not be a debt of the state and each bond shall contain on its face a statement to such effect.

(h) To invest any funds not required for immediate use or disbursement, at its discretion, in obligations of the state or the United States, in obligations the principal and interest of which are guaranteed by the state or the United States or in certificates of deposit of any bank which is a member of the federal reserve system.

(i) Subject to the provisions of any contract with the holders of its bonds, whenever it deems it necessary or desirable, to consent to the modification, with respect to security, rate of interest, time of payment of interest or principal, or any other term of any bond, mortgage, contract or agreement of any kind between the authority and any educational institution.

(j) To engage the services of private consultants for rendering professional and technical assistance and advice.

(k) To appoint officers, agents and employees, describe their duties and fix their compensation subject to the civil service laws of the state.

(l) To make rules necessary to carry out the purposes of this act.

(m) To solicit grants and contributions from any governmental authority and from the general public.

HISTORY: New 1969, p. 546, Act 295, Imd. Eff. Aug. 11.

390.925 Loans to educational institutions; requirements, amount.

Sec. 5. The authority may lend money to educational institutions for the acquisition or alteration of educational facilities. No educational loan shall be made unless the authority is reasonably satisfied that there will be made available to the institution from the loan and other sources all the funds that may be required to complete and pay for the acquisition or alteration of educational facilities; the facility will generate direct cash flow or saving in operation expenses sufficient to meet the principal and interest on the loan and the charges, if any, which may be prior thereto and is otherwise soundly financed; the facility is needed, will not result in any unnecessary duplication of existing facilities, has been well planned, and is consistent with an orderly development and provision of educational services in the area; the loan is secured by a mortgage of property of the educational institution including, in any event, the educational facility and the property so mortgaged has a fair market value, after deducting double the amount of any prior lien, equal to not less than 110% of the principal amount of the educational loan; and the loan shall not exceed the cost of the acquisition or alteration of the educational facility.

HISTORY: New 1969, p. 547, Act 295, Imd. Eff. Aug. 11.

390.926 Bonds; issuance; refunding; approval; authorization.

Sec. 6. (1) The authority may issue its bonds in such principal amount as it considers necessary to provide funds for achieving its purposes under this act including the making of educational loans, the payment of interest on bonds of the authority during construction, the establishment of reserves to secure such bonds and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The authority may issue refunding bonds whenever it deems refunding expedient, whether the bonds to be refunded have or have not matured. The proceeds of any such refunding bonds shall be applied to the purchase, redemption or payment of the bonds refunded. Except as may otherwise be expressly provided in the resolution authorizing the bonds, every issue of bonds shall be general obligations of the authority to be satisfied out of any revenues or moneys or other property of the authority, subject to any agreement with the holders of particular bonds in support of which particular receipts, revenues, security for educational loans or other property of the authority has been pledged or mortgaged.

(2) Any bonds issued by the authority shall be approved by the municipal finance commission subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

(3) The bonds of the authority shall be authorized by resolution of its members, shall be serial bonds, shall bear such date and shall mature at such time or times, not exceeding 30 years from date of issue, as the resolution may provide.

HISTORY: New 1969, p. 547, Act 295, Imd. Eff. Aug. 11.

390.927 Pledge to bondholders.

Sec. 7. The state pledges and agrees with the holders of any bonds issued under this act, that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds.

HISTORY: New 1969, p. 547, Act 295, Imd. Eff. Aug. 11.

390.928 Bonds as investment.

Sec. 8. The bonds of the authority are securities, in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

HISTORY: New 1969, p. 548, Act 295, Imd. Eff. Aug. 11.

390.929 Funds; disposition; accounting system; audits.

Sec. 9. (1) All moneys of the authority, except as otherwise authorized or provided in this section, shall be paid to the state treasurer as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on warrants signed by the state treasurer on requisition of the chairman of the authority or of such other officer or employee as the authority shall authorize to make such requisition. All deposits of such moneys shall, if required by the state treasurer or the authority, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

(2) Notwithstanding the provisions of this section, the authority, subject to the approval of the state treasurer, may contract with the holders of any of its bonds, as to the custody, collection, securing, investment, and payment of any moneys of the authority, of any moneys held in trust or otherwise for the payment of bonds and carry out such contract. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to agreements with bondholders and the approval of the accounting division of the department of administration, the authority shall prescribe a system of accounts.

(4) The auditor general, or his legally authorized representative, from time to time shall examine the books and accounts of the authority including its receipts, disbursements, contracts, mortgages, loans and any other matters relating to its financial standing. Such an examination shall be conducted by the auditor general at least once every year. The auditor general is authorized to accept from the authority, in lieu of such an

examination, an external examination of its books and accounts made at the request of the authority.

HISTORY: New 1969, p. 548, Act 295, Imd. Eff. Aug. 11.

390.930 Tax exemption.

Sec. 10. The property of the authority and its income and operation shall be exempt from taxation.

HISTORY: New 1969, p. 548, Act 295, Imd. Eff. Aug. 11.

390.931 Bonds; negotiability; tax exemption.

Sec. 11. Bonds issued under this act shall be fully negotiable under Act No. 174 of the Public Acts of 1962, as amended, being sections 440.1101 to 440.9994 of the Compiled Laws of 1948, and the bonds and the interest thereon shall be exempt from all taxation by the state or any of its political subdivisions.

HISTORY: New 1969, p. 548, Act 295, Imd. Eff. Aug. 11.

390.932 Trustee; appointment; powers and duties.

Sec. 12. (1) If the authority defaults in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days, or if the authority fails or refuses to comply with the provisions of this act, or defaults in any agreement made with the holders of any issue of bonds, the holders of 25% in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Ingham and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(2) The trustee may, and upon written request of the holders of 25% in principal amount of such bonds then outstanding shall, in his own name, by action or proceeding, enforce all rights of the bondholders, including the right to require the authority to collect fees and charges and interest and amortization payments of mortgage loans made by it adequate to carry out any agreement as to or pledge of, such fees and charges and interest and amortization payments on such mortgages, and other properties and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this act; bring suit upon such bonds; by action, require the authority to account as if it were the trustee of an express trust for the holders of such bonds; by action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; declare all such bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 25% of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

(3) In addition, the holders of bonds and the trustee authorized above, shall have all of the rights to which they may be entitled by virtue of provisions included in the bonds, or otherwise available to them under law.

HISTORY: New 1969, p. 549, Act 295, Imd. Eff. Aug. 11.

390.933 Antidiscrimination covenant.

Sec. 13. The authority shall require that use of educational facilities assisted under this act shall be open to all regardless of race, religion, or creed, and that contractors and subcontractors engaged in the construction or alteration of such facilities shall provide an equal opportunity for employment, without discrimination as to race, religion or creed. The educational institution to which any educational loan is made shall covenant with the authority that the nondiscrimination provision shall be enforced.

HISTORY: New 1969, p. 549, Act 295, Imd. Eff. Aug. 11.

Act 233, 1964, p. 309; Imd. Eff. May 22.

AN ACT to establish a state higher education facilities commission and to prescribe its powers and duties.

The People of the State of Michigan enact:

390.941 State higher education facilities commission; members, terms, removal, vacancy, officers; chairman.

Sec. 1. The state higher education facilities commission is established consisting of 11 members, 9 of whom shall be appointed by the governor with the advice and consent of the senate as follows: 1 member representing public colleges and universities in the state, 1 member representing private colleges and universities in the state, 1 member representing public community colleges and junior colleges in the state, and 6 residents of the state who are interested in higher education but are not officially associated with any public or private university, college, community college or junior college in the state. The superintendent of public instruction and the state budget director shall be ex officio members without vote.

The term of office of the appointed members shall be 4 years and until his successor is appointed and qualified except that of the members first appointed, 3 each shall serve for 2, 3 and 4 years. A member may be removed in the manner provided for by law for removal of public officers. A vacancy shall be filled for the unexpired term in the same manner and for the same class as the original appointment. The governor shall designate one of the appointed members as chairman of the commission.

HISTORY: New 1964, p. 309, Act 233, Imd. Eff. May 22;—Am. 1967, p. 126, Act 101, Imd. Eff. Jun. 21.

CITED IN OTHER SECTIONS: Sections 390.941 to 390.948 are cited in §§ 16.407 and 390.923.

390.942 State higher education facilities commission; plan for participation in federal grant program.

Sec. 2. The commission shall prepare a state plan for participation in the grant program authorized by the higher education facilities act of 1963, as enacted by the congress of the United States, being Public Law 88-204, 88th Congress, 77 Statutes 363, and amendments thereto, shall submit the state plan to the federal commissioner of education in accordance with appropriate federal law, and shall be responsible for the administration of the plan.

HISTORY: New 1964, p. 309, Act 233, Imd. Eff. May 22.

390.943 State higher education facilities commission; expenditure of appropriations.

Sec. 3. The commission may take such action as is necessary to comply fully with the provisions of the higher education facilities act of 1963, and amendments thereto. This act shall not be construed as authorizing the commission to spend or incur any obligation to spend state funds in excess of any amount which may be appropriated for such purpose by the legislature.

HISTORY: New 1964, p. 310, Act 233, Imd. Eff. May 22.

390.944 State higher education facilities commission; rules and regulations, hearing; approval of eligible projects.

Sec. 4. The commission shall formulate such rules and regulations as are necessary for the administration of this act, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, including the filing of applications by public and private institutions of higher education within the state, for approval of eligible projects for the construction of academic facilities,

the determination of relative priorities for eligible projects submitted by public and private institutions of higher education within the state, and for determination of the federal share of the development cost of each such project to be recommended to the commissioner of education. The rules and regulations shall be adopted by the commission only after a public hearing with due notice to interested persons and after interested persons have had a reasonable opportunity to request and obtain copies of proposed rules and regulations prior to the public hearing.

HISTORY: New 1964, p. 310, Act 233, Imd. Eff. May 22.

390.945 State higher education facilities commission; applications for approval, priority, determination of federal share of cost.

Sec. 5. The commission, in accordance with rules and regulations promulgated by it, shall receive applications from public and private institutions of higher education in this state for approval of projects for the construction of academic facilities, shall determine the relative priority of eligible projects for the construction of academic facilities submitted by such institutions and shall determine the federal share of the development cost of each such project for recommendation to the commissioner of education.

HISTORY: New 1964, p. 310, Act 233, Imd. Eff. May 22.

390.946 State higher education facilities commission; hearing, eligibility of project, priority, determination as to federal grant.

Sec. 6. The commission, upon request of an applicant who has submitted to the commission a project, shall provide an opportunity for a fair hearing as to the eligibility of the project, the priority assigned to the project, the determination by the commission of the federal grant for the project, or any other determination of the commission affecting such applicant.

HISTORY: New 1964, p. 310, Act 233, Imd. Eff. May 22.

390.947 State higher education facilities commission; gifts.

Sec. 7. The commission may receive gifts, grants, bequests, devises, moneys or properties, real, personal or mixed, to carry out the purposes of this act.

HISTORY: New 1964, p. 310, Act 233, Imd. Eff. May 22.

390.948 State higher education facilities commission; annual report, contents.

Sec. 8. The commission shall make an annual report to the governor and to the legislature as to the administration of this act, which shall contain an explicit statement of the determination of the relative priority of each application and the determination of the federal share of the development cost of each project.

HISTORY: New 1964, p. 310, Act 233, Imd. Eff. May 22.

Act 77, 1960, p. 70; Imd. Eff. Apr. 25.

AN ACT to create the Michigan higher education assistance authority and to prescribe its powers and duties; to authorize persons, corporations and associations to make gifts to the authority; and to prescribe the powers and duties of the state banking commissioner.

The People of the State of Michigan enact:

390.951 Michigan higher education assistance authority; creation.

Sec. 1. There is hereby created a nonprofit authority as an agency and instrumentality of the state of Michigan, to be known as the "Michigan higher education assistance

authority". The authority may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity.

HISTORY: New 1980, p. 70, Act 77, Imd. Eff. Apr. 25.

CITED IN OTHER SECTIONS: Sections 390.951 to 390.980 are cited in §§ 16.406, 390.972, and 390.992.

390.952 Higher education assistance authority; members, appointment.

Sec. 2. The authority shall consist of the superintendent of public instruction, ex officio, who shall be chairman, 2 representatives from private colleges located within this state, 1 representative from community colleges located within this state, 1 representative each from the university of Michigan, Michigan state university and Wayne state university, 3 representatives from all other state-supported 4-year colleges and universities within the state, 1 representative from the secondary schools of the state, 1 representative from an eligible lending institution of the state, and 3 representatives from the citizens of the state chosen for their interest in higher education but not employed by, professionally affiliated with, or on the governing body of any college, university or public high school of this state, to be appointed by the governor with the advice and consent of the senate.

HISTORY: New 1980, p. 70, Act 77, Imd. Eff. Apr. 25;—Am. 1964, p. 289, Act 218, Imd. Eff. May 22;—Am. 1968, p. 51, Act 42, E. Nov. 15.

390.953 Higher education assistance authority; term of office, removal.

Sec. 3. The terms of office of the members of the authority shall be 4 years, and they shall hold office until the appointment and qualification of their successors, except that the original members shall be appointed in such manner as to provide for the expiration each year of the terms of one-fourth of the members. The governor may remove any member for misfeasance, malfeasance or nonfeasance in office, after hearing.

HISTORY: New 1980, p. 70, Act 77, Imd. Eff. Apr. 25.

390.954 Higher education assistance authority; vacancies, appointment, removal.

Sec. 4. The governor shall fill any vacancy for the balance of the unexpired term by the appointment of a person with the same status as the predecessor of the appointee. The governor may remove any appointee for misfeasance, malfeasance or nonfeasance in office, after hearing.

HISTORY: New 1980, p. 70, Act 77, Imd. Eff. Apr. 25.

390.955 Higher education assistance authority; quorum; rules and regulations; employees.

Sec. 5. A quorum for the transaction of business shall consist of 6 members of the authority, and such quorum may bind the authority. The authority shall make all necessary and appropriate rules and regulations for the orderly carrying on of its affairs, subject to the approval of the state administrative board, and may employ such personnel as it deems advisable and fix the compensation therefor.

HISTORY: New 1980, p. 70, Act 77, Imd. Eff. Apr. 25.

390.956 Higher education assistance authority; compensation, expenses.

Sec. 6. No member of the authority shall receive any compensation for his services, but the authority may reimburse each member for expenses necessarily incurred in the performance of his duties.

HISTORY: New 1980, p. 70, Act 77, Imd. Eff. Apr. 25.

390.957 State department of education; powers.

Sec. 7. The state department of education may:

(a) Guarantee 100% of the principal of any loan of money, upon such terms and conditions as it shall prescribe, to persons attending or those having been accepted to at-

tend eligible post-secondary educational institutions to assist them in meeting their expenses of post-secondary education incurred in any one academic year.

(b) Take, hold and administer, real, personal or mixed property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of this act. It may acquire property for such purpose by purchase or lease and by the acceptance of gifts, grants, bequests, devises or moneys or loans. No obligation incurred under this act shall be a debt of the state.

(c) Enter into contracts with eligible lending institutions, upon such terms as may be agreed upon between it and the lending institution, to provide for the administration by the institutions of any loan, or guarantee of a loan, made by it, including applications therefor and repayment thereof.

(d) Enter into an agreement with a group life insurance carrier to insure each student receiving a guaranteed loan under the program.

(e) Require students receiving a guaranteed loan to remit a fee which may include the payment of a group life insurance premium.

(f) Receive state appropriations for the guaranty fund of the loan program to be used to match deposits and to accept contributions received by it for this purpose.

(g) Administer a state scholarship program according to the law, and rules promulgated by it.

(h) Administer an undergraduate scholar awards program according to the law, and rules promulgated by it.

(i) Receive funds from the federal government to assist in implementing federally supported programs administered under this act.

(j) Administer an incentive awards program according to rules promulgated by it.

HISTORY: New 1960, p. 71, Act 77, Imd. Eff. Apr. 25;—Am. 1964, p. 289, Act 218, Imd. Eff. May 22;—Am. 1965, p. 470, Act 276, Imd. Eff. Jul. 21;—Am. 1966, p. 83, Act 60, Imd. Eff. Jun. 9;—Am. 1968, p. 81, Act 42, Eff. Nov. 15;—Am. 1969, p. 557, Act 302, Imd. Eff. Aug. 11.

390.958 Higher education assistance authority; loans to minors.

Sec. 8. Any person otherwise qualifying for a loan shall not be disqualified to receive a loan guaranteed by the authority by reason of his being under the age of 21 years. For the purpose of applying for, receiving and repaying a loan, any person shall be deemed to have full legal capacity to act and shall have all the rights, powers, privileges and obligations of a person of full age with respect thereto.

HISTORY: New 1960, p. 71, Act 77, Imd. Eff. Apr. 25.

390.959 Higher education assistance authority; gift tax, deductible.

Sec. 9. Notwithstanding the provisions of any general or special law or the provisions of any certificate of incorporation, charter or other articles of organization, all domestic corporations or associations organized for the purpose of carrying on business in this state, and any person, may make contributions or gifts, grants, bequests, devises or loans to the authority. The value of gifts, grants, bequests, devises and all contributions shall be allowed as deductions in computing the net taxable income of any person, corporation or association for purposes of any income or franchise tax imposed by the state or any political subdivision thereof.

HISTORY: New 1960, p. 71, Act 77, Imd. Eff. Apr. 25.

390.960 Higher education assistance authority; supervision and examination by state banking commissioner.

Sec. 10. The authority shall be subject to the supervision and examination of the state banking commissioner, but shall not be deemed to be a banking organization nor

required to pay a fee for supervision or examination. The authority shall make an annual report of its condition to the governor and the legislature within 60 days after the legislature convenes.

HISTORY: New 1960, p. 71, Act 77, Imd. Eff. Apr. 25.

Act 208, 1964, p. 277; Imd. Eff. May 22.

AN ACT to grant scholarships to students enrolled in institutions of higher learning, and to provide for the appropriation of money from the state general fund in furtherance of this objective.

The People of the State of Michigan enact:

390.971 State competitive scholarships; establishment of program.

Sec. 1. There are created state competitive scholarships which are established by the state to foster the pursuit of higher education and awarded to students showing promise of satisfactory completion of undergraduate higher education study through competitive examinations and a continued satisfactory academic record in a course of study leading to a degree in a college or university in the state of Michigan.

HISTORY: New 1964, p. 277, Act 208, Imd. Eff. May 22.

CITED IN OTHER SECTIONS: Sections 390.971 to 390.980 are cited in § 390.980a.

390.972 State competitive scholarships; administration of program.

Sec. 2. The administration of this scholarship program shall rest with the higher education assistance authority created by Act No. 77 of the Public Acts of 1960, being sections 390.951 to 390.960 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 277, Act 208, Imd. Eff. May 22.

390.973 State competitive scholarships; examinations; certificates of recognition; rules and regulations.

Sec. 3. The authority shall conduct a competitive examination among eligible applicants for state competitive scholarships at such times and places as shall be determined by the authority. The authority may designate a competitive examination to be administered among eligible applicants for state competitive scholarships. On the basis of the examination, the authority shall select the applicants evidencing the most promise of successfully completing undergraduate work in courses of study in colleges or universities leading to degrees, and shall award scholarships to the successful applicants. The authority may also use scholastic achievement in determining award winners. The authority shall issue appropriate certificates of recognition to persons awarded scholarships. The authority shall grant annual renewal of scholarships. The conduct of examinations for the award of scholarships and the procedures for award of annual renewal scholarships shall be in accord with rules and regulations promulgated by the authority in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 277, Act 208, Imd. Eff. May 22;—Am. 1966, p. 124, Act 103, Imd. Eff. Jun. 22.

390.974 State competitive scholarships; eligibility of applicants.

Sec. 4. An applicant is eligible for the award of a first-year scholarship when the authority finds:

- (a) He has been a continuous resident of Michigan for the preceding 18 months.
- (b) He is a person of good moral character.

(c) He has graduated from a high school, or he is a student in good standing in a high school who will graduate at the end of the academic year.

(d) Based upon his state competitive scholarship examination he shows promise of satisfactorily completing undergraduate work leading to a degree at a college or university of his choice in the state.

(e) He has complied with all the provisions of this act and the rules and regulations adopted by the authority.

HISTORY: New 1964, p. 278, Act 206, Imd. Eff. May 22;—Am. 1966, p. 165, Act 141, Imd. Eff. Jun. 24.

390.975 State competitive scholarships; first-year scholarships, award, renewal; residual scholarships, award.

Sec. 5. (1) There shall be awarded for each academic year such first-year scholarships as may be financed through moneys available. Of this number not less than 3 scholarships shall be awarded to residents of each legislative district and the balance of the scholarships shall be awarded to residents of the state at large. Each scholarship shall be renewed by the authority upon application of the student awarded the first-year scholarship without further examination upon a finding of the authority that the applicant has successfully completed his academic work for the preceding academic year; that he remains a resident of this state; and his financial resources are such as to warrant the renewal of his scholarship. A scholarship may be renewed until completion of the first 4 years of higher education, but no student shall be awarded scholarships for more than 8 semesters or 12 quarter terms of study.

(2) Residual scholarships shall be awarded to original applicants from the same graduation class who qualified for state scholarships, according to rules promulgated by the authority, when initial scholarship winners subsequently relinquish their awards.

HISTORY: New 1964, p. 278, Act 206, Imd. Eff. May 22;—Am. 1966, p. 125, Act 103, Imd. Eff. Jun. 22;—Am. 1970, p. 152, Act 65, Imd. Eff. Jul. 10.

390.975a State competitive scholarships; award of honorary scholarships, publication of names.

Sec. 5a. The authority may award honorary scholarship certificates to those applicants who would otherwise be eligible for a scholarship under this act but because of the lack of financial need are not eligible for a monetary scholarship. The names of the recipients of such awards shall be published the same as the names of the winners of monetary scholarships.

HISTORY: Add. 1966, p. 211, Act 196, Imd. Eff. Jul. 1.

390.976 State competitive scholarships; determination of amounts.

Sec. 6. Each first-year scholarship is for a period of 1 academic year and the scholarship award shall not exceed \$800.00 for tuition and fees for the full academic year assessed by the college or university in which the applicant is enrolled, or such amount as the authority finds appropriate in relation to the applicant's own financial resources other than wages that may be due the applicant for part-time work performed by the applicant during the academic year, whichever is the smallest. For the purposes of determining the dollar amount of the scholarship, the financial resources of the applicant shall include the cash or equivalent resources of his father and mother available for the higher education of the applicant, in accordance with rules and regulations adopted by the authority.

HISTORY: New 1964, p. 278, Act 206, Imd. Eff. May 22;—Am. 1966, p. 165, Act 141, Imd. Eff. Jun. 24.

390.977 State competitive scholarships; choice of college or university; enrollment; notice to authority.

Sec. 7. An applicant awarded a first-year scholarship or a renewal scholarship shall not be restricted in the choice of the college or university in this state which he desires to attend or the course of study he wishes to pursue, if the college or university offers

academic work leading to a degree, or at least a minimum 2-year program at a community or junior college and is approved by the department of education. A college or university chosen by the applicant shall not be required to accept the applicant for enrollment, or once having admitted him, to continue his enrollment. The college or university accepting the enrollment of a state competitive scholarship award winner shall notify the authority of his enrollment and shall make periodic reports of his academic progress in accordance with rules and regulations promulgated by the authority. If the applicant for any reason, ceases to be regularly enrolled in the institution, or a student in good standing, prompt notice thereof shall be given to the authority by the college or university.

HISTORY: New 1964, p. 278, Act 208, Imd. Eff. May 22;—Am. 1965, p. 238, Act 153, Imd. Eff. Jul. 12.

390.978 State competitive scholarships; award.

Sec. 8. State competitive scholarships shall be awarded by the authority on the basis of merit and without regard to race, religion, color or national origin.

HISTORY: New 1964, p. 279, Act 208, Imd. Eff. May 22.

390.979 State competitive scholarships; reports required; certificate of applicant; award checks, optional payments.

Sec. 9. The authority by appropriate rules and regulations shall prescribe the reports to be made by the applicants awarded state competitive scholarships or annual renewal scholarships and the institutions of higher learning enrolling the applicants. Before payment of a state competitive scholarship or annual renewal scholarship is made to the applicant, he shall certify in writing the name of the college or university in which he is enrolled and his intent to use the scholarship to pay for the tuition and fees to such college or university. The authority has the option of sending scholarship award checks directly to the applicant or directly to the college or university that the applicant designates in his name and for his use.

HISTORY: New 1964, p. 279, Act 208, Imd. Eff. May 22;—Am. 1966, p. 125, Act 103, Imd. Eff. Jun. 22.

390.980 Higher education assistance authority; acceptance of gifts, annual reports.

Sec. 10. The authority may accept gifts, grants, bequests, donations and devises, from whatever sources, of real, personal or mixed property and moneys for the purposes described in this act. The authority shall prepare an annual report of all gifts, grants, bequests, donations and devises for the governor and the legislature.

HISTORY: New 1964, p. 279, Act 208, Imd. Eff. May 22.

Act 313, 1966, p. 554; Eff. Aug. 1.

AN ACT to award tuition grants to full-time resident students enrolled in private, nonprofit institutions of higher learning; and to make an appropriation therefor.

The People of the State of Michigan enact:

390.991 Tuition grants; students in private, non-profit colleges or universities.

Sec. 1. Tuition grants are established by the state to foster the pursuit of higher education by full-time resident students enrolled in private, nonprofit colleges or universities in the state, which have filed with the board of education a certificate of assurance

of compliance with title VI of the civil rights act of 1964 (P.L. 88-352) as in effect on January 1, 1966, whose instructional programs are not comprised solely of instructional programs in sectarian instruction or religious worship and which are otherwise approved by the state board of education.

HISTORY: New 1966, p. 554, Act 313, Eff. Aug. 1.

390.992 Tuition grants; administration; availability.

Sec. 2. The higher education assistance authority created by Act No. 77 of the Public Acts of 1960, as amended, being sections 390.951 to 390.960 of the Compiled Laws of 1948, shall administer the grants which shall be available to each eligible full time resident student registered as a freshman after August 1, 1966; as a freshman or sophomore after August 1, 1967; as a freshman, sophomore or junior after August 1, 1968; as a freshman, sophomore, junior or senior after August 1, 1969 and as a freshman, sophomore, junior, senior or graduate student after August 1, 1970 and if otherwise eligible.

HISTORY: New 1966, p. 554, Act 313, Eff. Aug. 1.

390.993 Tuition grants; private colleges; application; qualification, eligibility; grants.

Sec. 3. Upon application of any eligible full-time resident student, who is a person of good moral character, and has resided in the state continuously for the preceding 18 months and who is registered in a private, nonprofit college or university in this state, which has filed with the state board of education a certificate of assurance of compliance with title VI of the civil rights act of 1964 (P.L. 88-352) as in effect on January 1, 1966, whose instructional programs are not comprised solely of sectarian instruction or religious worship and which are otherwise approved by the state board of education, the state shall grant an amount as provided for in this act for each semester of attendance. No student shall be eligible for a grant for tuition and fees for more than 8 semesters of undergraduate education, or its equivalent in trimesters, and in not more than 6 semesters of graduate education, or its equivalent in trimesters.

HISTORY: New 1966, p. 554, Act 313, Eff. Aug. 1;—Am. 1968, p. 646, Act 339, Eff. Nov. 1.

390.993a Tuition grants; eligibility, state competitive scholarship examination.

Sec. 3a. Applicants for a tuition grant to be eligible for a first semester freshman award shall compete in the state competitive scholarship examination established under the provisions of Act No. 208 of the Public Acts of 1964, as amended, being sections 390.971 to 390.980 of the Compiled Laws of 1948. The applicant's examination score shall not affect eligibility for a grant as provided in section 4 (3) of this act.

HISTORY: Add. 1968, p. 647, Act 339, Eff. Nov. 1.

390.994 Tuition grants; amount, determination.

Sec. 4. (1) The amount of the grant to be paid for each semester, or trimester, shall be determined by the higher education assistance authority based upon an evaluation of the family's financial resources. In determining financial resources the authority shall use the same criteria as used in Act No. 208 of the Public Acts of 1964. Such evaluation shall make allowance for other members of the applicant's family enrolled in an approved institution of higher education.

(2) No grant shall be made under this act to any student who is enrolled in a course of study leading to a degree in theology, divinity or religious education or who is a religious aspirant.

(3) In order to be eligible for the tuition grant provided by this act the student shall be enrolled in a college or university which levies a tuition in excess of \$240.00 per semester or its equivalent for undergraduate students. Graduate students to be eligible

for this act shall be enrolled in a college or university which levies a tuition in excess of \$350.00 per semester or its equivalent.

HISTORY: New 1966, p. 554, Act 313, Eff. Aug. 1;—Am. 1968, p. 647, Act 339, Eff. Nov. 1.

390.995 Tuition grants; maximum.

Sec. 5. Each tuition grant shall not exceed \$800.00 for tuition and fees for the full academic year as reported by the college or university in which the applicant is enrolled, or such amount as the authority finds appropriate in relation to the family's financial resources, whichever is the lesser.

HISTORY: New 1966, p. 555, Act 313, Eff. Aug. 1;—Am. 1968, p. 647, Act 339, Eff. Nov. 1.

390.996 Rules and regulations.

Sec. 6. The higher education assistance authority shall prescribe rules and regulations to carry out the provisions of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 555, Act 313, Eff. Aug. 1.

390.997 Tuition grants; adjustment for other scholarships.

Sec. 7. An adjustment shall be made in the tuition grant of any student receiving a state competitive scholarship under the provisions of Act No. 208 of the Public Acts of 1964, as amended, or of any student awarded a scholarship from any other source to a private, nonprofit institution of higher learning, for the full cost of tuition and fees. If the scholarship is for only a portion of tuition and fees of the private, nonprofit institution of higher learning, the student may qualify for a proportionate tuition grant in accordance with the provisions of this act.

HISTORY: New 1966, p. 555, Act 313, Eff. Aug. 1;—Am. 1968, p. 647, Act 339, Eff. Nov. 1.

390.998, 390.999 Repealed. 1968, p. 647, Act 339, Eff. Nov. 1.

Sections provided appropriation from general fund to department of education for tuition grants and gave effective date.

Act 219, 1969, p. 398; Eff. Mar. 20, 1970.

AN ACT to provide for payment to accredited, nonpublic schools of dentistry, located within the state, for completed dental training of Michigan residents; and to provide for an appropriation.

The People of the State of Michigan enact:

390.1001 Nonpublic school of dentistry; state payments; amounts.

Sec. 1. The state shall pay annually upon application therefor to each accredited nonpublic school of dentistry located within the state the sum of \$2,400.00 for each doctor of dental surgery degree, or doctor of dental medicine, earned by a Michigan resident.

HISTORY: New 1969, p. 396, Act 219, Eff. Mar. 20, 1970.

390.1002 Michigan resident; definition.

Sec. 2. For the purpose of this act, a Michigan resident shall be defined as one who was a resident of the state at the time of his graduation from high school.

HISTORY: New 1969, p. 396, Act 219, Eff. Mar. 20, 1970.

390.1003 Appropriation; expiration date.

Sec. 3. There is appropriated for the fiscal year ending June 30, 1970, the sum of \$150,000.00 for the purpose of making the payments provided for under this act. This act shall expire July 1, 1974.

HISTORY: New 1969, p. 398, Act 219, Eff. Mar. 20, 1970.

Act 232, 1962, p. 527; Imd. Eff. Jul. 12.

AN ACT to make appropriations for various state institutions, departments, commissions, boards and certain other purposes relating to education for the fiscal year ending June 30, 1963; to provide for the expenditure of such appropriations; and to provide for the disposition of fees and other income received by the various state agencies.

The People of the State of Michigan enact:

390.1015 Institutions of higher education; statistics included in budget requests.

Sec. 15. Institutions of higher education shall furnish actual statistics reflecting full time equated students for each semester or term including summer school for the preceding fiscal year. Each budget request and the budget submitted to the legislature by the governor shall contain the number of on campus and off campus students on a full time equated basis, as defined by a majority of the council of college presidents in the following groups: freshmen and sophomores, juniors and seniors, graduate and professional students. Each budget shall also set forth by term or semester and summer school the total credit hours, the approximate cost and the portion of the total cost contributed by the student for each group, and all other information pertinent to determination of appropriations for the colleges and universities.

HISTORY: New 1962, p. 534, Act 232, Imd. Eff. Jul. 12.

390.1016 Michigan state university; industries and labor relations center.

Sec. 16. Recognizing the board of trustees of Michigan state university of agriculture and applied science as having general supervision of Michigan state university and the direction and control of its funds; nevertheless, as a condition of appropriating funds to the university under this act, no portion of such appropriation shall be used to maintain or continue the industries and labor relations center or any center or school of a similar nature.

HISTORY: New 1962, p. 534, Act 232, Imd. Eff. Jul. 12.

390.1017 Michigan state university; medical education program.

Sec. 17. It is the intention of the legislature that the board of trustees of Michigan state university not establish a medical education program beyond a 2-year program in human biology leading toward either a Ph.D. or an M.D. degree unless authorized by the legislature.

HISTORY: New 1962, p. 534, Act 232, Imd. Eff. Jul. 12.

Act 176, 1963, p. 247; Imd. Eff. May 14.

AN ACT to make appropriations for various state institutions, departments, commissions, boards and certain other purposes relating to education for the fiscal year ending June 30, 1964; to provide for the expenditure of such appropriations; and to provide for the disposition of fees and other income received by various state agencies.

The People of the State of Michigan enact:

390.1034 Institutions of higher education; statistics included in budget requests.

Sec. 14. Institutions of higher education shall furnish actual statistics reflecting full time equated students for each semester or term including summer school for the preceding fiscal year. Each budget request and the budget submitted to the legislature by the governor shall contain the number of on campus and off campus students on a full time equated basis, as defined by a majority of the council of college presidents in the following groups: freshmen and sophomores, juniors and seniors, graduate and professional students. Each budget shall also set forth by term or semester and summer school the total credit hours, the approximate cost and the portion of the total cost contributed by the student for each group, and all other information pertinent to determination of appropriations for the colleges and universities.

HISTORY: New 1963, p. 254, Act 176, Imd. Eff. May 14.

Act 259, 1964, p. 396; Imd. Eff. Jun. 1.

AN ACT to make appropriations for various state institutions, departments, commissions, boards and certain other purposes relating to education for the fiscal year ending June 30, 1965; to provide for the expenditure of such appropriations; and to provide for the disposition of fees and other income received by various state agencies.

The People of the State of Michigan enact:

390.1054 Institutions of higher education; statistics included in budget requests.

Sec. 14. Institutions of higher education shall furnish actual statistics reflecting full time equated students for each semester or term including summer school for the preceding fiscal year. Each budget request and the budget submitted to the legislature by the governor shall contain the number of on campus and off campus students on a full time equated basis, as defined by a majority of the council of college presidents in the following groups: freshmen and sophomores, juniors and seniors, graduate and professional students. Each budget shall also set forth by term or semester and summer school the total credit hours, the approximate cost and the portion of the total cost contributed by the student for each group, and all other information pertinent to determination of appropriations for the colleges and universities.

HISTORY: New 1964, p. 403, Act 259, Imd. Eff. Jun. 1.

Act 42, 1963 (2nd Ex. Ses.), p. 56; Imd. Eff. Dec. 27.

AN ACT to provide for the submission of accounts to the legislature by state supported institutions of higher education.

The People of the State of Michigan enact:

390.1101 Institutions of higher education; accounting to legislature.

Sec. 1. The governing board of each state supported institution of higher education shall submit to the state legislature through the legislative auditor general, on or be-

fore November 1 of each year, an annual accounting in triplicate of all income and expenditures of the institution for its last preceding fiscal year, in accordance with procedures prescribed by the legislative auditor general.

HISTORY: New 1963, 2nd Ex. Ses., p. 56, Act 42, Imd. Eff. Dec. 27.

CHAPTER 393. EDUCATION—DEAF AND BLIND

STATE BOARD OF EDUCATION

Act 263 of 1937

393.1 State institute commission; transfer of powers and duties relative to school for blind and school for deaf to state board of education; superintendents, employees, assistants.

393.2 State institute commission; transfer of powers and duties relative to employment institution for blind to state department of public assistance; superintendent, employees, assistants.

393.3 State institute commission; transfer of records, files and papers to board of education.

PUBLIC SCHOOLS

Act 148 of 1917

393.21 State schools for the deaf and blind; public schools, object.

SCHOOL FOR DEAF

Act 116 of 1893

393.51 School for the deaf; continuation.

393.52-393.58 Repealed.

393.59 School for deaf; board of trustees, report to governor, contents.

393.60 School for deaf; annual inventory, certification, filing, publication.

393.61 School for deaf; accounts.

393.62 School for deaf; current expenses, authority to draw.

393.63 School for deaf; money drawn considered an advance.

393.64 School for deaf; compensation.

393.65 School for deaf; pupils, eligibility; treatment; transportation; non-residents.

393.66 Deaf and dumb persons; assistance.

393.67 Deaf and dumb; education of public charges at school for deaf.

393.68 Deaf and dumb; suitable clothing, necessities, expenses.

393.69 Superintendents of poor; expenses, payment.

SCHOOL FOR BLIND

Act 123 of 1893

393.101 School for blind; maintenance.

393.102, 393.103 Repealed.

393.104 School for blind; object, education of pupils.

393.105 School for blind; pupils, eligibility.

393.106 School for blind; pupils, non-residents.

393.107 School for blind; pupils, period of residence at school, dismissal, transfer.

393.108 County charges; superintendents of poor, duties; expenses.

393.109 Blind persons; statistical information; duty of census enumerator. Enumerator's list; report by superintendent of public instruction.

Duty to send to school for blind, exceptions.

Enforcement of attendance at school.

Transportation for pupils and parents.

Penalty; act applicable.

393.110 Indigent blind persons; clothing, necessities.

393.111 School for blind; board of control, biennial reports, contents.

EMPLOYMENT INSTITUTION FOR BLIND

Act 169 of 1903

393.201-393.216 Repealed.

EMPLOYMENT SERVICE

Act 226 of 1925

393.241, 393.242 Repealed.

MICHIGAN INDUSTRIES FOR BLIND

Act 140 of 1911

393.251 Michigan industries for blind; purpose.

393.252 Blind person; definition.

Same; eligibility for admission, application.

393.253 Blind employees; state employees.

393.254 Social welfare commission; standards, compensation, charges, rules and regulations.

393.255 Revolving industrial fund for blind; renewal, expenditures, preferred claims.

393.256 Revolving industrial fund for blind; collections; disbursements; expenditure of excess.

393.257 Rehabilitation services; state department of social welfare, powers.

393.258 Rehabilitation services; state department of social welfare, cooperation with federal government.

BLIND, CONCESSIONS ON STATE PROPERTY

Act 14 of 1939

393.271 Blind persons; concessions on state property; nondiscrimination; building plans.

393.272 Blind persons; exceptions of act.

393.273 Blind persons; qualifications; definition.

393.274 Concession; definition.

393.275 Concession; limitation.

393.276 Construction of act as to certain contracts or leases.

BLIND-MADE PRODUCTS

Act 273 of 1941

393.291-393.294 Repealed.

IDENTIFICATION CARDS FOR BLIND PERSONS

Act 95 of 1967

393.301 Legally blind persons; identification card; issuance.

393.302 Identification cards; contents.

393.303 Fee; deposit.

SPECIAL EDUCATION PROGRAMS FOR

HANDICAPPED CHILDREN

Act 18 of 1954

393.401-393.420 Repealed.

Act 263, 1937, p. 477; Imd. Eff. Jul. 22.

AN ACT to abolish the state institute commission, and to provide for the transfer of the powers and duties thereof to certain boards and departments; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

393.1 State institute commission; transfer of powers and duties relative to school for blind and school for deaf to state board of education; superintendents, employees, assistants.

Sec. 1. The powers and duties relating to the Michigan school for the deaf, at Flint, and the Michigan school for the blind, at Lansing, which are now vested by law in the state institute commission within the state welfare department by Act No. 163 of the Public Acts of 1921, as a successor to the boards of trustees of said institutions, are hereby transferred to and vested in the state board of education. The following institutions are hereby placed under the jurisdiction and control of the said state board of education, namely:

The Michigan school for the deaf, at Flint;

The Michigan school for the blind, at Lansing.

The state board of education on the effective date of this act, shall be the legal successor to all powers, duties and responsibilities of the state institute commission with respect to such institutions. The superintendents of the said several institutions shall be appointed by the state board of education, and the said superintendents shall employ all assistants and employees of said institutions.

HISTORY: CL 1948, 393.1.

NOTE: Act 163, 1921, above referred to, has been repealed and superseded by Act 280, 1939, being Compilers' § 400.1 et seq.

393.2 State institute commission; transfer of powers and duties relative to employment institution for blind to state department of public assistance; superintendent, employees, assistants.

Sec. 2. The powers and duties relating to the Michigan employment institution for the blind, at Saginaw, which are now vested by law in the state institute commission within the state welfare department by Act No. 163 of the Public Acts of 1921, as a successor to the board of trustees of said institution, are hereby transferred to and vested in the state department of public assistance. The Michigan employment institution for the blind, at Saginaw, is hereby placed under the jurisdiction and control of the state department of public assistance. The state department of public assistance on the first day of January, 1938, shall be the legal successor to all the powers, duties and responsibilities of the state institute commission with respect to the Michigan institution for the blind, at Saginaw. The superintendent of said institution shall be appointed by the state public assistance commission. The said superintendent shall employ all assistants and employees of said institution.

HISTORY: CL 1948, 393.2.

NOTE: Powers vested in state department of social welfare, see Compilers' § 400.19.

393.3 State institute commission; transfer of records, files and papers to board of education.

Sec. 3. All records, files and other papers belonging to the state institute commission, the powers and duties of which are hereby transferred to the state board of education, insofar as the same applies to the powers and duties hereby transferred, shall be turned over to said board of education and shall be continued as a part of the records and files thereof.

All records, files and other papers belonging to the state institute commission, the powers and duties of which are hereby transferred to the state department of public assistance, insofar as the same applies to the powers and duties hereby transferred, shall be turned over to said state department of public assistance and shall be continued as a part of the records and files thereof.

HISTORY: CL 1948, 393.3.

LANDS: Exchange of certain in Flint, Act 197, 1923, CL 1929, 7990. Conveyance to city of Lansing of certain lands, Act 82, 1917, CL 1929, 7996.

LANDS: Exchange of certain in Flint, Act 197, 1923, CL 1929, 7990. Conveyance to city of Lansing of certain lands, Act 82, 1917, CL 1929, 7996.

Sec. 4. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Sec. 7, Act 163, 1921, CL 1929, 8165.

Act 148, 1917, p. 270; Eff. Aug. 10.

AN ACT declaring the Michigan school for the deaf and the Michigan school for the blind to be public schools.

The People of the State of Michigan enact:

393.21 State schools for the deaf and blind; public schools, object.

Sec. 1. The Michigan school for the deaf, located in the city of Flint in the county of Genesee, and the Michigan school for the blind, located in the city of Lansing in the county of Ingham, are hereby declared to be public schools of the state of Michigan. They shall have for their object the education of such of the children in the state as may not by reason of the impairment of their sense of hearing or their sense of sight be advantageously educated in other public schools of the state. Said schools shall not be regarded or classed as charitable institutions.

HISTORY: CL 1929, 8138;—CL 1948, 393.21.

SCHOOL FOR THE DEAF: See Compilers' § 393.51 et seq.

SCHOOL FOR THE BLIND: See Compilers' § 393.101 et seq.

Act 116, 1893, p. 164; Imd. Eff. May 26.

AN ACT to provide for the maintenance, management and control, of the Michigan school for the deaf, and to repeal all laws inconsistent herewith.

The People of the State of Michigan enact:

393.51 School for the deaf; continuation.

Sec. 1. That there shall continue to be maintained the institution located at Flint for educating the deaf and dumb, which shall be known as the Michigan school for the deaf.

HISTORY: CL 1897, 1890;—CL 1915, 1445;—CL 1929, 7957;—CL 1948, 393.51.

COMPILERS' NOTE: This institution is located at Flint.

FORMER ACTS: As to the education of deaf and dumb and blind, see Act 187, 1848; Acts 133 and 245, 1849; Acts 35 and 382, 1850; Act 80, 1853; Act 106, 1855; Acts 73 and 102, 1857; Act 188, 1865; Act 91, 1867; Act 111, 1873; Act 192, 1877; Act 250, 1879; Acts 7 and 233, 1881; Act 286, 1887; Act 169, 1891, which provided for a "central board of control to have the management of both institutions," with others. See note under How. 1836.

PUBLIC SCHOOL: Michigan school for deaf so declared, see Act 148 of 1917, being Compilers' § 393.21.

393.52-393.58 Repealed. 1964, p. 573, Act 287, Eff. Aug. 28.

Sections provided for board of trustees of school for the deaf and prescribed their method of appointment, terms, and powers and duties.

393.59 School for deaf; board of trustees, report to governor, contents.

Sec. 9. The board of trustees of said institution shall by the tenth day of September preceding the regular session of the legislature, make out and present to the governor a detailed statement of the operations of the institution for the 2 fiscal years closing on

the thirtieth day of the preceding June, which shall include the report of the superintendent for the same period, and a report of the treasurer for all receipts and disbursements made during the same period, which report shall be furnished the state printer for publication by the fifteenth day of September of the year when made. That such report shall show at the time of making the same, in detail, the number and names of the superintendent, officers, teachers, and all other regular employees, and the salary or wages paid to each and what, if any, other emoluments are allowed, and to whom.

HISTORY: CL 1897, 1998;—CL 1915, 1453;—CL 1929, 7905;—CL 1948, 393.58.

393.60 School for deaf; annual inventory, certification, filing, publication.

Sec. 10. The board of said institution shall cause a full and accurate inventory, in duplicate, to be taken at the close of each fiscal year next preceding the regular session of the legislature, by the officers in charge, which shall specify the number of acres of land and the value thereof, the number, kind, and value of buildings, the various kinds of personal property, and the value thereof, which inventory shall be signed by the officer making the same, and certified as correct by the board of trustees; 1 copy of which shall be made in a proper record book to be kept for that purpose in the institution, and the other shall be filed in the office of the auditor general on or before the first day of September of the year when made; and a summary of the inventory shall be published in the biennial report.

HISTORY: CL 1897, 1999;—CL 1915, 1454;—CL 1929, 7966;—CL 1948, 393.60.

393.61 School for deaf; accounts.

Sec. 11. The board of trustees shall, in proper books for that purpose, cause to be kept a regular account of all moneys received and disbursed, and the receipts from and expenditures for and on account of each department of business, or for the construction of buildings or the improvement of the premises; and the accounts shall be so kept as to show as near as practicable the cost of carrying on the farm and garden, and of the several shops or industries of said institution in all respects, as provided by section 4, Act 146, laws 1891.

HISTORY: CL 1897, 9000;—CL 1915, 1455;—CL 1929, 7967;—CL 1948, 393.61.

NOTE: Sec. 4 of Act 146 of 1891, above referred to, is Compilers' § 21.74.

393.62 School for deaf; current expenses, authority to draw.

Sec. 12. That the said board of trustees are hereby authorized to draw from the general fund of the state treasury, in the months of January, February and March, in the years in which the regular sessions of the legislature are held, such amount of money as shall be made to appear to the auditor general to be necessary to meet the current expenses of the institution during said months, which amount shall not exceed 1/4 the amount appropriated for the current expenses for said institution for the year preceding said regular session of the legislature.

HISTORY: CL 1897, 2001;—CL 1915, 1456;—CL 1929, 7968;—CL 1948, 393.62.

393.63 School for deaf; money drawn considered an advance.

Sec. 13. That the amounts so drawn shall be considered as an advance to the institution on any appropriation made by the legislature at its regular session for the year in which the appropriation is made, and shall be deducted therefrom and transferred to the general fund.

HISTORY: CL 1897, 2002;—CL 1915, 1457;—CL 1929, 7969;—CL 1948, 393.63.

393.64 School for deaf; compensation.

Sec. 14. The members of said board shall receive no compensation for their services under this act, except their traveling and other necessary official expenses, and the auditor general is hereby authorized and required to audit and allow the members of said board of trustees the expenses necessarily incurred by them in the discharge of their duties, upon their certifying the same to be correct, and draw his warrant upon the

treasury therefor. And it shall be the duty of the state treasurer to pay said warrants out of any moneys not otherwise appropriated, and charge the same to the general fund.

HISTORY: CL 1897, 2003;—CL 1915, 1458;—CL 1929, 7970;—CL 1948, 393.64.

393.65 School for deaf; pupils, eligibility; treatment; transportation; non-residents.

Sec. 15. There shall be received in said school, as pupils, all such deaf children and partially deaf children whose defective hearing prevents them from receiving instruction in the common schools, to remain not beyond 21 years of age, as are in suitable condition of body and mind to receive instruction, and who are residents of this state, or whose parents or guardians are residents of this state, without charge for tuition, boarding, lodging, or washing and without charge for such health services as may be established by the board of trustees: Provided, That any dependent child enrolled who is in need of surgery, medicines or medical attendance not available through the school's established program and for whom circumstances make such services impossible under any other act shall receive the necessary surgery and treatment at the school's expense: Provided further, The board of trustees may substitute transportation in lieu of boarding, lodging, washing and other similar resident-school-services for those children who live within a radius of 10 miles of the school and whose educational opportunities would not be jeopardized by such substitution: And provided further, The board of trustees may in their discretion admit persons over 21 years of age under such conditions as may be deemed appropriate; and the trustees may admit children from any other state, but in such cases shall fix a tuition fee that is sufficient to cover all necessary expenses.

HISTORY: CL 1897, 2004;—CL 1915, 1459;—CL 1929, 7971;—Am. 1939, p. 499, Act 269, Eff. Sept. 29;—Am. 1945, p. 246, Act 175, Imd. Eff. May 16;—CL 1948, 393.65.

393.66 Deaf and dumb persons; assistance.

Sec. 16. In cases where persons, residents of this state, who are deaf and dumb, but who, on account of their poverty, are unable to furnish themselves with suitable clothing and other necessities for attending school at the institution for the deaf and dumb, the board of trustees shall have discretionary power to render them such assistance, not exceeding 60 dollars per annum for each person, and for that purpose may issue a certificate to the auditor general, that such amount is necessary for the benefit of such individuals, who shall draw his warrant upon the state treasurer therefor; and any such sums are hereby appropriated and shall be paid out of any moneys in the general fund not otherwise appropriated and the auditor general shall charge all such as drawn to the county of which such a person is a resident, or to which he or she belongs, to be collected and returned to the general fund as any state taxes are required to be by law.

HISTORY: CL 1897, 2005;—CL 1915, 1460;—Am. 1919, Ex. Ses., p. 24, Act 13, Eff. Sept. 25;—CL 1929, 7972;—CL 1948, 393.66.

393.67 Deaf and dumb; education of public charges at school for deaf.

Sec. 17. The superintendents of the poor in each of the counties of this state in which there are or shall be hereafter, any person or persons of suitable age, who shall possess a good natural intellect, and a good moral character, and shall have no contagious disease, who shall be deaf and dumb or partially deaf and dumb, and who shall be, or shall become chargeable to said county, or to any township therein, shall cause any and all such persons to be taken to the Michigan school for the deaf, at the city of Flint, to be there educated as pupils in said institution in accordance with the rules and regulations thereof.

HISTORY: CL 1897, 2006;—CL 1915, 1461;—CL 1929, 7973;—CL 1948, 393.67.

393.68 Deaf and dumb; suitable clothing, necessities, expenses.

Sec. 18. Such superintendents of the poor in every case, before taking or sending any person to said institution, as provided in section 17 of this act shall see that such person is in a state of perfect bodily cleanliness, and comfortably and decently clothed, and provided with suitable changes of raiment; and they shall thereafter, during the years that such person shall continue a pupil in said institution, furnish him or her with such clothing and other articles of necessity and convenience as are, or may be by the rules and regulations of said institution, required to be furnished for pupils therein; and shall provide for the payment of necessary traveling and other expenses of such person in going to and from said institution and while remaining there; and if they shall allow such person to remain at said institution during the yearly vacation they shall pay for his or her board during such vacation. No pupil of such institution shall be returned to any poor house during such vacation.

HISTORY: CL 1897, 2007;—CL 1915, 1462;—CL 1929, 7974;—CL 1948, 393.68.

393.69 Superintendents of poor; expenses, payment.

Sec. 19. The expenses incurred by the superintendents of the poor of any county in carrying out the provisions of this act shall be paid as other necessary expenses incurred by them in the discharge of their official duties as are by law required to be paid.

HISTORY: CL 1897, 2006;—CL 1915, 1463;—CL 1929, 7975;—CL 1948, 393.69.

EXPENSES: Payment, see Compilers' § 402.5 subd. 7.

Sec. 20. (This was a repeal section.)

HISTORY: CL 1915, 1464;—CL 1929, 7976;—Rep. 1945, p. 403, Act 287, Imd. Eff. May 25.

Act 123, 1893, p. 198; Imd. Eff. May 26.

AN ACT to provide for the maintenance, supervision and government of the Michigan school for the blind, and to repeal all acts and parts of acts inconsistent herewith.

The People of the State of Michigan enact:

393.101 School for blind; maintenance.

Sec. 1. That there shall be maintained, at the city of Lansing in this state, an institution for the instruction of the blind under the name and style of the "Michigan school for the blind."

HISTORY: CL 1897, 2009;—CL 1915, 1468;—CL 1929, 7964. This act supersedes Act 250 of 1879, being How. 1856-76;—CL 1948, 393.101.

COMPILERS' NOTE: This institution is located at Lansing.

FORMER ACTS: For earlier legislation relative to the education of the deaf, dumb and blind, see note to Compilers' § 393.51.

SUPERINTENDENT OF PUBLIC INSTRUCTION: Supervision of instruction by, see Compilers' § 349.1.

PUBLIC SCHOOL: This institution was declared to be a public school by Act 148 of 1917, being Compilers' § 393.21.

393.102, 393.103 Repealed. 1964, p. 573, Act 287, Eff. Aug. 28.

Sections provided for board of control of school for blind and prescribed its powers and duties.

393.104 School for blind; object, education of pupils.

Sec. 4. The object of said school shall be to educate the blind and to afford them instruction in such useful arts and trades as they are best adapted to pursue, and such as will best enable them to maintain themselves. All pupils received in said school shall be educated in the branches usually taught in the common schools, in vocal and instrumental music, and in such other branches of learning as the board of control shall prescribe. They shall also receive instruction in such mechanical trades as said board shall prescribe, and shall have proper physical and moral training.

HISTORY: CL 1897, 2012;—CL 1915, 1471;—CL 1929, 7987;—CL 1948, 393.104.

OBJECT: See also Compilers' § 393.21.

393.105 School for blind; pupils, eligibility.

Sec. 5. There shall be received in said school as pupils all such blind persons and partially blind persons whose defective sight prevents their receiving instruction in the common schools, between the ages of 7 and 19 years, as are in suitable condition of body and mind to receive instruction, and who are residents of this state, and if minors whose parents or guardians are residents of this state, without charge for tuition, board, lodging, washing, medicine or medical attendance: Provided, The board of control may, in their discretion, admit persons under the age of 7 or over 19 years.

HISTORY: Am. 1897, p. 389, Act 258, Eff. Aug. 30;—CL 1897, 2013;—CL 1915, 1472;—CL 1929, 7988;—CL 1948, 393.105.

393.106 School for blind; pupils, non-residents.

Sec. 6. The board of control may admit applicants from other states to said school and prescribe the compensation to be paid by them, their parents or guardians: Provided, Such compensation shall be 10 per cent more than is sufficient to cover all their necessary expenses.

HISTORY: CL 1897, 2014;—CL 1915, 1473;—CL 1929, 7989;—CL 1948, 393.106.

393.107 School for blind; pupils, period of residence at school, dismissal, transfer.

Sec. 7. The period in which pupils shall be entitled to remain in said school shall be 12 years, or the board of control may, in cases where they deem it advisable, extend such time to 14 years. This section shall not be so construed as to prohibit the said board of control from dismissing any pupil within the such period for persistent disobedience, immoral conduct, or other sufficient cause, neither shall anything in this act operate to prohibit the transfer of any child over the age of 18 years to the Michigan employment institution for the blind upon consent granted by the board of control of the Michigan school for the blind, and whenever, in the discretion of said board, the transfer of any such child will be for its best interests or the best interests of the said Michigan school for the blind.

HISTORY: Am. 1897, p. 389, Act 258, Eff. Aug. 30;—CL 1897, 2015;—Am. 1907, p. 144, Act 116, Imd. Eff. May 28;—CL 1915, 1474;—CL 1929, 7990;—CL 1948, 393.107.

393.108 County charges; superintendents of poor, duties; expenses.

Sec. 8. It shall be the duty of the superintendents of the poor of the several counties of this state to send or cause to be sent to said school all such persons as are entitled to admission therein, who are a charge upon their respective counties or any township therein. Such superintendents of the poor shall, before sending any pupils to said school under the provisions of this section, cause them to be decently and comfortably clothed, and shall provide them with comfortable clothing while they remain at said school, and defray their traveling expenses in going to and returning from said institution, and provide them with such articles of necessity and convenience as are required by the rules and regulations of said school to be furnished by the pupils therein, and shall also pay the board of such pupils during the usual annual vacation, if they are permitted to remain at said institution during such vacation. All persons entitled to admission to said school who are not a charge upon any county, but who, on account of their poverty, are unable to furnish themselves with proper clothing and other articles required by the rules and regulations of said school, shall receive the same aid from the superintendents of the poor of their respective counties while attending said school as is provided in this section for those who are a county charge. All expenses incurred by the superintendents of the poor under this section shall be a proper charge against their respective counties and shall be defrayed out of the poor fund of such county.

HISTORY: CL 1897, 2016;—CL 1915, 1475;—CL 1929, 7991;—CL 1948, 393.108.

393.109 Blind persons; statistical information; duty of census enumerator.

Sec. 9. It shall be the duty of the secretary of state to make out and forward to the superintendent of the Michigan school for the blind, on or before the first day of November in each year, on blanks prepared for that purpose, a copy in detail of so much of the statistical information received by him by virtue of any law of this state as relates to the blind. It shall be the duty of each school census enumerator provided for in the general school laws of the state, within the district, ward, or portion thereof, allotted to him, to procure the name, age, residence, and the name and residence of the parents or guardians or persons in control or in charge of each blind child, and of each child whose vision is so defective as to make it impossible to properly educate such child in the public schools, between the ages of 7 and 19 years.

Enumerator's list; report by superintendent of public instruction.

(a) The said enumerators in addition to their duties now prescribed in the general school laws shall make a list of the names of all blind children, or children whose vision is so defective as to make it impossible to properly educate them in the public schools, together with the data herein authorized to be secured, which list shall be verified by oath or affirmation of the person taking such census, by affidavit appended thereto, or inserted thereon, setting forth that it is a correct list of the names of all the children herein designated, residing within the particular school district, ward, or portion thereof. Said affidavit may be made before the township clerk or any other officer authorized by law to take acknowledgments. Blanks for this purpose shall be furnished by the department of public instruction to the secretary of every school board within the state. The said list shall, after it has been properly verified, and within the time prescribed by the general school laws for the filing of census lists, be forwarded by the secretaries of the said school boards to the superintendent of public instruction and a copy thereof shall be filed with the proper officer of the township or city, as the case may be. The said superintendent of public instruction shall, immediately upon receipt of the various lists, prepare and tabulate a report containing the name, age and residence of each blind child, and each child whose vision is so defective as to make it impossible for it to be properly educated in the schools for the seeing within this state, together with the names and residences of the parents, guardian, or person having the control of any such child, which report shall be forwarded to the superintendent of the Michigan school for the blind.

Duty to send to school for blind, exceptions.

(b) It shall be the duty of every parent, guardian, or other person, having control or charge of any child or children in the state of Michigan, between the ages of 7 and 19 years who are blind, or whose vision is so defective as to make it impossible to have them properly educated in the schools for the seeing, to send such child, or children, to the Michigan school for the blind, to be received at that school in accordance with the provisions of the statute, and the rules and regulations which are or may be prescribed by the board of control of said school: Provided, That the parents, guardian or person having control of any such child shall not be required to send them to the Michigan school for the blind when they come within any 1 of the following classes:

- (1) Any child or children being educated in any private of parochial school;
- (2) Any child or children physically or mentally incompetent of being educated;
- (3) Any child or children over the age of 17 years who have been taught and are employed and are working at a trade;
- (4) Any child or children of the age of 18 years employed at the Michigan employment institution for the blind;

Enforcement of attendance at school.

(c) It shall be the duty of the superintendent of the Michigan school for the blind to furnish to the county commissioner of schools of every county, and to the secretary of the school board in every city or village, a list of the names of such children within such county, city or village, as come within the provisions of this act. Each truant officer shall, when notified by the board of control, or by the superintendent of the Michigan school for the blind, or by anyone appointed or designated by them, or by the county commissioner of schools, that there are within such village, city or county, as the case may be, children who come within the provisions of this act, investigate all such cases and report the conditions found to exist to the superintendent of the Michigan school for the blind and the commissioners of schools of the county. The superintendent of the Michigan school for the blind shall, upon receipt of such report from any truant officer, determine whether or not the children in question are included within the provisions of this act, and if in his judgment such children are included within the provisions of this act, and are not included within the exempted classes named herein, he shall notify the proper truant officer, who, upon receipt of such notice, shall take such steps against the parents, guardian or other person having charge or control of any such child or children, to enforce the provisions of this act, as are now prescribed in Act 200 of the Public Acts of 1905, as amended, relative to compulsory education under the general school law.

Transportation for pupils and parents.

(d) In case when such parent, guardian or other person, on account of indigent circumstances, are unable to furnish such child or children with transportation to and from such school, the board of trustees of the Michigan school for the blind shall provide such transportation each year, and the said board of trustees may include therewith transportation for such parent, guardian or other person to said school and return, when the child is under 12 years of age, and for that purpose may issue a certificate directed to the auditor general that said amount is necessary for the benefit of such individuals, who shall draw his warrant upon the state treasurer therefor, and any such sums are hereby appropriated, and shall be paid out of any moneys in the general fund, not otherwise appropriated, and the auditor general shall charge all such moneys, so drawn, to the county of which such parent, guardian or other person is a resident, or to which he or she shall belong, to be collected and returned to the general fund, the same as any state taxes are required to be by law.

Penalty; act applicable.

(e) Anyone refusing to comply with any of the provisions of this act, and any parent, guardian or other person who shall wilfully refuse to send any children coming within the provisions of this act and not herein expressly exempted, to the Michigan school for the blind, or who shall detain any such children who should be in attendance at said school, shall, upon conviction by any court of competent authority, be deemed guilty of a misdemeanor and shall be subject to such penalties as are prescribed in said Act 200 of the Public Acts of 1905 as amended for the violation of any of its provisions. All provisions of said Act 200 of the Public Acts of 1905 are made applicable hereto except in so far as they may be inconsistent herewith.

HISTORY: CL 1897, 2017;—Am. 1907, p. 144, Act 116, Imd. Eff. May 28;—CL 1915, 1476;—CL 1928, 7992;—CL 1948, 393,109.

NOTE: Act 200 of 1905, above referred to, relating to compulsory education, has been superseded and repealed by Act 319 of 1927. Pt. II, Ch. 17, being Compilers' repealed §§ 367.1 to 367.25. See § 340.731 et seq.

TAXATION: See Compilers' § 211.1 et seq.

393.110 Indigent blind persons; clothing, necessities.

Sec. 10. In all cases where persons, residents of this state, who are blind, but who, on account of poverty, are unable to furnish themselves with suitable clothing and other necessary expenses for attending school at the Michigan school for the blind, the

board of control shall have discretionary power to render them such assistance, not exceeding 50 dollars per annum for each person, and for that purpose may issue a certificate, directed to the auditor general, that such amount is necessary for the benefit of such individuals, who shall draw his warrant upon the state treasurer therefor; and any such sums as are hereby appropriated, shall be paid out of any moneys in the general fund not otherwise appropriated, and the auditor general shall charge all such moneys so drawn to the county of which such person is a resident, or to which he or she belongs, to be collected and returned to the general fund, as any state taxes are required to be by law.

HISTORY: CL 1897, 2018;—CL 1915, 1477;—CL 1929, 7993. This section supersedes Act 185 of 1881, being How. 1877;—CL 1897, 2020, which section was expressly repealed 1915, p. 406, Act 240, Eff. Aug. 24, CL 1929, 120;—CL 1948, 393.110.

TAXATION: See Compilers' § 211.1 et seq.

393.111 School for blind; board of control, biennial reports, contents.

Sec. 11. The board of control, together with the superintendent and other officers of said school, shall make a biennial report to the governor and legislature on or before the tenth day of November preceding the regular session of the legislature setting forth among other things, the progress, condition and needs of the several departments of the school, and a detailed account of the receipts and disbursements of the institution for the 2 fiscal years closing on the thirtieth day of the preceding June, in all respects as provided by Act 146, laws of 1891, with estimates of the amount needed for the support of the institution for the ensuing 2 years, and such other information relating to said institution as they may deem proper.

HISTORY: CL 1897, 2019;—CL 1915, 1478;—CL 1929, 7994;—CL 1948, 393.111.

NOTE: Act 146 of 1891, above referred to, amended Secs. 3-5 of Act 206 of 1881, being Compilers' repealed §§ 21.73 to 21.75.

Sec. 12. (This was a repeal section.)

HISTORY: CL 1915, 1479;—CL 1929, 7995;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

393.201-393.216 Repealed. 1959, p. 169, Act 137, Eff. Mar. 19, 1960.

Sections established Michigan employment institution for the blind and provided for its management.

393.241, 393.242 Repealed. 1959, p. 169, Act 137, Eff. Mar. 19, 1960.

Sections provided for management and expansion of activities of Michigan employment institution for the blind.

Act 140, 1911, p. 213; Imd. Eff. Apr. 25.

AN ACT continuing the Michigan employment institution for the blind as "Michigan Industries for the Blind" within the state department of social welfare; providing for the maintenance, expenditure, renewal and regulation of a revolving industrial fund for the blind; and providing for a rehabilitation and employment service for the blind. Am. 1959, p. 167, Act 137, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

393.251 Michigan industries for blind; purpose.

Sec. 1. Michigan industries for the blind, heretofore known as the Michigan employment institution for the blind, at Saginaw, and hereinafter referred to as the "industries", shall continue within the state department of social welfare, hereinafter referred to as the "department", under the supervision of the director. It is a prevocational training and industrial facility established and operated for the purpose of training and employing mature blind persons in manual arts and skills. It shall be an integral part of a comprehensive program within the department for the training and employment of blind persons 17 years of age and older.

HISTORY: Add. 1959, p. 167, Act 137, Eff. Mar. 19, 1960.

Original section 1 of Act 140 of 1911, p. 213 was an appropriation section and was repealed by Act 267 of 1945.

393.252 Blind person; definition.

Sec. 2. A blind person is one who has a visual acuity of 20/200 or less in the better eye with correction, or has a limitation of his field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees, as shall be determined by the department.

Same; eligibility for admission, application.

Any blind person 17 years of age or older who is in suitable physical and mental condition for instruction in trades for which instruction is available at the industries and which will in the opinion of the department serve to fit him to earn in whole or in part his own support, and also a blind person of the age of 14, 15 or 16 who in the opinion of the state superintendent of public instruction will receive benefit from such instruction, is eligible for admission. The application shall be made to the bureau of social aid in the county where the applicant resides and forwarded to the department in Lansing for decision.

HISTORY: Add. 1959, p. 167, Act 137, Eff. Mar. 19, 1960.

Original section 2 of Act 140 of 1911, p. 213 was an appropriation section and was repealed by Act 267 of 1945.

393.253 Blind employees; state employees.

Sec. 3. Whenever the department deems it necessary to do so in order to keep a continuous supply of products available to the sales outlets developed by the industries, the industries may avail itself of the services of trainees whose training has been completed and other blind persons to engage in manufacturing for their own support from the income of the revolving industrial fund for the blind established in section 5 of this act. The blind employees shall be deemed to be state employees for retirement purposes. Any trainee or employee may be dismissed from the industries for violation of rules or for any other reason deemed sufficient by the commission.

HISTORY: Add. 1959, p. 167, Act 137, Eff. Mar. 19, 1960.

Original section 3 of Act 140 of 1911, p. 213, was an appropriation section and was repealed by Act 267 of 1945.

393.254 Social welfare commission; standards, compensation, charges, rules and regulations.

Sec. 4. The social welfare commission shall prescribe the articles to be manufactured and the services to be rendered by the trainees and employees and the various kinds of machinery and tools to be used therein, the hours of labor to be required, the rates of compensation to be allowed them and the charges to be required of trainees and employees for room, board and other services. The commission shall make such other rules regarding admission and work standards of trainees and employees as appear to be of benefit in the proper operation of the industries. Room and board supplied employees shall be deemed to be provided as a convenience to the state in order that they may maintain regular hours at their work. No charge at all need be made to trainees unable to pay for any part of the services received.

HISTORY: Add. 1959, p. 168, Act 137, Eff. Mar. 19, 1960.

Original section 4 of Act 140 of 1911, p. 213, was an appropriation section and was repealed by Act 267 of 1945.

393.255 Revolving industrial fund for blind; renewal, expenditures, preferred claims.

Sec. 5. All sums derived from the sales of the wares manufactured in the industries, together with all lawful accessions and additions thereto as hereinafter provided, shall constitute a "revolving industrial fund for the blind", hereinafter called the revolving fund, which fund shall be continually renewed from the proceeds of all sales of wares manufactured by the industries and of raw materials supplied at cost to blind artisans trained therein, and from all sums collected or received for maintenance of trainees or employees or for service lawfully rendered for a stipulated price by the industries, and the fund shall be expended and disposed of for the purchase of raw materials for use in

the manufacture of brooms, whisks, rugs, chair seats, and other wares made by blind trainees or employees in the industries and for the purpose of handling, carrying and marketing the manufactured product of the industries until disposed of, and for the payment of remuneration earned by the blind trainees or employees, and for the employer's contributions for the employees in respect to federal insurance and the state employees' retirement system, and to provide for such other expenses as may be incurred under rules and regulations prescribed by the commission. All sums collected or received by the industries from trainees or employees in payment for food, lodging, laundry work, other domestic service, medicines and medical attendance, in accordance with the provisions of this act, shall be added, debited and transferred to and made a part of the revolving fund for the purchase of necessary raw materials and equipments and for the payment of remuneration earned by the blind trainees or employees and the other necessary operating expenses of the industries and the proper care, sale and delivery of the manufactured product thereof. When any of the wares produced by the labor of the blind trainees or employees shall be sold by the industries to any person, firm or corporation on credit, the claim of the state for the price thereof shall be a claim preferred against the property, money and effects of the debtor and shall have priority over the claims of all other creditors. The commission shall act as trustee of and shall keep intact the revolving fund except as otherwise herein provided. The state treasurer shall be the custodian of the fund and also of all rehabilitation funds for the blind received from the federal government or other source.

HISTORY: Am. 1913, p. 561, Act 296, Imd. Eff. May 13;—CL 1915, 1503;—CL 1929, 8020;—CL 1948, 393.255;—Am. 1959, p. 166, Act 137, Eff. Mar. 19, 1960.

393.256 Revolving industrial fund for blind; collections; disbursements; expenditure of excess.

Sec. 6. All moneys derived from the sale of the manufactured product of the industries shall be collected by the superintendent thereof, who shall pay the same into the state treasury or other depository and at such times and in such manner as shall be directed by the state treasurer to the credit of the revolving fund. It shall be the duty of the state treasurer to carry as a separate account upon the books of his office the revolving fund and all accounts and items pertaining thereto, which fund shall be used for the payment of the warrants drawn upon the revolving fund by the auditor general as required by the superintendent. When the revolving fund shall exceed the sum of \$10,000.00, the commission may use the excess, or as much thereof as shall be necessary, for the purchase of additional machinery, tools and implements as it deems necessary or for the construction and equipment of additions to the industries.

HISTORY: Add. 1913, p. 562, Act 296, Imd. Eff. May 13;—CL 1915, 1504;—CL 1929, 8021;—CL 1948, 393.256;—Am. 1959, p. 166, Act 137, Eff. Mar. 19, 1960.

393.257 Rehabilitation services; state department of social welfare, powers.

Sec. 7. Other rehabilitation services for blind persons shall be provided through the county bureaus of social aid and may include any education or other needed services including but not limited to diagnosis, guidance and counseling, rehabilitation training, medical services, transportation, maintenance, placement in employment, and training books and materials found by the department to be necessary to compensate a blind individual for his handicap, or to enable him to engage in a suitable occupation. In carrying out the purposes of this section the department may:

(a) Cooperate with other departments, agencies and institutions, both public and private, in providing for the rehabilitation of blind persons, in studying the problems involved therein, and in establishing, developing and providing such programs, facilities and services as may be necessary;

(b) Enter into reciprocal arrangements with other states to provide for the rehabilitation of residents of the states concerned;

(c) Conduct research and compile statistics relating to the rehabilitation of the blind;

(d) Provide social investigation, guidance, counsel and employment adjustment of blind persons in their home communities;

(e) Provide surveys of employment opportunities for the blind and the placement of blind persons in employment not otherwise provided for; and

(f) Regulate concessions reserved for operation by blind persons in accordance with Act No. 14 of the Public Acts of 1939, being sections 393.271 to 393.276 of the Compiled Laws of 1948.

HISTORY: Add. 1959, p. 169, Act 137, Eff. Mar. 19, 1960.

393.258 Rehabilitation services; state department of social welfare, cooperation with federal government.

Sec. 8. The department pursuant to state-federal agreements may cooperate with the federal government in carrying out the purposes of any federal statutes, not in conflict with state law, pertaining to rehabilitation of the blind and may adopt such methods of administration, not in conflict with state law, as are found to be necessary for the proper and efficient operation of the agreements or plans for rehabilitation of the blind and to comply with conditions, not in conflict with state law, as may be necessary to secure the full benefits of the federal statutes.

HISTORY: Add. 1959, p. 169, Act 137, Eff. Mar. 19, 1960.

Act 14, 1939, p. 28; Eff. Sep. 29.

AN ACT to regulate concessions located upon properties owned or occupied by the state; to provide for their operation by blind persons in certain cases; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

393.271 Blind persons; concessions on state property; nondiscrimination; building plans.

Sec. 1. Any concession in any building or on any property owned or occupied by the state shall hereafter be operated by a blind person, regardless of race, creed, color or religious preference, except in cases provided for in section 2. The building division of the state department of administration shall submit plans relative to concessions in such buildings or on such property to the office of services for the blind, department of social welfare, which shall have the final authority relative to the location of concessions.

HISTORY: CL 1948, 393.271;—Am. 1965, p. 102, Act 70, Imd. Eff. Jun. 22.

CITED IN OTHER SECTIONS: Sections 393.271 to 393.276 are cited in § 393.257.

393.272 Blind persons; exceptions of act.

Sec. 2. (a) This act shall not apply to any concession operated in connection with the state fair, with the use of the state fair grounds, with any state educational institution, state penal institution, military establishments and armories, and with any state park.

(b) Any sighted person operating a concession under contract or lease at the time this act becomes effective shall not be required to surrender such rights before such contract or lease expires.

(c) Any sighted person operating a concession which has not been applied for by a blind person may be permitted to continue in charge until such concession shall have

been applied for and a duly qualified blind person shall have been chosen to operate such concession.

HISTORY: CL 1948, 393.272;—Am. 1965, p. 102, Act 70, Imd. Eff. Jun. 22.

393.273 Blind persons; qualifications; definition.

Sec. 3. Any person possessing not more than 10 per cent of visual acuity in the better eye, with correction, certified by a duly licensed ophthalmologist, shall be adjudged blind under the provisions of this act.

The qualifications of applicants to operate any concession shall be determined from qualifications to be established by the state employment director for the blind, who shall be administrator of this act.

HISTORY: CL 1948, 393.273.

393.274 Concession; definition.

Sec. 4. The term concession, as used in this act, means any equipment or location which is being used, or may be used to sell retail confections, tobaccos, papers, periodicals, and other like merchandise, coffee, milk, soft drinks, wrapped ice cream, wrapped sandwiches, wrapped baked goods, packaged salads and other similar food items. It includes the operation of "quickie lunch counters" for the dispensing of prepared foods in state buildings where there are no other restaurant facilities.

HISTORY: CL 1948, 393.274;—Am. 1965, p. 103, Act 70, Imd. Eff. Jun. 22.

393.275 Concession; limitation.

Sec. 5. No blind person shall operate more than 1 concession.

HISTORY: CL 1948, 393.275.

393.276 Construction of act as to certain contracts or leases.

Sec. 6. The provisions of this act shall not be construed to affect the contract or lease of any World war, Spanish-American war, Philippine insurrection and China Relief expedition veteran having a service-connected disability recognized by the veterans' administration of the federal government, or any renewal thereof.

HISTORY: CL 1948, 393.276.

Sec. 7. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

393.291-393.294 Repealed. 1958, p. 34, Act 30, Imd. Eff. Apr. 3.

Sections regulated sale of merchandise represented as blind-made products, required licensing, and provided penalties.

Act 95, 1967, p. 113; Imd. Eff. Jun. 21.

AN ACT to authorize the department of state to issue identification cards to legally blind persons and to charge a fee.

The People of the State of Michigan enact:

393.301 Legally blind persons; identification card; issuance.

Sec. 1. The department of state, upon request, shall issue to legally blind persons, as defined by the standards of the department of social services, an identification card so attesting to the fact that the person to whom the card is issued is legally blind.

HISTORY: New 1967, p. 113, Act 95, Imd. Eff. Jun. 21.

393.302 Identification cards; contents.

Sec. 2. The identification card shall bear the name, signature, birthdate, address and photograph of the person to whom issued.

HISTORY: New 1967, p. 113, Act 95, Imd. Eff. Jun. 21.

393.303 Fee; deposit.

Sec. 3. A fee of \$1.00 shall be charged for such identification card and the fee shall be deposited in the general fund of the state.

HISTORY: New 1967, p. 113, Act 95, Imd. Eff. Jun. 21.

393.401-393.420 Repealed. 1955, p. 597, Act 269, Imd. Eff. Jun. 29.

Sections provided for operation of special education programs for handicapped children, for financial assistance to school districts, for long term cooperation by county school districts, and for tax for special education.

CHAPTER 395. EDUCATION—VOCATIONAL TRAINING

FEDERAL AND STATE AID

Act 149 of 1919

- 395.1 Federal act providing for vocational education; acceptance by state, appropriations.
- 395.2 Federal act; acceptance of benefits of funds.
- 395.3 State board of control for vocational education; membership, terms; administration of act, expenses.
- 395.4 State treasurer; custody of funds, annual report.
- 395.5 Expenses of instruction; reimbursement of schools by state, limitation; training of vocational teachers reimbursement; state appropriations.
- 395.6 State board of control; rules and regulations; disbursements; annual reports.
- 395.7 State board of control; inspection of schools; certification of amounts due, payment.
- 395.8 State board of control; estimate of money to meet federal appropriations; report to auditor general, tax levy.
- 395.9 State board of control; annual examination of school records.
- 395.10 State board of control; annual report of expenditures.

TRANSFER OF POWERS AND DUTIES

Act 28 of 1964

- 395.21 State board of control; abolition; transfer of powers, duties and functions to state board of education.

ACCEPTANCE OF FEDERAL FUNDS

Act 44 of 1964

- 395.31 Vocational education act of 1963; state board of control, compliance; acceptance and disbursement of federal funds.
- 395.32 Construction of act as to expenditure of state funds; accounting.
- 395.33 State board of control; annual report to state legislature.
- 395.34 Expiration of act.

Act 59 of 1966

- 395.41 National vocational student loan insurance act of 1965; state board of education, compliance; acceptance and expenditure of federal funds.
- 395.42 Construction of act as to expenditure of state funds; limitation; accounting.

VOCATIONAL REHABILITATION

Act 211 of 1921

395.51-395.65 Repealed.

ACCEPTANCE OF FEDERAL FUNDS

Act 198 of 1962

- 395.71 Federal area redevelopment and manpower development and training acts; state board of education, compliance; acceptance and expenditure of federal funds.
- 395.72 Construction of act as to state appropriations for occupational training or retraining.

395.73 Expiration of act.

VOCATIONAL REHABILITATION ACT OF 1964

Act 232 of 1964

- 395.81 Vocational rehabilitation act of 1964; short title.
- 395.82 Vocational rehabilitation act; definitions.
- 395.83 State board of education; administration of act; rules, regulations and standards; professional and clerical staff.
- 395.84 State board of education; service to disabled individuals, cooperation with other agencies.
- 395.85 Appropriations.
- 395.86 State board of education; cooperation with federal government.
- 395.87 State treasurer; custody of funds, disbursement.
- 395.88 Gifts; acceptance, use.
- 395.89 State board of education; biennial report to governor and state legislature.
- 395.90 Repeal.

PRIVATE TRADE SCHOOLS AND INSTITUTES

Act 148 of 1943

- 395.101 Private trade schools, business schools and institutes; licensing, revocation; definition; temporary license or permit.
- 395.102 Temporary permits; operation before licensing; written proposal, contents.
- 395.102a State board of education; inspections; rules and regulations; reports; records, availability.
- 395.102b Surety bond on insurance to indemnify students on closing of school; expiration.
- 395.103 Violation of act; misdemeanor, penalty.

Act 40 of 1963

- 395.121 Private trade schools, business schools, correspondence schools and institutes; definitions.
- 395.122 Solicitor's permits; requirement; application, contents.
- 395.123 Solicitor's permits; regulations; application, bond, fee, expiration.
- 395.124 Solicitor's permits; revocation; contracts; violation of act, misdemeanor.
- 395.125 Repeal.

VETERAN'S VOCATIONAL SCHOOL AT PINE LAKE

Act 111 of 1952

- 395.151 State technical institute and rehabilitation center; continuation of Michigan veterans' vocational school, operation.
- 395.152 Gifts; acceptance, effect.

DEMONSTRATION EDUCATIONAL AND WORK EXPERIENCE PROGRAMS

Act 238 of 1964

- 395.171 Job upgrading program; demonstration education and work experience programs, maintenance, purpose.
- 395.172 Job upgrading program; rules and regulations, contents; eligibility of applicants; planning coordination.
- 395.173 Local school district; appropriation.
- 395.174 Local community; subsidization.
- 395.175 State appropriation; report.

ACCEPTANCE OF FEDERAL FUNDS			
Act 34 of 1965			
395.201	Federal economic opportunity act of 1964; state board of education, compliance; acceptance and expenditure of federal funds.	395.302	Commission on employment of handicapped; members, appointment, terms, vacancies, officers, expenses.
395.202	Construction of act as to expenditure of state funds; accounting.	395.303	Commission on employment of handicapped; duties.
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COMMISSION ON EMPLOYMENT OF HANDICAPPED			
Act 11 of 1968			
395.301	Commission on employment of handicapped; establishment.	395.305	Commission on employment of handicapped; cooperation of state agencies.
		395.306	Department of education; annual report.
		395.307	Commission on employment of handicapped; promulgation of rules and regulations.

Act 149, 1919, p. 275; Eff. Aug. 14.

AN ACT to accept the requirements and benefits of an act of the sixty-fourth congress of the United States, approved February 23, 1917, known as the Smith-Hughes act, or Public Act No. 347, relating to appropriations to be made by the federal government to the several states for the support and control of instruction in agriculture, the trades, industries, and home economics, and for the preparation of teachers of vocational subjects; to designate a state board of control for vocational education; to provide for the proper custody and administration of funds received by the state from such appropriations; and to provide for appropriations by the state and by local school authorities to meet the conditions of said act of congress.

The People of the State of Michigan enact:

395.1 Federal act providing for vocational education; acceptance by state, appropriations.

Sec. 1. The provisions of an act of congress enacted by the sixty-fourth congress in the second session thereof known as Public Act No. 347, entitled "An act to provide for the promotion of vocational education; to provide for co-operation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects, and to appropriate money and regulate its expenditure," are hereby accepted by the state of Michigan as follows:

(a) Appropriations for the salaries of teachers, supervisors and directors of agricultural subjects;

(b) Appropriations for the salaries of teachers of trade, home economics, and industrial subjects;

(c) Appropriations for the preparation of teachers of agricultural, trade, industrial and home economics subjects.

HISTORY: CL 1929, 7712;—CL 1948, 395.1.

NOTE: Act 347, above referred to, is 20 U.S.C.A. § 11 et seq.

FORMER ACT: Act 189 of 1917.

395.2 Federal act; acceptance of benefits of funds.

Sec. 2. The benefits of all funds appropriated by the federal government under the provisions of said act are hereby accepted as provided in said act, and provision is

herein made under which the state of Michigan will meet such appropriations and provisions.

HISTORY: CL 1929, 7713;—CL 1948, 395.2.

395.3 State board of control for vocational education; membership, terms; administration of act, expenses.

Sec. 3. The membership of the state board of control for vocational education shall consist of the superintendent of public instruction, the president of the state board of education, the president of the university of Michigan, the president of the Michigan state university of agriculture and applied science and 3 members to assure proper representation of employers, employees and agricultural interests. Said appointees shall be appointed by the governor, by and with the advice and consent of the senate, for terms expiring January 31 in each odd year: Provided, however, That said appointees shall serve until the appointment and qualification of their successors.

The state superintendent of public instruction shall be the executive officer of the state board of control, and he shall, with the approval of said board, provide for the administration of the provisions of this act. Said board is charged with the duty and responsibility of cooperating with the federal board for vocational education in the administration of such act, and is given all power necessary to such cooperation. The state board of control for vocational education is hereby authorized to incur such expenditures for office administration, traveling and other incidental expenses as it may deem necessary to the proper administration of the funds allotted to the state of Michigan under the provisions of said act.

HISTORY: CL 1929, 7714;—CL 1948, 395.3;—Am. 1955, p. 193, Act 127, Eff. Oct. 14.

CITED IN OTHER SECTIONS: The above section is cited in § 395.21.

395.4 State treasurer; custody of funds, annual report.

Sec. 4. The state treasurer is hereby appointed as custodian of all funds for vocational education as provided in said act and in this act, and is charged with the duty and responsibility of receiving and providing for the proper custody, and for the proper disbursements of such moneys on requisition of the said board of control for vocational education. The state treasurer as custodian of such funds for vocational education shall make an annual report to the governor and the legislature concerning the receipts and disbursements of such moneys received by him under the provisions of said act and of this act.

HISTORY: CL 1929, 7715;—CL 1948, 395.4.

395.5 Expenses of instruction; reimbursement of schools by state, limitation; training of vocational teachers reimbursement; state appropriations.

Sec. 5. The board of education or board of control of any approved public school, department, part time or evening class giving instruction in agricultural, industrial or home economics subjects, which receive the benefit of federal and state moneys as herein provided, shall provide suitable buildings and equipment in order to give such instruction; and shall also appropriate for the salaries of instructors a sum of money sufficient to cover the expense for instruction during the year. At the end of the fiscal year the state board of control for vocational education shall apportion to the several boards of education, or boards of control of schools maintaining approved departments for vocational education as herein described, the state and federal funds by way of reimbursements for expenditures for instruction, giving to each school its proportionate share: Provided, That no school shall receive a larger amount than 3/4 of the sum which has been expended for the particular type of education for which it received state and federal funds. The institutions authorized to give training for vocational teachers shall provide suitable rooms and equipment, and appropriate sufficient funds to pay instructors and supervisors during the year, and at the end of the year

such institutions shall be reimbursed from federal and state funds, equally. There is hereby authorized to be appropriated and paid from the state treasury to the several schools giving vocational instruction under the provisions of this act, and for their supervision, a sum of money equal to 1/2 the federal allotment; and there is hereby further authorized to be apportioned and paid from the state treasury to the several institutions engaged in the training of teachers of vocational subjects a sum equal to the allotment of federal moneys as provided in said act.

HISTORY: CL 1929, 7716;—CL 1948, 395.5.

395.6 State board of control; rules and regulations; disbursements; annual reports.

Sec. 6. The state board of control for vocational education shall formulate such rules and regulations as may be necessary for the development and operation of such vocational schools, and for the training of teachers as are provided for in said act, subject to the approval of the federal board of control. All disbursements of state and federal money under the provisions of this act shall be made annually on or before the tenth day of July in each year. The board of education or board of control of any school where vocational instruction is given under the provisions of this act; also boards of control of institutions giving vocational teacher training, as herein provided, shall make an annual report to the state superintendent of public instruction at such time and in such form as he may require.

HISTORY: CL 1929, 7717;—CL 1948, 395.6.

PRIVATE TRADE SCHOOLS: Regulatory power, see Compilers' § 365.102.

395.7 State board of control; inspection of schools; certification of amounts due, payment.

Sec. 7. The state board of control for vocational education shall provide for the proper inspection of the work in the schools and institutions which operate under the provisions of this act. And upon the approval of the work done and the receipt of satisfactory reports from each school or institution, the said state superintendent of public instruction shall certify to the auditor general the amount of such state and federal moneys due to each board of education, or board of control of any school maintaining a vocational school or department, and to the board of control of each institution engaged in the training of teachers of vocational subjects according to the provisions of this act. The auditor general shall, upon such certificate of the superintendent of public instruction, draw his warrant upon the state treasurer for the amount of said moneys due to each school district or institution and payable to the treasurer of such board of education or of the board of control of such institution, and the said amounts shall be forwarded to said treasurers.

HISTORY: CL 1929, 7718;—CL 1948, 395.7.

395.8 State board of control; estimate of money to meet federal appropriations; report to auditor general, tax levy.

Sec. 8. It shall be the duty of the state board of control for vocational education to estimate the amount of money which should be appropriated by the state to meet federal allotments during each succeeding biennial period, and when the state board of control shall have estimated the amount of money necessary to meet the federal appropriations, they shall report said estimate to the auditor general who shall include the said amount of money in the state tax levy for each year as reported to the state legislature.

HISTORY: CL 1929, 7719;—CL 1948, 395.8.

395.9 State board of control; annual examination of school records.

Sec. 9. At the close of each fiscal year the state board of control for vocational education shall examine the records and reports from all schools giving vocational instruc-

tion, and from institutions engaged in the training of vocational teachers; and shall apportion funds from the federal government and from the state treasury in accordance with plans approved by the federal board of control, and in accordance with the provisions of this act, and of the said federal act.

HISTORY: CL 1929, 7720;—CL 1948, 395.9.

EXAMINATION OF RECORDS: By attorney general see Act 52 of 1929, being Compilers' § 14.141 et seq.

395.10 State board of control; annual report of expenditures.

Sec. 10. The state board of control for vocational education shall make an annual report to the governor and to the legislature in regard to the administration of this act, and of the federal act herein mentioned, and said report shall contain an explicit statement of the expenditures of all moneys, both federal and state, for the purposes mentioned in this act.

HISTORY: CL 1929, 7721;—CL 1948, 395.10.

Sec. 11. (This was a repeal section.)

HISTORY: CL 1929, 7722;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 28, 1964, p. 33; Eff. Aug. 28.

AN ACT to transfer the powers, duties and functions of the state board of control for vocational education to the state board of education.

The People of the State of Michigan enact:

395.21 State board of control; abolition; transfer of powers, duties and functions to state board of education.

Sec. 1. The state board of control for vocational education created under section 3 of Act No. 149 of the Public Acts of 1919, as amended, being section 395.3 of the Compiled Laws of 1948, is abolished, and all of its powers, duties and functions are transferred to the state board of education effective January 1, 1965.

HISTORY: New 1964, p. 33, Act 28, Eff. Aug. 28.

Act 44, 1964, p. 51; Imd. Eff. May 6.

AN ACT to authorize the state board of control for vocational education to accept federal funds as provided under the provisions of federal law.

The People of the State of Michigan enact:

395.31 Vocational education act of 1963; state board of control, compliance; acceptance and disbursement of federal funds.

Sec. 1. The state board of control for vocational education may take any necessary action consistent with state law to comply with the provisions of Public Law 210 of the 88th Congress known as the "vocational education act of 1963" and may accept and expend federal funds available under that law for the purpose of strengthening and improving the quality of vocational education and to expand vocational education opportunities in this state.

HISTORY: New 1964, p. 51, Act 44, Imd. Eff. May 6.

395.32 Construction of act as to expenditure of state funds; accounting.

Sec. 2. This act shall not be construed as authorizing such board to expend or to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid

out of the state treasury in accordance with any fund accounting procedures necessary to assure proper accounting for federal funds paid to the state.

HISTORY: New 1964, p. 51, Act 44, Imd. Eff. May 6.

395.33 State board of control; annual report to state legislature.

Sec. 3. The state board of control shall make an annual report of all activities and expenditures made under this act to the state legislature.

HISTORY: New 1964, p. 51, Act 44, Imd. Eff. May 6.

395.34 Expiration of act.

Sec. 4. This act shall expire when federal funds are no longer available under the provisions of such Public Law 210.

HISTORY: New 1964, p. 51, Act 44, Imd. Eff. May 6.

Act 59, 1966, p. 83; Imd. Eff. Jun. 9.

AN ACT to authorize the state board of education to accept federal funds provided under the provisions of the national vocational student loan insurance act of 1965; and to provide for the expenditure of such funds.

The People of the State of Michigan enact:

395.41 National vocational student loan insurance act of 1965; state board of education, compliance; acceptance and expenditure of federal funds.

Sec. 1. The state board of education may take any necessary action consistent with state law to comply with the provisions of Public Law 287 of the 89th Congress, known as the "national vocational student loan insurance act of 1965", and may accept and expend federal funds available under this law.

HISTORY: New 1966, p. 83, Act 59, Imd. Eff. Jun. 9.

395.42 Construction of act as to expenditure of state funds; limitation; accounting.

Sec. 2. This act shall not be construed as authorization to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with state accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state.

HISTORY: New 1966, p. 83, Act 59, Imd. Eff. Jun. 9.

395.51-395.65 Repealed. 1964, p. 309, Act 232, Imd. Eff. May 22.

Sections provided for acceptance of benefits of federal vocational rehabilitation act, for administration of funds and made appropriations.

Act 198, 1962, p. 441; Imd. Eff. Jun. 5.

AN ACT to authorize the state board of control for vocational education to accept federal funds with which to establish a program to alleviate conditions of persistent unemployment and underemployment in certain economically distressed areas.

The People of the State of Michigan enact:

395.71 Federal area redevelopment and manpower development and training acts; state board of education, compliance; acceptance and expenditure of federal funds.

Sec. 1. The state board of control for vocational education may take any necessary action consistent with state law to comply with the provisions of section 16 of Public

Law 87-27 known as the "area redevelopment act" and with the provisions of Public Law 87-415 known as the "manpower development and training act of 1962" and may accept and expend federal funds available under such acts for the occupational training or retraining needs of unemployed or underemployed individuals residing in a redevelopment area of the state.

HISTORY: New 1962, p. 441, Act 198, Imd. Eff. Jun. 5.

395.72 Construction of act as to state appropriations for occupational training or retraining.

Sec. 2. This act shall not be construed as authorizing such board to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with any fund accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state.

HISTORY: New 1962, p. 441, Act 198, Imd. Eff. Jun. 5.

395.73 Expiration of act.

Sec. 3. This act shall expire when the federal funds are no longer available to this state.

HISTORY: New 1962, p. 441, Act 198, Imd. Eff. Jun. 5;—Am. 1963, p. 45, Act 43, Imd. Eff. Apr. 29;—Am. 1964, p. 52, Act 45, Imd. Eff. May 6.

Act 232, 1964, p. 307; Imd. Eff. May 22.

AN ACT to provide for educational and other needed services through a vocational rehabilitation program for disabled persons; to authorize an annual appropriation of funds for vocational rehabilitation; to authorize the state board of education to administer such a program; to provide for the proper custody and administration of funds received by the state from federal and other sources; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

395.81 Vocational rehabilitation act of 1964; short title.

Sec. 1. This act shall be known and may be cited as the "rehabilitation act of 1964".

HISTORY: New 1964, p. 308, Act 232, Imd. Eff. May 22.

395.82 Vocational rehabilitation act; definitions.

Sec. 2. As used in this act:

(a) "State board" means the state board of education.

(b) "Vocational handicap" means any disability except blindness which constitutes, contributes to, or if not corrected will probably result in an obstruction to occupational performance.

(c) "Disabled individual" means any person other than blind who has a vocational handicap.

(d) "Vocational rehabilitation" and "vocational rehabilitation services" means any educational or other needed services including, but not limited to, determination of extent of disability, vocational diagnosis, vocational guidance, rehabilitation training, medical services, transportation, maintenance, and training books and materials, found to be necessary to compensate a disabled individual for his vocational handicap, and to enable him to engage in a suitable occupation or to be assisted into independent living.

HISTORY: New 1964, p. 308, Act 232, Imd. Eff. May 22.

395.83 State board of education; administration of act; rules, regulations and standards; professional and clerical staff.

Sec. 3. The state board shall be the agency responsible for the administration of the vocational rehabilitation program under the provisions of this act, and shall make all rules, regulations and standards necessary therefor, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The board shall employ the professional and clerical staff it deems necessary to carry out the provisions of this act within the appropriations available for this purpose.

HISTORY: New 1964, p. 306, Act 232, Imd. Eff. May 22.

395.84 State board of education; service to disabled individuals, cooperation with other agencies.

Sec. 4. The state board shall provide vocational rehabilitation services to disabled individuals determined eligible therefor in accordance with the rules and regulations and in carrying out the purposes of this act, the board may:

(a) Cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing and providing such programs, facilities and services as may be necessary.

HISTORY: New 1964, p. 306, Act 232, Imd. Eff. May 22.

395.85 Appropriations.

Sec. 5. The state board shall recommend annually the amount required to be appropriated by the state and report the same to the governor and budget director. The legislature shall make an appropriation each year for carrying out the purposes of this act.

HISTORY: New 1964, p. 306, Act 232, Imd. Eff. May 22.

395.86 State board of education; cooperation with federal government.

Sec. 6. The state board, pursuant to state-federal agreements, may cooperate with the federal government in carrying out the purposes of any federal statutes pertaining to vocational rehabilitation, and may adopt such methods of administration as are found to be necessary for the proper and efficient operation of the agreements or plans for vocational rehabilitation and to comply with conditions as may be necessary to secure the full benefits of the federal statutes.

HISTORY: New 1964, p. 306, Act 232, Imd. Eff. May 22.

395.87 State treasurer; custody of funds, disbursement.

Sec. 7. The state treasurer shall be the custodian of all vocational rehabilitation funds received from the federal government or other sources. The state treasurer shall make disbursements from the funds and from all state funds available for vocational rehabilitation purposes upon certification of the state board in accordance with the accounting laws of the state.

HISTORY: New 1964, p. 309, Act 232, Imd. Eff. May 22.

395.88 Gifts; acceptance, use.

Sec. 8. The state board may accept and use gifts made by bequest or otherwise for carrying out the purposes of this act. Gifts made under such conditions as in the judgment of the state board are proper and consistent with the provisions of this act may be so accepted and shall be held, invested, reinvested and used in accordance with the conditions of the gifts.

HISTORY: New 1964, p. 309, Act 232, Imd. Eff. May 22.

395.89 State board of education; biennial report to governor and state legislature.

Sec. 9. The state board shall make at the close of each bienium [sic] a biennial report to the governor and to the legislature in regard to the administration of this act. The report shall contain a statement of the expenditures of all moneys, both federal and state, for the purposes mentioned in this act.

HISTORY: New 1964, p. 309, Act 232, Imd. Eff. May 22.

395.90 Repeal.

Sec. 10. Act No. 211 of the Public Acts of 1921, being sections 395.51 to 395.65 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1964, p. 309, Act 232, Imd. Eff. May 22.

Act 148, 1943, p. 188; Imd. Eff. Apr. 14.

AN ACT to provide for the regulation and licensing of private trade schools, business schools and institutes in the state; to provide surety; and to prescribe penalties for the violation of this act. Am. 1945, p. 251, Act 181, Imd. Eff. May 16;—Am. 1957, p. 24, Act 21, Eff. Sep. 27;—Am. 1967, p. 303, Act 210, Eff. Nov. 2.

The People of the State of Michigan enact:

395.101 Private trade schools, business schools and institutes; licensing, revocation; definition; temporary license or permit.

Sec. 1. All private trade schools, business schools and institutes operated by any person or persons, firm, corporation or any other private organization for the purpose of teaching any trade, occupation, or vocation, shall secure from the state board of education a license issued in such form as said board may direct and in accordance with the provisions of this act. The license may be revoked at any time if, in the judgment of the board, the person or persons, firm, corporation or organization to whom the license has been issued is not complying with provisions of the law or the rulings of the board. A "private trade school, business school or institute" as contemplated by this act shall be any plan or method used by the person or persons, firm, corporation or organization for giving instruction in any form or manner in any trade, occupation or vocation for a consideration, reward or promise of whatever nature, except (a) schools and colleges possessing the authority to grant degrees, (b) schools licensed by law through other state boards, and (c) schools or training programs conducted or maintained by persons, corporations or organizations for their own employees without profit. No person or persons, firm, corporation or organization may be granted a temporary permit or a license to operate a private trade school, business school or institute as part of, or in conjunction with, another business or commercial enterprise which utilizes or sells goods or services produced by students.

HISTORY: CL 1948, 395.101;—Am. 1949, p. 343, Act 258, Eff. Sep. 23;—Am. 1967, p. 304, Act 210, Eff. Nov. 2.

CITED IN OTHER SECTIONS: Sections 395.101 to 395.103 are cited in §§ 395.121 and 450.170.

395.102 Temporary permits; operation before licensing; written proposal, contents.

Sec. 2. On and after the effective date of this act, no license shall be issued until the applicant has operated under a temporary permit in a manner satisfactory to the state board of education, and said board has approved the method and content of the advertising, the standards and the methods of instruction, personnel, and the operating and instructional practices of the school. A temporary permit to operate a private trade school, business school or institute may be granted on the basis of a written proposal submitted in such manner and form as may be provided by the state board of educa-

tion: Provided, That the proposal includes plans for facilities, instructional procedures, personnel, business standards, and operating and instructional practices which meet the provisions of this act and such rules and regulations as may be established by the state board of education.

HISTORY: CL 1948, 395.102;—Am. 1949, p. 343, Act 258, Eff. Sep. 23.

395.102a State board of education; inspections; rules and regulations; reports; records, availability.

Sec. 2a. The state board of education shall provide for adequate inspection of all private trade schools, business schools and institutes. Said board shall make such rules and regulations and employ such personnel as are necessary to carry out the provisions of this act. Private trade schools, business schools and institutes shall submit such reports as may be required by said board, and shall make available to authorized representatives of said board all records pertaining to the instructional program of the schools or to any individual student or enrollee.

HISTORY: Add. 1949, p. 343, Act 258, Eff. Sep. 6.

395.102b Surety bond on insurance to indemnify students on closing of school; expiration.

Sec. 2b. Private trade schools, business schools and institutes shall provide the state board of education with evidence of surety conditioned to provide indemnification to any student suffering loss because of inability to complete an approved course or program of study due to the closing of the institution. A surety may consist of a bond or insurance, the amount of which shall be determined according to rules promulgated by the state board of education. Surety shall expire on June 30 following the date of issuance and proof of renewal shall be submitted to the state board of education prior to the date of expiration. Failure to submit evidence of surety shall invalidate any license to operate a private trade school, business school or institute. This section shall not apply to any private trade school, business school or institute with a license to operate, as issued by the state board of education prior to the effective date of this provision.

HISTORY: Add. 1957, p. 24, Act 21, Eff. Sep. 27;—Rep. 1963, p. 40, Act 40, Eff. Sep. 6;—Add. 1967, p. 304, Act 210, Eff. Nov. 2.

395.103 Violation of act; misdemeanor, penalty.

Sec. 3. Any person or persons, members of any firm or any other private organization that shall violate the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof may be fined not to exceed \$100.00 or imprisonment in the county jail for a period not to exceed 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 395.103.

Sec. 4. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 40, 1963, p. 39; Eff. Sep. 6.

AN ACT to authorize private trade schools, business schools, correspondence schools and institutes to solicit students in this state; to provide for the issuance of permits to solicitors; to prescribe the powers and duties of the superintendent of public instruction; to provide penalties for violations of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

395.121 Private trade schools, business schools, correspondence schools and institutes; definitions.

Sec. 1. As used in this act:

(a) "Superintendent" means the superintendent of public instruction.

(b) "School domiciled in this state" means a private trade school, business school, correspondence school or institute licensed under Act No. 148 of the Public Acts of 1943, as amended, being sections 395.101 to 395.103 of the Compiled Laws of 1948, or incorporated under Act No. 327 of the Public Acts of 1931, as amended, being sections 450.1 to 450.192 of the Compiled Laws of 1948.

(c) "School domiciled outside of this state" means any private trade school, business school, correspondence school or institute located outside of this state and organized to give instruction in any form or manner in any trade, occupation or vocation for a consideration, reward or promise of whatever nature, but not a school possessing authority to grant baccalaureate degrees.

(d) "Solicitor" means any person or agent 21 years of age or over representing a school located within or outside of this state who shall personally attempt to procure students, enrollees or subscribers at a place or places other than the office or place of business of such school.

HISTORY: New 1963, p. 39, Act 40, Eff. Sep. 6.

395.122 Solicitor's permits; requirement; application, contents.

Sec. 2. Solicitor's permits are required for solicitors representing schools domiciled in this state, or schools domiciled outside of this state which have been authorized by the superintendent to solicit students in this state. The authorization may be granted a foreign school upon the submission of an application form provided for this purpose by the superintendent which shall contain such information to enable the superintendent to evaluate the instructional program and practices of the school as well as its promotional and sales policies.

HISTORY: New 1963, p. 39, Act 40, Eff. Sep. 6.

395.123 Solicitor's permits; regulations; application, bond, fee, expiration.

Sec. 3. (a) No solicitor shall personally solicit any prospective student to enroll in any school unless he applies for and obtains a permit from the superintendent, issued under rules and regulations promulgated by the superintendent in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(b) No solicitor shall solicit prospective students to enroll in schools other than those specifically listed in the application and the permit.

(c) A solicitor who represents more than 1 school shall obtain a permit for each school he represents.

(d) Each application for a solicitor's permit shall be accompanied by a surety bond in the amount of \$1,000.00. The bond may be continuing and shall be conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used in procuring his enrollment. The bond may be supplied by the representatives of the school or the school itself as a blanket bond covering each of its representatives in the penal sum of \$1,000.00. The maximum liability to be incurred under an individual or blanket surety bond shall not exceed \$1,000.00 in the case of any one solicitor. The surety may relieve itself of liability thereafter and withdraw from the bond upon giving 30 days' notice in writing to the superintendent.

(e) Each application for a solicitor's permit or renewal thereof shall be accompanied by a fee of \$5.00, which shall be credited to the general fund.

(f) Each solicitor's permit shall expire on June 30 following the date of issuance.

HISTORY: New 1963, p. 39, Act 40, Eff. Sep. 6.

395.124 Solicitor's permits; revocation; contracts; violation of act, misdemeanor.

Sec. 4. (a) Any solicitor's permit may be revoked by the superintendent upon 10 days' notice and after a hearing, if the holder of the permit solicits or enrolls students through fraud or misrepresentation.

(b) All contracts entered into in this state by schools or their solicitors and all promissory notes or other evidences of indebtedness taken in lieu of cash payments by such schools or solicitors shall be null and void unless the schools are duly licensed, approved or authorized to solicit prospective students and unless the solicitors have secured permits as required by this act.

(c) Any person violating any of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1963, p. 40, Act 40, Eff. Sep. 6.

395.125 Repeal.

Sec. 5. Section 2b of Act No. 148 of the Public Acts of 1943, as added by Act No. 21 of the Public Acts of 1957, being section 395.102b of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1963, p. 40, Act 40, Eff. Sep. 6.

Act 111, 1952, p. 125; Eff. Sep. 18.

AN ACT to provide for the establishment of the Michigan veterans' vocational school at Pine lake (Doster, Michigan) as a state institution under the control of the state board of education.

The People of the State of Michigan enact:

395.151 State technical institute and rehabilitation center; continuation of Michigan veterans' vocational school, operation.

Sec. 1. The state of Michigan having already accepted a gift from the Kellogg foundation of the Michigan veterans' vocational school at Pine lake (Doster, Michigan) together with all its properties, real, personal and mixed, said school shall be continued as a state institution under the name of state technical institute and rehabilitation center under the supervision and management of the state board of education. As a state institution it shall be operated in accordance with policies and curricula established by the state board of education.

HISTORY: New 1952, p. 125, Eff. Act 111, Sep. 18;—Am. 1959, p. 67, Act 69, Eff. Mar. 19, 1960;—Am. 1968, p. 15, Act 8, Imd. Eff. Mar. 20.

395.152 Gifts; acceptance, effect.

Sec. 2. The state board of education is authorized to accept gifts, grants or devises of property, real, personal or mixed, for the benefit of the state technical institute and rehabilitation center, and it is further authorized and empowered to do any other act or acts necessary in the proper management of it: Provided, That the acceptance of such gifts, grants or devises of property does not obligate the state to continue these programs nor require state matching funds to make such programs operative.

HISTORY: New 1952, p. 125, Act 111, Eff. Sep. 18;—Am. 1959, p. 68, Act 69, Eff. Mar. 19, 1960;—Am. 1968, p. 16, Act 8, Imd. Eff. Mar. 20.

Act 238, 1964, p. 325; Imd. Eff. May 28.

AN ACT to authorize the state of Michigan, boards of supervisors, local governing boards and school districts to appropriate moneys to foster and maintain demonstration educational and work experience programs through a special job upgrading program for unemployed, out of work, school dropouts; define the powers and duties of the superintendent of public instruction; and to provide for appropriations.

The People of the State of Michigan enact:

395.171 Job upgrading program; demonstration education and work experience programs, maintenance, purpose.

Sec. 1. The state of Michigan, the board of supervisors of any county, or the governing body of any city, village, township and school district of this state, may furnish and appropriate money to foster and maintain demonstration education and work experience programs through a special job upgrading program for unemployed, out of work, school dropouts who have been out of school at least 2 months and are between 16 and 20 years of age under plans approved by the superintendent of public instruction. This job upgrading program shall combine in-school training with subsidized work experience for school dropouts to make them more employable and to assist them in job placement.

HISTORY: New 1964, p. 325, Act 238, Imd. Eff. May 28.

395.172 Job upgrading program; rules and regulations, contents; eligibility of applicants; planning coordination.

Sec. 2. The superintendent of public instruction, under the authority of this act, shall promulgate rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, which rules and regulations, among other things, shall contain criteria for the securing of approval of local school requests for state aid grants for demonstration job upgrading programs. Such rules and regulations shall require a demonstrated need for such a local program, and require that a qualified teacher or teachers must be available, classrooms with adequate equipment, facilities and supplies are available, a minimum of 10 students are eligible for enrollment, and an adequate instructional program has been planned, that a subsidized work experience program is available and plans have been developed for a nonprofit corporation, composed of representatives of public and private agencies and community persons with the objective of raising, receiving and disbursing private funds to be used in subsidizing job experiences for students. Eligibility for enrollment and placement shall be based upon the applicant's scholastic and vocational aptitude and health status. Planning for evaluation of health status and correction of defects shall be coordinated by contract with the local health department.

HISTORY: New 1964, p. 325, Act 238, Imd. Eff. May 28.

395.173 Local school district; appropriation.

Sec. 3. The local school district shall appropriate adequate funds to cover the cost of supplies, materials, services and salaries of the teacher-coordinators for an 11-month program, except that the state of Michigan may appropriate \$10,000.00 per year towards such a program approved under section 2 of this act.

HISTORY: New 1964, p. 326, Act 238, Imd. Eff. May 28.

395.174 Local community; subsidization.

Sec. 4. The local community, through a nonprofit corporation composed of representatives of public and private agencies and community leaders, shall undertake the

raising of funds for the subsidizing of part-time work experience (for a minimum of 6 weeks) for students in the job upgrading program. Students will be paid a minimum of 60 cents per hour for a 20-hour week and shall perform work that will not result in the displacement of regular workers, in addition to being of training benefit to them.

HISTORY: New 1964, p. 398, Act 238, Imd. Eff. May 28.

395.175 State appropriation; report.

Sec. 5. There is hereby appropriated from the general fund of the state for the fiscal year ending June 30, 1965 the sum of \$30,000.00 to the department of public instruction to be used to help establish demonstration job upgrading programs in 3 local school districts in the amount of \$10,000.00 each toward the total cost of each program approved under section 2 of this act. The department of public instruction shall annually on or before June 30 of each year report to the legislature as to the status of the programs undertaken by this act.

HISTORY: New 1964, p. 398, Act 238, Imd. Eff. May 28.

Act 34, 1965, p. 49; Imd. Eff. May 19.

AN ACT to authorize the state board of education to accept federal funds under the economic opportunity act of 1964; and to provide for the expenditure of such funds. Am. 1966, p. 131, Act 111, Imd. Eff. Jun. 22.

The People of the State of Michigan enact:

395.201 Federal economic opportunity act of 1964; state board of education, compliance; acceptance and expenditure of federal funds.

Sec. 1. The state board of education may take any necessary action consistent with state law to comply with the provisions of Public Law 452 of the 88th Congress, known as the "economic opportunity act of 1964" and may accept and expend federal funds available under this law.

HISTORY: New 1965, p. 49, Act 34, Imd. Eff. May 19;—Am. 1966, p. 131, Act 111, Imd. Eff. Jun. 22.

395.202 Construction of act as to expenditure of state funds; accounting.

Sec. 2. This act shall not be construed as authorization to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with state accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state.

HISTORY: New 1965, p. 50, Act 34, Imd. Eff. May 19.

395.203 Expiration of act.

Sec. 3. This act shall remain in effect until July 1, 1967.

HISTORY: New 1965, p. 50, Act 34, Imd. Eff. May 19;—Am. 1966, p. 131, Act 111, Imd. Eff. Jun. 22.

Act 11, 1968, p. 21; Imd. Eff. Mar. 29.

AN ACT to establish a commission on employment of the handicapped; and to prescribe its powers and duties.

The People of the State of Michigan enact:

395.301 Commission on employment of handicapped; establishment.

Sec. 1. A commission on employment of the handicapped is established in the department of education.

HISTORY: New 1968, p. 21, Act 11, Imd. Eff. Mar. 29.

395.302 Commission on employment of handicapped; members, appointment, terms, vacancies, officers, expenses.

Sec. 2. The governor shall appoint by and with the advice and consent of the senate the 21 members of the commission for terms of 3 years, except that of the members first appointed, 7 each shall be appointed for terms of 1, 2 and 3 years. Vacancies shall be filled in the same manner as the original appointments and for the balance of the unexpired term. The governor shall designate a chairman and a vice-chairman from the members of the commission. The chairman shall be the chief executive officer of the commission. Members of the commission shall be reimbursed only for their actual and necessary expenses incurred in the performance of their duties.

HISTORY: New 1968, p. 21, Act 11, Imd. Eff. Mar. 29.

395.303 Commission on employment of handicapped; duties.

Sec. 3. The department of education shall through the commission:

(a) Stimulate and encourage formation throughout the state of local committees for employment of the handicapped.

(b) Promote increased public and private interest and support for well-being of the handicapped.

(c) Secure appropriate recognition of handicapped persons' accomplishments and contributions to this state.

HISTORY: New 1968, p. 21, Act 11, Imd. Eff. Mar. 29.

395.304 Federal funds and private gifts; acceptance, effect.

Sec. 4. The department of education may accept federal funds granted by congress or executive order for all or any of the purposes of this act as well as private gifts and donations from individuals, private organizations or foundations: Provided, That the acceptance and use of federal funds commits no state funds and places no obligation upon the legislature to continue the purposes for which the funds are made available.

HISTORY: New 1968, p. 22, Act 11, Imd. Eff. Mar. 29.

395.305 Commission on employment of handicapped; cooperation of state agencies.

Sec. 5. The commission shall have the full cooperation of all executive departments and agencies of the state in the performance of its duties.

HISTORY: New 1968, p. 22, Act 11, Imd. Eff. Mar. 29.

395.306 Department of education; annual report.

Sec. 6. The department of education shall submit an annual report to the governor including recommendations for improvements in programs for the handicapped.

HISTORY: New 1968, p. 22, Act 11, Imd. Eff. Mar. 29.

395.307 Commission on employment of handicapped; promulgation of rules and regulations.

Sec. 7. The commission shall have no authority to promulgate rules and regulations.

HISTORY: New 1968, p. 22, Act 11, Imd. Eff. Mar. 29.

CHAPTER 397. LIBRARIES

STATE BOARD FOR LIBRARIES

Act 106 of 1937

- 397.1 State board for libraries; creation, membership, terms, appointment, vacancies; secretary; meetings; compensation and expenses; employees.
- 397.2 State board for libraries; powers and duties.
- 397.3 State board for libraries; Michigan traveling libraries, control and direction.
- 397.4 State board for libraries; rules and regulations.
- 397.5 State librarian; appointment, qualifications, term, compensation.
- 397.6 Assistant state librarians; appointment, title, bond; assistants and employees; compensation.
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Act 59 of 1964

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- 397.32 Penal fines; apportionment to county library boards.
- 397.33 County library board; duties; membership, appointment, terms; contracts for service.
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- 397.54 State librarian; receipt for property; oath, bond.
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- 397.155 Board of trustees; powers.
- 397.156 Appropriation for regional libraries; budget, disbursement.
- 397.157 Cities exempt from act; notification when included in proposal.
- 397.158 Municipal libraries; transfer to regional libraries.
- 397.159 Repealed.

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- 397.203 Board of directors; appointment, terms, removal.
- 397.204 Board of directors; vacancies, compensation.
- 397.205 Board of directors; officers, powers and duties; library fund, expenditures, accounting.
- 397.206 City library; free use; regulations.
- 397.207 Board of directors; annual report, contents.
- 397.208 City library; injury to property, ordinances, penalties.
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- 397.210 Village or township library; petition for tax; referendum; estimate of cost of maintenance, assessment.
- 397.210a City library; referendum on tax for establishment; tax for maintenance.
- 397.211 City, village or township library board; temporary appointment, election, term, powers, vacancy.
- 397.212 Inapplicability of act.
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- 397.214 Joint municipal libraries; contract for use of municipal library by township, vote, term of contract; tax levy.
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- 397.271 District libraries; establishment.
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Act 5 of 1917

- 397.321 Townships and villages; issuance of library bonds, approval by electors.
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397.472 Public libraries; contracts and arrangements; rights and privileges of residents; expenditures; political subdivisions.

STATE LIBRARY FOR BLIND

Act 127 of 1950

397.491 State library for blind; transfer to state board for libraries.

397.492 State library for blind; administration, rules and regulation.

397.493 State library for blind; appropriation.

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397.495 State library for blind; transfer of powers and duties to state board for libraries.

STATE AID TO PUBLIC LIBRARIES ACT OF 1965

Act 286 of 1965

397.501 State aid to public libraries act of 1965; short title.

397.502 State aid to public libraries act; definitions.

397.503 Public libraries; eligibility to participate in systems.

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397.508 Library system board; election, notice; meeting.

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397.518	State aid; certification of amounts received, application.	397.526	Repeals.
		397.527	Effective date.

Act 106, 1937, p. 167; Imd. Eff. Jun. 24.

AN ACT to create a state board for libraries, and to prescribe its powers and duties; to provide for the transfer to said board of the powers and duties now vested by law in the state librarian and in the state board of library commissioners; to provide for the management and control of the state library; to declare the effect of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

397.1 State board for libraries; creation, membership, terms, appointment, vacancies; secretary; meetings; compensation and expenses; employees.

Sec. 1. There is hereby created a state board for libraries, hereinafter called the board, which shall possess the powers and perform the duties hereinafter granted and imposed. The board shall consist of 5 members, who shall be appointed by the governor by and with the advice and consent of the senate. The term of office of each member of the board shall be 5 years: Provided, That of those first appointed under this act 1 shall hold office for 1 year, 1 for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years. Each member of the board shall hold office until the appointment and qualification of his successor. In case of vacancy in office other than by expiration of the term, the governor shall fill such office by appointment for the balance of the unexpired term. Immediately following the qualification of the new member each year the board shall elect from its membership a chairman and vice chairman. The state librarian shall be designated to act as secretary and his duties shall be prescribed by the board. Meetings of the board may be called by the chairman and shall be called on request of the majority of the members of the board. Such meetings may be held as often as necessary and at such place or places as may be designated in the call therefor: Provided, That approximately 1 meeting shall be held each month and not fewer than 10 meetings shall be held in each year. The members of the board shall receive no compensation for their services, but each member and all officers and employes of the board shall be entitled to reasonable expenses while traveling in the performance of any of the duties hereby imposed. Such expenses of all board members and employes of the board and salaries of employes of the board shall be paid out of the state treasury in

the same manner as the salaries and expenses of other state officers and employees are paid.

HISTORY: CL 1948, 397.1.

CITED IN OTHER SECTIONS: Sections 397.1 to 397.8 are cited in § 16.408.

397.2 State board for libraries; powers and duties.

Sec. 2. In addition to the other powers, duties and responsibilities in this act provided, the board (a) shall have general control and supervision of the state library; (b) may prepare and administer standards for certification for libraries and librarians; (c) shall inspect libraries which may be established or assisted under any legislative provision for state grants in aid to libraries; (d) shall assume immediate administrative responsibility and control over the establishment of regional libraries; (e) shall further the development of effective, state-wide school library service, encourage contractual and cooperative relations between school libraries and local, county, district, or regional libraries, and provide general advisory assistance; (f) may give advice and counsel to any public, school, state institutional, or other library within the state and to any community within the state which may propose to establish a library as to the best means of establishing and administering such library, selecting and cataloging books and other details of library management, may provide assistance by any of its employees in organizing such libraries or improving service given by them, and may aid in the establishment of libraries in any state institution; (g) shall be active in coordinating the library services of the states and in coordinating libraries with other educational agencies; (h) shall collect and preserve statistics, undertake research pertaining to libraries and make the resultant findings available to all public, school and institutional libraries within the state applying therefor; (i) may supply further advice and information to libraries in the state through field visits, conferences, institutes, correspondence, publications; and do any and all of the things it may reasonably be able to do to promote and advance library service in the state of Michigan.

HISTORY: CL 1948, 397.2.

397.3 State board for libraries; Michigan traveling libraries, control and direction.

Sec. 3. Subject to the statutes of the state of Michigan, the board shall have general control over and direction of the "Michigan traveling libraries," may provide extension service and may prescribe rules and regulations under which selections of books may be loaned for a limited period to libraries and to communities in the state.

HISTORY: CL 1948, 397.3.

397.4 State board for libraries; rules and regulations.

Sec. 4. The board shall make and execute, modify and amend such rules and regulations not conflicting with the statutes governing the library as they may deem proper relative to the use and loans of books from the state library and also rules prescribing penalties and fines for any violation thereof, and shall determine all matters of policy in connection with the operation of the state library.

HISTORY: CL 1948, 397.4.

397.5 State librarian; appointment, qualifications, term, compensation.

Sec. 5. Upon the expiration of the term of the present librarian, the board shall appoint a state librarian, who shall have care and charge of the library and of the affairs pertaining thereto and shall perform such other duties as shall be prescribed by the board. The state librarian shall be a graduate of an accredited library school and shall have had at least 4 years experience in library work in an administrative capacity: Provided, The foregoing restriction shall not prevent the board from reappointing the

present incumbent at the expiration of her present term of office, if it shall see fit to do so. Such librarian shall hold office during the pleasure of the board. The salary of the state librarian shall be fixed by the board and shall be payable monthly out of the state treasury upon the warrant of the auditor general.

HISTORY: CL 1948, 397.5.

397.6 Assistant state librarians; appointment, title, bond; assistants and employees; compensation.

Sec. 6. The board shall also be authorized on recommendation of the state librarian to appoint 1 assistant, who shall be known as the assistant state librarian, 1 assistant who shall be known as the assistant law librarian, and who shall have charge of the law library on filing a good and sufficient bond running to the state librarian, which shall be filed in the office of the secretary of state, and such other administrative and general assistants and employes as may be necessary for the care and management of the state library and the state law library and for carrying on and advancing the work of the board. The salaries of the assistant state librarian and of the assistant law librarian and of the other assistants and employes appointed by the board shall be fixed by it and shall be payable from the state treasury upon the presentation of a voucher certified to by the state librarian and drawn upon the warrant of the auditor general on any funds not otherwise appropriated.

HISTORY: CL 1948, 397.6.

397.7 State board for libraries; reports.

Sec. 7. The board shall file an annual report with the governor of the state of Michigan covering the operations of the state library and the extension of library service throughout the state and containing such other information and recommendations as it may deem advisable or the governor shall request and shall from time to time and at least biennially prepare and file with the budget director or other proper officer of the state of Michigan an estimate of its financial requirements, together with such supporting information as may be necessary or advisable.

HISTORY: CL 1948, 397.7.

397.8 State board of library commissioners and state librarian; transfer of powers and duties to state board for libraries.

Sec. 8. Any and all powers and duties vested by any law of this state in the state board of library commissioners and the state librarian, except as conferred on the state librarian by the board, are hereby transferred to and vested in the state board for libraries.

When reference is made in any law of this state to the state board of library commissioners or the state librarian, such reference shall be deemed to be intended to be made to the state board for libraries created by section 1 of this act.

HISTORY: CL 1948, 397.8.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 10. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Secs. 2, 3, 5, 6, 7, 16 and 17, Act 28, 1895, CL 1929, 8023, 8024, 8026, 8027, 8028, 8036 and 8037;—Act 283, 1917, CL 1929, 8039-8041.

Act 59, 1964, p. 65; Imd. Eff. May 12.

AN ACT to provide for the distribution of penal fines and their application to the support of public libraries; to provide for the appointment of a county library board to receive penal fines; to define its powers and duties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

397.31 Public libraries; definitions.

Sec. 1. As used in this act: (a) "Public library" means a library, the whole interests of which belong to the general public, lawfully established for free public purposes by any 1 or more counties, cities, townships, villages, school districts or other local governments or any combination thereof, or by any general or local act, but shall not include a special library such as a professional or technical library or a school library.

(b) "Qualified public library" means any public library which is open to and available to the public at least 10 hours per week or any library which has a contract with a public library board to furnish library services to the public.

HISTORY: New 1964, p. 65, Act 59, Imd. Eff. May 12.

CITED IN OTHER SECTIONS: Sections 397.31 to 397.40 are cited in § 397.508.

397.32 Penal fines; apportionment to county library boards.

Sec. 2. The proceeds of all fines for any breach of the penal laws of this state when collected in any county and paid into the county treasury, together with all moneys heretofore collected and paid into the county treasury on account of such fines and not already apportioned, shall be apportioned by the county treasurer in accordance with the directions of the state board for libraries, as provided in section 8, before August 1 of each year among those public libraries and county libraries established under Act No. 138 of the Public Acts of 1917, as amended, being sections 397.301 to 397.305 of the Compiled Laws of 1948, or Act No. 250 of the Public Acts of 1931, as amended, being sections 397.151 to 397.158 of the Compiled Laws of 1948, or county library boards in each county entitled to such fines under this act on a per capita basis determined by the population of the governmental unit supporting the library according to the latest decennial or special federal census.

HISTORY: New 1964, p. 65, Act 59, Imd. Eff. May 12.

397.33 County library board; duties; membership, appointment, terms; contracts for service.

Sec. 3. In any county where there is no public library, or in any county within the boundaries of which there are municipalities which have not established public library service or which do not maintain public libraries, the county board of supervisors shall appoint a county library board to receive the per capita portion of penal fine moneys to be allocated for such areas. The county library board shall consist of 5 members appointed by the county board of supervisors for terms of 5 years each, except that the first members shall be appointed for 1, 2, 3, 4 and 5 years respectively. The board may contract with a qualified public library, within or without the county, to provide public library service for all residents of the county without legal access to a public library.

HISTORY: New 1964, p. 65, Act 59, Imd. Eff. May 12.

397.34 County library board; powers as to new library.

Sec. 4. If, after the appointment of the county library board, the board of supervisors votes to establish a public library as authorized by Act No. 138 of the Public Acts of 1917, as amended, then the county library board appointed under section 3 shall become the governing body of the county library. In addition to the powers and duties granted in Act No. 138 of the Public Acts of 1917, as amended, the county library board shall have all of the powers and duties granted to county library boards by this act.

HISTORY: New 1964, p. 65, Act 59, Imd. Eff. May 12.

397.35 County contracting for service; apportionment of funds.

Sec. 5. (1) If any municipality within a county has not established a public library but is contracting for public library service with the governing body of a legally established public library, it is entitled to receive its per capita share of the penal fine moneys the same as if it had a legally established public library. The moneys shall be used for the provision of public library service for all residents of the municipality.

Same; more than 1 public library.

(2) If any municipality within a county is supporting more than 1 public library, the penal fines shall be allocated to each public library in ratio to the tax support provided by the municipality to the respective public libraries.

HISTORY: New 1964, p. 66, Act 59, Imd. Eff. May 12.

397.36 Use of penal fine moneys; report.

Sec. 6. The penal fine moneys when received by the proper authorities shall be applied exclusively to the support of public libraries and to no other purpose except as provided in section 7. A report shall be made annually to the state board for libraries as to the receipt and expenditures of the penal fine moneys, and other public moneys, by the governing boards of the public libraries or by the county library boards.

HISTORY: New 1964, p. 66, Act 59, Imd. Eff. May 12.

397.37 Construction of act as to county law libraries.

Sec. 7. This act shall not be construed as affecting the provisions of sections 4845 and 4851 of Act No. 236 of the Public Acts of 1961, being sections 600.4845 and 600.4851 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 66, Act 59, Imd. Eff. May 12.

397.38 Statement of eligible libraries.

Sec. 8. The state board for libraries, prior to July 15 of each year, shall transmit to the clerk and treasurer of each county a statement of the public libraries or the library boards established under section 3 in his county that are entitled to receive penal fines and the population served by each.

HISTORY: New 1964, p. 66, Act 59, Imd. Eff. May 12.

397.39 Rules and regulations.

Sec. 9. The state board for libraries may adopt such rules and regulations to carry out the provisions of this act as may be deemed expedient, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 66, Act 59, Imd. Eff. May 12.

397.40 Repeal.

Sec. 10. Sections 906, 910, 911, 912, 913 and 915 of Act No. 269 of the Public Acts of 1955, as amended, being sections 340.906, 340.910, 340.911, 340.912, 340.913 and 340.915 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1964, p. 66, Act 59, Imd. Eff. May 12.

Act 28, 1895, p. 112; Imd. Eff. Mar. 20.

AN ACT to provide for the management and control, and for the extension of the usefulness of the state library.

The People of the State of Michigan enact:

397.51 State library; location; contents.

Sec. 1. That the state library shall be kept in the room in the capitol which it now occupies, unless some other provision shall be made by the legislature in reference thereto. It shall consist of the books, pamphlets, papers, pictures, maps, charts and documents of every description now belonging to the same, together with all such others as it may acquire by gift, purchase, exchange or otherwise. The members of both houses of the legislature and the executive and judicial officers of the state shall at all times have free access thereto, under such rules and regulations as may be made for governing the library.

HISTORY: CL 1897, 1763;—CL 1915, 1113;—CL 1929, 8022;—CL 1948, 397.51.

FORMER ACT: Act 169 of 1881, being How. 296-305.

BULLETINS: Expense, see Compilers' § 24.15.

GEOLOGICAL EXHIBIT: Conservation department to prepare, for use in room in connection with the state library, see Compilers' § 321.5.

PROTECTION: For penalty for removal or destruction of library books and papers, see Compilers' § 750.391.

Sec. 2.

HISTORY: CL 1897, 1764;—CL 1915, 1114;—CL 1929, 8023;—Rep. 1937, p. 169, Act 106, Imd. Eff. June 24.

This section provided for library rules.

Sec. 3.

HISTORY: CL 1897, 1765;—Am. 1901, p. 282, Act 198, Eff. Sept. 5;—CL 1915, 1115;—CL 1929, 8024;—Rep. 1937, p. 169, Act 106, Imd. Eff. June 24.

This section provided for appointment of state librarian.

397.54 State librarian; receipt for property; oath, bond.

Sec. 4. The state librarian shall, before entering upon the duties of the office, file with the secretary of state his receipt for all property entrusted to him, take and subscribe the oath of office prescribed by the constitution and give a bond in the penal sum of 10,000 dollars, with sureties to be approved by the secretary of state conditioned for the safe keeping of such property as may be entrusted to his care. Said bond and receipt shall be filed in the office of the secretary of state and they shall not be canceled, nor shall the sureties on said bond be released from their obligations thereon, until the receipt of the successor to the said librarian, for the property delivered over to him, shall have been obtained and payment for all deficiencies made.

HISTORY: CL 1897, 1766;—CL 1915, 1116;—CL 1929, 8025;—CL 1948, 397.54.

Sec. 5.

HISTORY: CL 1897, 1767;—CL 1915, 1117;—CL 1929, 8026;—Rep. 1937, p. 169, Act 106, Imd. Eff. June 24.

This section provided for removal of state librarian.

Sec. 6.

HISTORY: CL 1897, 1768;—Am. 1911, p. 41, Act 31, Imd. Eff. March 31;—CL 1915, 1118;—Am. 1917, p. 718, Act 284, Imd. Eff. May 10;—CL 1929, 8027;—Rep. 1937, p. 169, Act 106, Imd. Eff. June 24.

This section provided for appointment of assistant state librarian.

Sec. 7.

HISTORY: CL 1897, 1769;—CL 1915, 1119;—CL 1929, 8028;—Rep. 1937, p. 169, Act 106, Imd. Eff. June 24.

This section provided for library assistants.

397.58 Library clearance certificate; requirement.

Sec. 8. Before any member of the legislature, or of any convention to revise the constitution, or other officer or employe of the state, who may be authorized by the rules of the state library to draw therefrom, shall receive their pay in full, it shall be necessary for them to obtain and exhibit from the state librarian a certificate stating that they have returned all the books they may have drawn from the state library. Before a final settlement with any state employe it shall be the duty of the state officers to require such employes to obtain and exhibit to the officer in charge of their respective departments, the certificate above referred to.

HISTORY: CL 1897, 1770;—CL 1915, 1120;—CL 1929, 8029;—CL 1948, 397.58.

397.59 State librarian; exchange of materials; sale of duplicates, use of proceeds.

Sec. 9. The state librarian shall exchange the judicial decisions, statutes, journals, legislative and executive documents of Michigan, and other books placed in the care of the state librarian for the purpose of exchange, with the libraries of other states and the government of the United States, and of foreign countries, and with societies and institutions. The state librarian may sell or exchange duplicate volumes or sets of works not needed for use in the state library and apply the proceeds to the purchase of other books for the library.

HISTORY: CL 1897, 1771;—CL 1915, 1121;—CL 1929, 8030;—CL 1948, 397.59.

EXCHANGE OF STATE REPORTS: See *Compilers' § 26.47*.

Sec. 10. (This was an appropriation section.)

397.61-397.65 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for associate libraries, and described powers and duties.

Sec. 16.

HISTORY: CL 1897, 1777;—CL 1915, 1127;—CL 1929, 8036;—Rep. 1937, p. 169, Act 106, Imd. Eff. June 24.

This section provided for records of associate libraries.

Sec. 17.

HISTORY: CL 1897, 1778;—CL 1915, 1128;—CL 1929, 8037;—Rep. 1937, p. 169, Act 106, Imd. Eff. June 24.

This section provided appropriation and loans for traveling libraries.

Sec. 18. (This was a repeal section.)

HISTORY: CL 1897, 1778a;—CL 1915, 1129;—CL 1929, 8038;—Rep. 1945, p. 403, Act 287, Imd. Eff. May 25.

397.71 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Section provided for procurement and use of copies of United States laws for state library.

397.81 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Section provided for distribution of United States statutes by state librarian.

397.91, 397.92 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections provided for disposition and sale by state librarian of debates of constitutional convention of 1907.

397.102-397.113 Repealed. 1949, p. 375, Act 269, Eff. Jul. 1;—1965, p. 546, Act 286, Eff. Mar. 31, 1966.

Sections provided state aid for libraries.

Act 234, 1964, p. 311; Imd. Eff. May 27.

AN ACT to make appropriations to supplement former appropriations for certain state agencies and special purposes for the fiscal year ending June 30, 1964; and to declare the intent of the act.

The People of the State of Michigan enact:

397.126 Library construction; federal funds; report.

Sec. 6. The state library is hereby authorized to accept, and use, federal funds for library construction under the provisions of Title II, P.L. 88-269, subject to the approval of the department of administration. A detailed report shall be submitted to the legislature not later than January 31 of each year.

HISTORY: New 1964, p. 316, Act 234, Imd. Eff. May 27.

Act 250, 1931, p. 434; Eff. Sep. 18.

AN ACT to provide for the establishment and maintenance of regional libraries; to provide for boards of trustees to have control of such libraries; to provide for the powers and duties of the state board for libraries in connection with such libraries; and to

provide for the support of such libraries by counties. Am. 1961, p. 138, Act 116, Eff. Sep. 8.

The People of the State of Michigan enact:

397.151 Regional libraries; plan for establishment and location.

Sec. 1. The state board for libraries shall develop a plan for the establishment and location of regional libraries throughout the state based on a detailed survey of the needs of the various localities of the state. A region shall include 2 or more counties.

HISTORY: CL 1948, 397.151;—Am. 1961, p. 138, Act 116, Eff. Sep. 8.

CITED IN OTHER SECTIONS: Sections 397.151 to 397.158 are cited in § 397.32.

397.152 Proposal to establish regional libraries; referral to county board of supervisors.

Sec. 2. On completion of the survey of any proposed region, the proposal to establish a regional library shall be referred to the boards of supervisors of all counties included in such proposed region. The boards of supervisors shall act upon such proposal by resolution, and the votes of a majority of the members-elect of the board of supervisors in each of the counties included in the proposed region shall be necessary for the adoption of such proposal. In case of the rejection of such proposal by the boards of supervisors of any of the counties included in such proposed region, the plan may be altered in accordance with such action in order to provide for a regional library in such section of the state. The vote of a majority of the members-elect of the board of supervisors in each of the counties in such altered region shall be necessary for the adoption of such proposal.

HISTORY: CL 1948, 397.152;—Am. 1961, p. 138, Act 116, Eff. Sep. 8.

397.153 Board of trustees; membership, appointment, term, vacancies, expenses.

Sec. 3. Upon the adoption of the regional library proposal, each board of supervisors shall name members to a library board, the members to be chosen from the citizens at large of each county with reference to their fitness for office. Not more than 1 member of the board of supervisors of each county shall be at any one time a member of said library board. Each county shall be entitled to 2 members on the regional library board, the members to be appointed for a term of 4 years each, except that the first members shall be appointed, 1 for 2 years and 1 for 4 years, or until their successors have been appointed. In the case of only 2 counties joining in the regional library, the library board shall consist of not more than 4 members from each county, each for a term of 4 years, except that the first members shall be appointed, 2 for 2 years and 2 for 4 years, or until their successors have been appointed. Vacancies in the board of trustees shall be filled in like manner as the original appointments. Members of the board of trustees shall receive no compensation except their actual and necessary expenses.

HISTORY: Am. 1947, p. 228, Act 159, Eff. Oct. 11;—CL 1948, 397.153;—Am. 1961, p. 138, Act 116, Eff. Sep. 8.

397.154 Repealed. 1961, p. 139, Act 116, Eff. Sep. 8.

Section provided for regional librarian and set forth qualifications.

397.155 Board of trustees; powers.

Sec. 5. The board of trustees of each regional library so established shall have the following powers:

- (a) To establish, maintain and operate a public library for the region.
- (b) To appoint a professionally qualified librarian, and the necessary assistants, and to fix their compensation. Said board shall also have the power to remove said librarian and other assistants.

- (c) To purchase books, periodicals, equipment and supplies.
- (d) To purchase sites and erect buildings, or to lease suitable quarters, and to have supervision and control of such property.
- (e) To borrow books from and lend books to other libraries.
- (f) To enter into contracts to receive service from or give service to libraries within or without the region and to give service to municipalities without the region which have no libraries.
- (g) To have exclusive control of the expenditure of all moneys collected to the credit of the library fund.
- (h) To make such bylaws, rules and regulations not inconsistent with this act as may be expedient for their own government and that of the library.

HISTORY: CL 1948, 397.155;—Am. 1961, p. 139, Act 116, Eff. Sep. 8.

397.156 Appropriation for regional libraries; budget, disbursement.

Sec. 6. Sums necessary for the establishment and operation of regional libraries shall be provided by the boards of supervisors of each of the counties included in such region by an appropriation from the general fund of the respective counties, or by a tax levy for this purpose authorized by a vote of the qualified electors in each of the counties. A budget shall be proposed annually by the board of trustees of the regional library to the boards of supervisors of the counties in the region. Upon approval of such budget by a majority of each of said boards of supervisors, the proposed budget shall be effective in all counties in the region. All appropriations shall be paid to the board of trustees and disbursed under its direction by the county treasurer of the county designated by the regional library board as depository for the regional library fund.

HISTORY: Am. 1945, p. 17, Act 20, Eff. Sep. 6;—Am. 1947, p. 228, Act 150, Eff. Oct. 11;—CL 1948, 397.156;—Am. 1956, p. 283, Act 149, Eff. Aug. 11;—Am. 1961, p. 139, Act 116, Eff. Sep. 8.

397.157 Cities exempt from act; notification when included in proposal.

Sec. 7. Cities of a population of 5,000 or more, maintaining a public library, may be exempted from the provisions of this act on the filing with the state board for libraries of a request by the city legislative body based on action taken by them according to law. Where any such city is included in any regional library proposal the state board for libraries shall notify each city so included in writing of the provisions of this section 15 days before the reference of any regional library proposal under the provisions of section 2.

HISTORY: Am. 1945, p. 18, Act 20, Eff. Sep. 6;—CL 1948, 397.157;—Am. 1961, p. 139, Act 116, Eff. Sep. 8.

397.158 Municipal libraries; transfer to regional libraries.

Sec. 8. After the establishment of a regional library as provided for in this act, the township board, the legislative body of any city or village, the board of education of any school district or the board of supervisors of any municipality in the region, already maintaining a public, school or county library, may notify the board of trustees of the regional library that such township, city, village, school district or county library may be transferred to, leased to, or used by said board of trustees of the regional library under such terms as may mutually be agreed upon between the said board of trustees and the respective township boards, city or village legislative bodies, boards of education or boards of supervisors.

HISTORY: CL 1948, 397.158.

397.159 Repealed. 1961, p. 139, Act 116, Eff. Sep. 8.

Section authorized state librarian to establish rules and regulations he deemed necessary.

Act 164, 1877, p. 154; Eff. Aug. 21.

AN ACT to authorize cities, incorporated villages, and townships, to establish and maintain free public libraries and reading rooms.

The People of the State of Michigan enact:

397.201 City libraries; establishment by city council, library fund.

Sec. 1. That the city council of each incorporated city shall have power to establish and maintain a public library and reading room, for the use and benefit of the inhabitants of such city, and may levy a tax of not to exceed 1 mill on the dollar annually, on all the taxable property in the city, such tax to be levied and collected in like manner with other general taxes of said city, and to be known as the "library fund."

HISTORY: How. 5175;—CL 1897, 3449;—CL 1915, 3431;—CL 1929, 8059;—CL 1948, 397.201.

LIBRARIES: For other provisions relating to township and school district libraries, see Compilers' § 382.1 et seq.

INCORPORATION OF LIBRARIES: See Compilers' § 450.601 et seq.

PROTECTION OF LIBRARIES: For penalty for removal or destruction of library books and papers, see Compilers' § 750.391.

HISTORICAL RECORDS: Local library as depository, see Compilers' § 399.5.

BORROWING POWER: See Act 5 of 1917, being Compilers' § 397.321 et seq. Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

397.202 Board of directors; members, qualifications.

Sec. 2. When any city council shall have decided to establish and maintain a public library and reading room under this act, the mayor of such city shall, with the approval of the city council, proceed to appoint a board of 5 directors for the same, chosen from the citizens at large, with reference to their fitness for such office, and not more than 1 member of the city council shall be at any 1 time a member of said board.

HISTORY: How. 5176;—CL 1897, 3450;—CL 1915, 3432;—CL 1929, 8060;—Am. 1931, p. 431, Act 248, Eff. Sept. 18;—CL 1948, 397.202.

397.203 Board of directors; appointment, terms, removal.

Sec. 3. The offices of boards of directors heretofore appointed under this act, consisting of 9 members, are hereby declared vacant on July 1, 1932, and a board of 5 directors to succeed them or a board of directors of 5 members for a library newly established hereunder shall be first appointed as follows: 1 director shall be appointed for a term of 5 years, 1 director shall be appointed for a term of 4 years, 1 director shall be appointed for a term of 3 years, 1 director shall be appointed for a term of 2 years, 1 director shall be appointed for a term of 1 year, and annually thereafter the mayor shall appoint 1 member of such board of directors for a term of 5 years. The mayor may, by and with the consent of the city council, remove any director for misconduct or neglect of duty.

HISTORY: How. 5177;—CL 1897, 3451;—CL 1915, 3433;—CL 1929, 8061;—Am. 1931, p. 431, Act 248, Eff. Sept. 18;—CL 1948, 397.203.

397.204 Board of directors; vacancies, compensation.

Sec. 4. Vacancies in the board of directors "occasioned by removals, resignation or otherwise, shall be reported to the city council, and be filled in like manner as original appointments, and no director shall receive compensation as such.

HISTORY: How. 5178;—CL 1897, 3452;—CL 1915, 3434;—CL 1929, 8062;—CL 1948, 397.204.

*NOTE: It is evident "occasioned" should be "occasional".

397.205 Board of directors; officers, powers and duties; library fund, expenditures, accounting.

Sec. 5. Said directors shall, immediately after appointment, meet and organize, by the election of 1 of their number president, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules, and regulations for their own guidance and for the government of the library and reading room, as may be expedient, not inconsistent with this act. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, and of

the construction of any library building, and, of the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose: Provided, That all moneys received for such library shall be deposited in the treasury of said city to the credit of the library fund, and shall be kept separate and apart from other moneys of such city, and drawn upon by the proper officers of said city, upon the properly authenticated vouchers of the library board. Said board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate building or buildings for the use of said library; shall have power to appoint a suitable librarian and necessary assistants, and fix their compensation; and shall also have power to remove such appointees; and shall, in general, carry out the spirit and intent of this act in establishing and maintaining a public library and reading room.

HISTORY: How. 5179;—CL 1897, 3453;—CL 1915, 3435;—CL 1929, 8063;—CL 1948, 397.205.

397.206 City library; free use; regulations.

Sec. 6. Every library and reading room established under this act shall be forever free to the use of the inhabitants where located, always subject to such reasonable rules and regulations as the library board may adopt; and said board may exclude from the use of said library and reading room any and all persons who shall wilfully violate such rules.

HISTORY: How. 5180;—CL 1897, 3454;—CL 1915, 3436;—CL 1929, 8064;—CL 1948, 397.206.

397.207 Board of directors; annual report, contents.

Sec. 7. The said board of directors shall make, at the end of each and every year from and after the organization of such library, a report to the city council, stating the condition of their trust at the date of such report the various sums of money received from the library fund and from other sources, and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift, or otherwise during the year; the number lost or missing; the number of visitors attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information, and suggestions as they may deem of general interest. All such portions of said report as relate to the receipt and expenditure of money, as well as the number of books on hand, books lost or missing, and books purchased, shall be verified by affidavit.

HISTORY: How. 5181;—CL 1897, 3455;—CL 1915, 3437;—CL 1929, 8065;—CL 1948, 397.207.

397.208 City library; injury to property, ordinances, penalties.

Sec. 8. The city council of said city shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon such library, or the grounds or other property thereof, or for wilful injury to or failure to return any book belonging to such library.

HISTORY: How. 5182;—CL 1897, 3456;—CL 1915, 3438;—CL 1929, 8066;—CL 1948, 397.208.

PROTECTION OF LIBRARIES: For penalty for removal or destruction of library books and papers, see Compilers' § 750.391.

397.209 City library; donations, acceptance.

Sec. 9. Any person desiring to make donations of money, personal property, or real estate for the benefit of such library, shall have the right to vest the title to money or real estate so donated in the board of directors created under this act, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise, or bequest of such property; and as to such property, the said board shall be held and considered to be special trustees.

HISTORY: How. 5183;—CL 1897, 3457;—CL 1915, 3439;—CL 1929, 8067;—CL 1948, 397.209.

397.210 Village or township library; petition for tax; referendum; estimate of cost of maintenance, assessment.

Sec. 10. When 50 voters of any incorporated village or township shall present a petition to the clerk of the village or township, asking that a tax may be levied for the es-

establishment of a free public library in such village or township, and shall specify in their petition the rate of taxation, not to exceed 1 mill on the dollar, such clerk shall, in the next legal notice of the regular annual election in such village or township, give notice that at such election every voter may vote for a mill tax for a free public library, or against a mill tax for a free public library, specifying in such notice the rate of taxation mentioned in such petition; and if the majority of all the votes cast in such village or township shall be for the tax for a free public library, the tax specified in such notice shall be levied and collected in like manner with other general taxes of said village or township, and shall be known as the library fund, and when such free public library shall have been established and a board of directors elected and qualified, as herein-after provided, it shall be the duty of such board of directors on or before the first Monday of September in each year, where it has been voted to establish a free public library by a township, and on or before the second Monday in April, where it has been voted to establish a free public library by an incorporated village, to prepare an estimate of the amount of money necessary for the support and maintenance of such library for the ensuing year, not exceeding 1 mill on the dollar of the taxable property of the village or township, and report such estimate to the assessor of such village or the supervisors of such township for assessment and collection, the same as other village or township taxes, and the same shall be so assessed and collected; and the corporate authorities of any such villages or townships may exercise the same powers conferred upon the corporate authorities of cities under this act.

HISTORY: How. 5184;—Am. 1885, p. 35, Act 36, Eff. Sept. 19;—CL 1897, 3458;—Am. 1907, p. 45, Act 42, Imd. Eff. April 11;—CL 1915, 3440;—CL 1929, 8068;—CL 1948, 397.210.

397.210a City library; referendum on tax for establishment; tax for maintenance.

Sec. 10a. When 50 voters of any city containing a population of not over 10,000 shall present a petition to the clerk of the city, asking that a tax may be levied for the establishment of a free public library in such city, and shall specify in their petition a rate of taxation not to exceed 1 mill on the dollar, such clerk shall in the next legal notice of the regular annual election in such city, give notice that at such election every voter may vote upon such proposition, which notice shall specify the rate of taxation mentioned in said petition. The form of the ballot shall be as follows:

“For a mill tax for a free public library, Yes ☐

For a mill tax for a free public library, No ☐.

If a majority of all the votes cast in such city upon such proposition shall be for the tax for a free public library, the tax specified in such notice shall be levied and collected in like manner with other general taxes of said city, and shall be placed in a fund to be known as the “library fund”; and when such free public library shall have been established under this section, and a board of directors elected and qualified as hereafter provided in section 11 hereof, it shall be the duty of such board of directors on or before the first Monday in September in each year to prepare an estimate of the amount of money necessary for the support and maintenance of such library for the ensuing year, not exceeding 1 mill on the dollar of the taxable property of such city, and report such estimate to the common council of said city, which sum so reported the council shall cause to be raised by tax upon the taxable property in the city in the same manner that other general taxes are raised in said city.

HISTORY: Add. 1911, p. 302, Act 178, Eff. Aug. 1;—CL 1915, 3441;—CL 1929, 8069;—Am. 1931, p. 431, Act 248, Eff. Sept. 19;—CL 1948, 397.210a.

397.211 City, village or township library board; temporary appointment, election, term, powers, vacancy.

Sec. 11. As soon as may be after any city containing a population of not over 10,000 or any village or township shall have voted to establish a free public library and any such city, township or village where there is now a free public library and no library board has been elected, the legislative body of such city and the township board of any township and the common council of any village is hereby authorized to appoint a temporary board of 6 directors, to be known as the provisional library board of such city, township or village, and to hold office until the election, at the next annual, or biennial, city or village election, or biennial township election of a permanent library board of the city, township or village. Such permanent library board in cities and villages holding annual elections shall consist of 6 directors, 2 of whom shall be elected for 1 year, 2 for 2 years, and 2 for 3 years, and annually thereafter there shall be elected 2 directors, who shall hold office for 3 years. Such permanent library board in townships, or in cities or villages holding elections biennially, shall consist of 6 directors, 2 of whom shall be elected for 2 years, 2 for 4 years, and 2 for 6 years, and biennially thereafter there shall be elected 2 directors, who shall hold office for 6 years. All directors shall hold office until their successors are elected and qualified. Such provisional and permanent library board shall have the same powers as are by this act conferred upon the boards of directors of free public libraries in cities having a population of over 10,000. The library board is hereby empowered to fill any vacancy occurring on such board of any city having a population of not over 10,000, or of any village or of any township by appointment of a person to hold such office until the next election.

HISTORY: How. 5185;—CL 1897, 3459;—Am. 1905, p. 92, Act 67, Eff. Sept. 18;—CL 1915, 3442;—CL 1929, 8070;—Am. 1931, p. 432, Act 248, Eff. Sept. 18;—Am. 1945, p. 57, Act 80, Imd. Eff. March 28;—CL 1948, 397.211.

397.212 Inapplicability of act.

Sec. 12. This act shall not apply to cities or villages containing a population of over 10,000, or to any city or village maintaining a public library under any special act.

HISTORY: How. 5186;—CL 1897, 3480;—CL 1915, 3443;—CL 1929, 8071;—CL 1948, 397.212.

397.213 Joint municipal libraries; townships.

Sec. 13. The people of any township adjacent to or adjoining any other township, any village or city, which supports a free public and circulating library and reading room under the provisions of this act, may be united thereunto for the same purpose under the following conditions.

HISTORY: Add. 1903, p. 24, Act 19, Eff. Sept. 17;—CL 1915, 3444;—CL 1929, 8072;—CL 1948, 397.213.

CONSOLIDATION OF LIBRARIES: Township libraries, see Compilers' § 397.351 et seq.

397.214 Joint municipal libraries; contract for use of municipal library by township, vote, term of contract; tax levy.

Sec. 14. Upon receipt of a petition signed by not less than 10 per cent of the electors in any township based on the highest vote cast at the last regular election for township officers of such township, addressed to the township board, requesting that a meeting be called of the electors in such township, to consider making a contract with any township, city or village supporting and maintaining a free public circulating library and reading room under this act, or under any special act, for the use of its privileges by the residents of such township, the township board shall call a meeting of the electors of such township by posting notices in at least 5 public places within such township not less than 10 days previous to such meeting. At the meeting so called the electors present shall determine whether the township shall enter into a contract for the use of any free public circulating library and reading room in any township, city or village, as the case may be, and a tax levied for the purpose of paying for such use, in case the electors shall decide to enter into such contract: Provided, That the tax so levied shall in no case exceed 1 mill upon the dollar of the assessed valuation of such

township. If a majority of those present and voting shall be in favor of the township contracting for the use of a free public circulating library and reading room maintained in any township, city or village, the township board shall have power to enter into such contract and shall levy and collect the tax herein provided for, which tax when collected shall be placed in a fund to be known as the "library fund" and said tax shall be paid over by the township treasurer to the treasurer of the township, city or village in which said library is located, on the first day of January, February and March of each year, to be disbursed subject to the provisions of section 5 of this act. The board of library commissioners of any township, city or village, supporting and maintaining a free public circulating library and reading room under this act, or under any special act, are hereby authorized and empowered to enter into a contract with any township to permit the residents of such township the full use of such library, upon terms and conditions to be agreed upon between such board of library commissioners and such township board: Provided, That such contract shall be executed for a term of 3 years and shall be automatically extended for an indefinite term thereafter and shall be terminable only on the giving of 6 months' notice by either party thereto of the intent to terminate such contract.

HISTORY: Add. 1903, p. 24, Act 19, Eff. Sept. 17;—Am. 1911, p. 462, Act 272, Eff. Aug. 1;—CL 1915, 3445;—CL 1929, 8073;—Am. 1931, p. 432, Act 248, Eff. Sept. 18;—CL 1948, 397.214.

Sec. 15.

HISTORY: Add. 1903, p. 25, Act 19, Eff. Sept. 17;—Rep. 1911, p. 463, Act 272, Eff. Aug. 1.

This section provided for the election by the township of 2 members of the board of library commissioners.

397.216 Joint municipal libraries; right to user under contract.

Sec. 16. The people of the said township uniting with another township, or with a village or city, shall, after they shall have paid their first taxes therefor, and thereafter while continuing so to do, have all rights in the use and benefits of said library that they would have had had they lived in the township where the same shall have been established, subject to uniform rules and regulations established by the board of library commissioners thereof.

HISTORY: Add. 1903, p. 25, Act 19, Eff. Sept. 17;—CL 1915, 3446;—CL 1929, 8074;—CL 1948, 397.216.

397.217 Joint municipal libraries; villages and cities.

Sec. 17. The people of villages may join with townships, or townships with villages, or either with cities, by complying with similar provisions, as aforesaid in this act, and as amended, for the purpose of maintaining, supporting and receiving the benefits from a free public circulating library.

HISTORY: Add. 1903, p. 25, Act 19, Eff. Sept. 17;—CL 1915, 3447;—CL 1929, 8075;—CL 1948, 397.217.

Act 305, 1919, p. 534; Eff. Aug. 14.

AN ACT to authorize the issue of bonds; to provide sites for and for the erection thereon of public libraries and for additions to and improvements of such sites and the buildings thereon, whether now existing or hereafter acquired, in cities, villages and school districts where free public libraries have or may hereafter be established.

The People of the State of Michigan enact:

397.241 Sites and buildings provided; improvement of existing property; bond issue, limitation.

Sec. 1. The legislative body of any city, village or school district where free public libraries have been, or may hereafter be established, is hereby authorized upon the application of the local library board, or commission or body duly authorized by law to maintain free public libraries in such city, village or school district to borrow a sum of

money upon the faith and credit of such city, village or school district not exceeding 1/4 of 1 per centum of the assessed valuation of such city, village or school district to provide sites for, and for the erection thereon, of free public library buildings and for additions to and improvements of such sites and the buildings thereon now existing or hereafter acquired and to issue the bond or bonds of such city, village or school district therefor: Provided, That wherever library bonds have heretofore been issued or authorized said bonds shall be included in the limitation of 1/4 of 1 per centum of the assessed valuation: And provided further, That such bonds hereafter issued shall be in addition to all other indebtedness which the city, village or school district is or may be authorized to incur for purposes other than library purposes.

HISTORY: CL 1929, 8076;—CL 1948, 397.241.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

VILLAGES: Library bonds, see also Compilers' § 397.321 et seq.

397.242 Bonds; form, issuance, negotiation.

Sec. 2. Said bonds shall be denominated "public library bonds of the city, village or school district number of, " shall be regularly dated and numbered in the order of their issue, shall be for sums of not less than 100 dollars each, shall bear interest not exceeding 5 per centum per annum and shall be payable within such time from the date of issue, as the local legislative body of such city, village or school district may determine. They shall be issued under the seal of the city or village, signed by the mayor thereof and countersigned by the controller or like financial officer of said city, or in case of school districts, the chairman of the school board. Said bonds shall not be negotiated at less than their par value.

HISTORY: CL 1929, 8077;—CL 1948, 397.242.

397.243 Bonds; approval of issue.

Sec. 3. No bonds shall be issued under this act unless such issue has been approved by both the local legislative body and by that body to whom is entrusted the management of the local library system and upon such concurrent approval the legislative body of said city, village or school district shall thereupon proceed to issue and negotiate the sale of said bonds.

HISTORY: CL 1929, 8078;—CL 1948, 397.243.

397.244 Bonds; sinking fund for redemption; receipts from sale, disposition.

Sec. 4. The local legislative body of such city, village or school district shall provide a sinking fund for the redemption of the bonds issued under the provisions of this act to which end it shall be its duty to raise by taxation, each year, upon the property assessed for city, village or school district purposes, such sum as shall be sufficient to make said sinking fund adequate at the maturity of the bonds, to pay the same and the moneys so raised shall be used for no other purpose. The principal realized from the sale of said bonds shall be deposited with the treasurer of said city, village or school district and credited to a public library fund for the purposes hereinbefore mentioned and shall be used for said purposes only. The premium and accrued interest of said bonds shall be credited to the sinking fund of said city, village or school district.

HISTORY: CL 1929, 8079;—CL 1948, 397.244.

397.245 Bonds; budget items for sinking fund and interest on bonds.

Sec. 5. It shall be the duty of the local board entrusted with the management of the local library system, to include in its budget each year, an item of the amount necessary to be raised each year for the sinking fund and an item for the amount necessary to be raised each year for the interest on said bonds and said items shall be allowed by the local body or officer whose duty it is to determine the amount to be raised by taxa-

tion for said city, village or school district. Said items shall be in addition to the amount which may be annually raised by taxation for all other purposes.

HISTORY: CL 1929, 8080;—CL 1948, 397.245.

397.246 Cities and villages; borrowing power.

Sec. 6. Notwithstanding the provisions of this act, any city or village may borrow money and issue bonds for library buildings, additions thereto and/or sites therefor, in accordance with, and to the full extent authorized by its charter.

HISTORY: Add. 1952, p. 142, Act 126, Imd. Eff. Apr. 17.

Act 261, 1913, p. 489; Eff. Aug. 14.

AN ACT to authorize boards of education to provide for the maintenance of free public libraries existing under the control of boards of education of the cities; to authorize and empower said boards of education to raise or borrow money and issue bonds in sufficient sum to purchase property or site, erect and maintain buildings for use as a free public library and other educational purposes.

The People of the State of Michigan enact:

397.261 Boards of education library; annual expense estimates.

Sec. 1. Boards of education in cities where free public libraries are under control of such boards of education by reason of existing charters or otherwise, from and after the passage of this act are hereby authorized and empowered to include in their annual estimate a sum or sums sufficient to properly care for and defray the expense of maintenance and to purchase new books required for such libraries.

HISTORY: CL 1915, 5836;—CL 1929, 8081;—CL 1948, 397.261.

397.262 Boards of education; bonds, issuance, maturity, approval by electors.

Sec. 2. Boards of education in cities having the control of free public libraries by reason of existing charters or otherwise are hereby authorized and empowered to raise money, either by including the amount in their annual estimates, or to borrow same on the faith and credit of said school district, and to issue certificates or bonds to secure the payment of the sums borrowed; sufficient to purchase property for a site and to provide the money necessary to erect, equip and maintain buildings for a free public library and other educational uses: Provided, That when any bond issue shall be provided for under the terms of this act such bonds shall not be issued for a period of more than 10 years. No bonds provided for in this act shall be issued until issuance of same shall have been submitted to the electors of the district affected and approved by a majority of the electors voting thereon.

HISTORY: CL 1915, 5837;—CL 1929, 8082;—CL 1948, 397.262.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1915, 5838;—CL 1929, 8083;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 164, 1955, p. 250; Imd. Eff. Jun. 7.

AN ACT to provide for the establishment and maintenance of district libraries; to provide for boards of trustees to have control of such libraries; to define the powers and duties of such boards; and to provide for the support of such libraries.

The People of the State of Michigan enact:

397.271 District libraries; establishment.

Sec. 1. Any municipality empowered by law to establish or maintain libraries or library services may cooperatively develop a plan and unite with any other municipality or municipalities for the establishment and operation of a district library.

The term "municipalities" as used in this act shall include cities, villages, school districts, townships and counties.

HISTORY: New 1955, p. 250, Act 164, Imd. Eff. Jun. 7.

397.272 District libraries; proposal to unite, approval.

Sec. 2. The proposal to unite for the establishment and operation of such district library shall be submitted to the governing or legislative body of each municipality in such proposed district, and the vote of a majority of the members of each such body shall be necessary for the adoption of such proposal.

HISTORY: New 1955, p. 250, Act 164, Imd. Eff. Jun. 7.

397.273 Board of trustees; appointment, term, vacancies, compensation; officers.

Sec. 3. Upon the adoption of the proposal for such district library, the governing or legislative body of each participating municipality shall choose from its citizens, with reference to their fitness for office, 2 members who shall compose the library board of trustees for terms of 4 years each: Provided, That of the members first appointed, 1 shall be appointed for a term of 2 years and 1 for a term of 4 years. Members shall serve until the appointment and qualification of their successors. Vacancies shall be filled in like manner for the unexpired term. The members of the board shall serve without compensation but shall be entitled to actual and necessary expenses incurred in the performance of official duties. The members of the board shall select their own officers.

HISTORY: New 1955, p. 250, Act 164, Imd. Eff. Jun. 7.

397.274 Board of trustees; powers.

Sec. 4. The board of trustees of each district library so established shall have the following powers:

- (a) To establish, maintain and operate a public library for the district;
- (b) To appoint a librarian, and the necessary assistants, and fix their compensation. Said board shall also have the power to remove said librarian and other assistants;
- (c) To purchase books, periodicals, equipment and supplies;
- (d) To purchase sites and erect buildings, and/or to lease suitable quarters, and to have supervision and control of such property;
- (e) To enter into contracts to receive service from or give service to libraries within or without the district and to give service to municipalities without the district which have no libraries;
- (f) To have exclusive control of the expenditure of all moneys collected to the credit of the library fund;
- (g) To make such by-laws, rules and regulations not inconsistent with this act as may be expedient for their own government and that of the library.

HISTORY: New 1955, p. 251, Act 164, Imd. Eff. Jun. 7.

397.275 District libraries; support by appropriation or tax levy.

Sec. 5. The sums necessary for the establishment and operation of said district library shall be appropriated by the governing or legislative boards of the municipalities entering into the formation of the district library, or by a tax levy for this purpose authorized by a vote of the qualified electors in any participating municipality. If any

municipality withdraws from the district library, any previously voted tax levy shall be continued for provision of public library support.

HISTORY: New 1955, p. 251, Act 164, Imd. Eff. Jun. 7;—Am. 1970, p. 85, Act 32, Imd. Eff. Jun. 16.

397.276 District libraries; withdrawal of municipality, procedure.

Sec. 6. (1) Any municipality which has united with other municipalities in the establishment and operation of a district library under this act may withdraw therefrom upon a favorable vote by the majority of those voting at the next regularly scheduled election of the withdrawing municipality.

(2) The resolution shall state the effective date of the withdrawal of the municipality, which date shall be not less than 6 months from the date of the resolution. Notice of the resolution shall be published at least 10 days before its passage, in a newspaper of general circulation within the withdrawing municipality.

(3) After passage of the resolution, duplicate certified copies of it shall be filed with the district library board for transmittal to the local boards of all other municipalities participating in the district library and with the state board of education.

(4) The state board of education shall require the local board of the withdrawing municipality to furnish a plan for continuing public library service for all residents of the municipality after withdrawal from the district library.

(5) The withdrawing municipality shall be entitled to receive its share of the net assets of the district library valued as of the date of withdrawal if it so desires. Payment of the withdrawing municipality's share shall be made within a reasonable period of time according to a plan approved by the state board of education.

HISTORY: Add. 1970, p. 85, Act 32, Imd. Eff. Jun. 16.

Act 138, 1917, p. 256; Eff. Aug. 10.

AN ACT to authorize the creation of county libraries; to authorize the contracting by the board of supervisors of any county for library service; to authorize the contracting by the board of supervisors of any county or the board of trustees of any regional library with any other municipality for the furnishing of such service; and to provide for a tax for the purposes of this act. Am. 1931, p. 433, Act 249, Eff. Sep. 18.

The People of the State of Michigan enact:

397.301 County libraries; establishment, contracts for service, tax.

Sec. 1. The board of supervisors of any county shall have the power to establish a public library free for the use of the inhabitants of such county and they may contract for the use, for such purposes, of a public library already established within the county, with the body having control of such library, to furnish library service to the people of the county under such terms and conditions as may be stated in such contract. The amount agreed to be paid for such service under such contract and the amount which the board may appropriate for the purpose of establishing and maintaining a public library shall be a charge upon the county and the board may annually levy a tax on the taxable property of the county, to be levied and collected in like manner as other taxes in said county and paid to the county treasurer of said county and to be known as the library fund.

HISTORY: CL 1929, 8064;—Am. 1931, p. 433, Act 249, Eff. Sept. 18;—Am. 1943, p. 335, Act 206, Imd. Eff. Apr. 17;—CL 1948, 397.301;—Am. 1956, p. 284, Act 150, Eff. Aug. 11.

CITED IN OTHER SECTIONS: Sections 397.301 to 397.305 are cited in §§ 340.914 and 397.32.

397.302 County library board; members, term; body corporate, powers.

Sec. 2. For the purpose of administering the county library fund, there shall be a library board consisting of 5 members, to be appointed by the board of supervisors, for

terms of 5 years each, except that the first members shall be appointed for 1, 2, 3, 4 and 5 years.

The board shall be a body corporate and shall be authorized to contract for the leasing, construction or maintenance of buildings or quarters, including the acquisition of sites, to house the county library service, and to do any other thing necessary for the conducting of the county library service, the cost thereof to be a charge against the county library fund.

HISTORY: CL 1929, 8085;—Am. 1937, p. 179, Act 113, Imd. Eff. June 24;—Am. 1943, p. 335, Act 206, Imd. Eff. April 17;—CL 1948, 397.302;—Am. 1966, p. 94, Act 67, Imd. Eff. Jun. 9.

397.303 Contract for use of existing library; county library fund.

Sec. 3. In case a contract shall be made with an existing library, the county library fund shall be administered by the county library board and such contract, and all services provided for thereunder, shall be supervised by the county library board; and all employees engaged in the execution and carrying out of such contract shall be county employees, except those furnished and employed by the library rendering such services in accordance with or fulfillment of such contract.

HISTORY: CL 1929, 8086;—Am. 1937, p. 179, Act 113, Imd. Eff. June 24;—Am. 1943, p. 336, Act 206, Imd. Eff. April 17;—CL 1948, 397.303.

397.304 County library fund; disbursement.

Sec. 4. Said fund shall be paid by the county treasurer upon the order or warrants of said library board.

HISTORY: CL 1929, 8087;—Am. 1943, p. 336, Act 206, Imd. Eff. April 17;—CL 1948, 397.304.

397.305 Contract for service to municipality; tax; effect of establishment of municipal library.

Sec. 5. Any county possessing a county library or any board of trustees of a regional library may enter into a contract with 1 or more counties, townships, villages, cities and/or other municipalities to secure to the residents of such municipality such library service as may be agreed upon, and the money received for the furnishing of such service shall be deposited to the credit of the library fund. Any municipality contracting for such library service shall have the power to levy a library tax in the same manner and amount as authorized in section 1 hereof for the purpose of paying therefor. Any municipality contracting for such library service may at any time establish a public library free for the use of its inhabitants, whereupon its contract for said service may be continued or terminated on such terms as may be agreed upon between the parties thereto.

HISTORY: Add. 1931, p. 434, Act 249, Eff. Sept. 18;—CL 1948, 397.305.

Act 5, 1917, p. 15; Imd. Eff. Mar. 9.

AN ACT authorizing organized townships and incorporated villages in the state of Michigan to borrow money and to issue bonds therefor for the purpose of establishing free public libraries, purchasing sites and constructing buildings thereon.

The People of the State of Michigan enact:

397.321 Townships and villages; issuance of library bonds, approval by electors.

Sec. 1. The township board of any organized township and the village council, or board of trustees, of any incorporated village in the state of Michigan are hereby authorized and empowered, upon an application signed by not less than 25 qualified electors of such township or incorporated village being first filed with the said township board, village council, or board of trustees, as the case may be, to borrow a sum of

money, not exceeding 1 per cent of the assessed valuation of such township, or incorporated village, on the faith and credit of such township, or incorporated village, and to issue the bond, or bonds of such township, or incorporated village, therefor; the money so borrowed to be used for the purpose of establishing a free public library, for purchasing a site for the same or constructing buildings thereon: Provided, That a majority of the voters of such township, or incorporated village, voting thereon at a township meeting, a general election, or at a special election called by the township board, or at a general or special election called by the village council, or board of trustees, for that purpose, shall vote in favor thereof.

HISTORY: CL 1929, 8068;—CL 1948, 397.321.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

VILLAGES: Library bonds, see Compilers' § 397.241 et seq.

397.322 Referendum; notice.

Sec. 2. The question of issuing the bonds provided for in section 1 of this act, shall be submitted to the legal voters of such township, or incorporated village, by the township board, the village council or board of trustees, within 30 days after the filing of the application mentioned in section 1, giving due notice thereof by causing the date, place of voting and object of said election to be stated in written or printed notices to be posted in 5 public places in such township, or incorporated village, at least 10 days before the time fixed by said board for such election, and by publishing the same in at least 1 newspaper published in said township, or incorporated village, or if none be published in said township, or incorporated village, then in some newspaper published in the same county, which is circulated in such township or incorporated village, at least 2 weeks before the time of such election. Such notice shall state the amount of money proposed to be raised by such bonding, and the purpose or purposes to which it shall be applied.

HISTORY: CL 1929, 8089;—CL 1948, 397.322.

397.323 Referendum; form of ballot; election process.

Sec. 3. The vote upon such proposition shall be by printed ballot, and such ballots shall be in the following form:

"For the issuing of bonds to (Purpose) Yes ☐.

"For the issuing of bonds to (Purpose) No ☐.

The election shall be conducted and the votes canvassed in all respects, as in other township or village elections.

HISTORY: CL 1929, 8090;—CL 1948, 397.323.

397.324 Library bonds; term, signature, negotiation; tax.

Sec. 4. If at such election a majority of such qualified electors present thereat and voting upon said proposition shall vote in favor of such loan, such bonds shall be issued by the township board of the township or the village council or board of trustees of the village, as the case may be, in denominations not exceeding 1,000 dollars each, at a rate of interest not exceeding 5 per centum per annum, and for a period not exceeding 25 years, as the said township board, or the said common council, or board of trustees, by resolution, shall direct. Said bond, or bonds, issued by a township board, shall be signed by the members of the said township board and countersigned by the township treasurer, and when issued by a village council shall be signed by the president and clerk of said village and countersigned by the village treasurer. Said bond, or bonds, shall be negotiated by and under the direction of said township board, or common council, or board of trustees of incorporated village, to raise in each year by tax upon the taxable property of such township, or incorporated village, such sums of money as

shall be sufficient to pay the amount of said bonds and the interest thereon, as the same shall become due.

HISTORY: CL 1929, 8091;—CL 1948, 397.324.

397.325 Library bonds; negotiation at less than par prohibited.

Sec. 5. No bonds issued under and by virtue of this act shall be used or negotiated at less than their par value.

HISTORY: CL 1929, 8092;—CL 1948, 397.325.

397.326 Declaration of necessity.

Sec. 6. It is hereby declared that this act is immediately necessary for the public health, peace and safety.

HISTORY: CL 1929, 8093;—CL 1948, 397.326.

Act 165, 1927, p. 264; Eff. Sep. 5.

AN ACT to authorize the consolidation of township libraries in adjoining townships in certain cases, and to provide for their joint maintenance.

The People of the State of Michigan enact:

397.351 Consolidation of township libraries; procedure.

Sec. 1. It shall hereafter be lawful for the township boards of adjoining townships in the same county, by joint action of the respective township boards of such townships, by proceeding as hereinafter provided, to consolidate the libraries in each township into 1 library, and to designate the site thereof.

HISTORY: CL 1929, 8094;—CL 1948, 397.351.

UNITING OF TOWNSHIPS: See Compilers' § 397.213 et seq.

397.352 Referendum; petition.

Sec. 2. When the township board of each township having such libraries shall be presented with a petition, signed by not less than 25 per cent of the resident freeholders of each of the respective townships, each such township board shall forthwith adopt a resolution submitting the question of consolidation of the libraries of the 2 townships to the qualified electors of each township at any regular election or special election duly called for that purpose.

HISTORY: CL 1929, 8095;—CL 1948, 397.352.

397.353 Referendum; form of ballot; conduct of election.

Sec. 3. The election shall be by ballot in substantially the following form:

“Shall the township libraries of and townships be consolidated?

Yes ☐

No ☐.

The election shall be conducted in every respect the same as other special or general elections are conducted, and the results canvassed and certified in like manner.

HISTORY: CL 1929, 8096;—CL 1948, 397.353.

397.354 Referendum; meeting to pass joint resolution; consolidation.

Sec. 4. If the proposition shall be carried by a majority of those voting at the election, in each township, and the respective election boards shall so certify, the respec-

tive township boards shall meet together in the township casting the largest vote at such election and shall pass a joint resolution, which shall be recorded in the minutes of the clerk of each board, canvassing the returns of the elections, and shall formally consolidate the township libraries of the 2 townships.

HISTORY: CL 1929, 8097;—CL 1948, 397.354.

397.355 Site of library; designation.

Sec. 5. Such resolution shall designate the site of the library, and if not able to agree by a majority vote of the board members present and voting, the county commissioner of schools shall choose a site properly located and most advantageous to the townships.

HISTORY: CL 1929, 8098;—CL 1948, 397.355.

397.356 Maintenance expenses; apportionment.

Sec. 6. The expense of maintenance for the ensuing year shall be estimated, and the expense apportioned between the 2 townships in proportion to their respective assessed valuations for the preceding year, and such tax certified by the clerk of each board to its respective supervisor.

HISTORY: CL 1929, 8099;—CL 1948, 397.356.

397.357 Control of library.

Sec. 7. Said library when so consolidated shall be under the joint control of the township boards, and any matter upon which they can not agree shall be decided by the county commissioner of schools. Not more than 2 joint meetings per year shall be held.

HISTORY: CL 1929, 8100;—CL 1948, 397.357.

397.358 Free public library; formation.

Sec. 8. After consolidation, the library may be formed into a free public library, with provisional board of directors in pursuance of the statute in such case made and provided, upon proper procedure for that purpose, jointly taken by the township boards of the townships consolidating.

HISTORY: CL 1929, 8101;—CL 1948, 397.358.

BOARD OF DIRECTORS: Provisional board, see Compilers' § 397.211.

Act 213, 1925, p. 312; Imd. Eff. May 6.

AN ACT to provide for the maintenance and operation of libraries for public use, owned or controlled by associations or individuals.

The People of the State of Michigan enact:

397.371 Privately owned libraries; public support, limitation, conditions.

Sec. 1. Any township, city or village within this state, having within its limits a library that had been open to the public upon the payment of dues, may appropriate not to exceed 1/2 of 1 mill on its assessed valuation for the support of such library, and such sum or sums shall be raised by taxation in the ordinary way: Provided, That any library so receiving support from any municipality shall be kept open for the convenience of the public not less than the afternoons and evenings of 3 days of each week, and the books therein shall be for the free use of the public under such reasonable restrictions as such library shall prescribe.

HISTORY: CL 1929, 8102;—CL 1948, 397.371.

Act 136, 1921, p. 296; Eff. Aug. 18.

AN ACT to authorize and facilitate the acquisition and disposal of public library property by public corporations empowered to maintain public libraries.

The People of the State of Michigan enact:

397.381 Donations; acceptance, use.

Sec. 1. Any board of education, library commission or other public corporation empowered to maintain a public library may receive and accept gifts and donations of property, real or personal, for the purpose of such library and shall hold, use and apply the property so received for the purposes set forth in the instrument of gift and in accordance with the provisions of such instrument and subject to the conditions and limitations, if any, therein expressed.

HISTORY: CL 1929, 8103;—CL 1948, 397.381.

397.382 Donations; disposition.

Sec. 2. Whenever any property, real or personal, now or hereafter held and used for the purpose of a public library by any board of education, library commission or other public corporation shall, in the judgment of such corporation, be no longer needed for such purpose, such property may be sold and disposed of by such corporation unless such sale and disposal be inconsistent with the terms and conditions upon which such property was acquired, at such price and upon such terms and conditions as said corporation may deem proper, and the proceeds thereof shall by said corporation be used and applied for the purpose of such library.

HISTORY: CL 1929, 8104;—CL 1948, 397.382.

Act 26, 1921 (1st Ex. Ses.), p. 801; Eff. Sep. 19.

AN ACT relative to library commissions in cities having a population of more than 250,000.

The People of the State of Michigan enact:

397.401 Library commission; jurisdiction.

Sec. 1. The territory over which the library commission in any city having a population of more than 250,000 shall conduct the activities to it by law confided, and to which shall apply charges and obligations heretofore or hereafter imposed for the purposes of any said commission, shall be co-extensive with the boundaries of any said city and shall automatically change by and with any change in said boundaries.

HISTORY: CL 1929, 8105;—CL 1948, 397.401.

DETROIT: In 1948 this was the only city in the state meeting the population requirement of this act.

LIBRARY COMMISSION: Local Act 359 of 1901 provided for the incorporation of the Detroit library commission. Local Act 390 of 1903 amended Secs. 1, 3 and 4, and Local Act 460 of 1905 amended Secs. 3 and 7.

397.402 Library commission; annual budget.

Sec. 2. The annual budget of any said commission shall be prepared in manner and time provided by the charter of any said city concerning the budget thereof and shall be submitted to and passed upon by the officers and boards of any said city as are the items in the budget thereof.

HISTORY: CL 1929, 8106;—CL 1948, 397.402.

397.403 Library commission; fiscal year.

Sec. 3. The fiscal year of any said commission shall be identical with that of any said city.

HISTORY: CL 1929, 8107;—CL 1948, 397.403.

397.404 Effect of local act; continuation.

Sec. 4. The relation of officers or agencies of any said city to the affairs of any said commission growing out of any special or local act of the state legislature shall con-

tinue in officers or agencies of any said city on revision or amendment of said special or local act by the electors of any said city.

HISTORY: CL 1929, 8108;—CL 1948, 397.404.

397.405 Payrolls, bills, accounts and claims; audit and approval; certificate; allowance, payment.

Sec. 5. All payrolls, bills, accounts and claims of every character against the library commission after having been duly audited and approved by the commission, the certificate of which audit and approval shall be endorsed thereon by the president or secretary of the commission or some member or other representative of the commission acting under authority conferred by the commission generally or specially, shall be transmitted to the city controller, who shall endorse thereon his approval or disapproval. When so endorsed with approval the controller shall draw his warrant or warrants on the city treasurer in payment therefor. No bill, account or claim shall be audited or approved by the commission unless the same shall be accompanied by a certificate of a representative of the commission who acted for the commission in making the purchase or contract or in taking the delivery or performance that he verily believes the services or property therein charged have been actually performed or delivered for the commission, that the sum or sums charged therefor are reasonable and just, and that to the best of his knowledge and belief no setoff exists, nor payment has been made on account thereof except such as are included or referred to in such account. A similar certificate shall be required upon all payrolls, the certificate to be made by the person under whose supervision the services charged have been rendered. The provisions hereof shall be in addition to any provisions covering the same matters in any general or local act or charter adopted pursuant to Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Compiled Laws of 1948.

HISTORY: Add. 1947, p. 263, Act 185, Eff. Oct. 11;—CL 1948, 397.405;—Am. 1967, p. 317, Act 220, Eff. Nov. 2.

NOTE: Act 279, 1909, above referred to, is Compilers' § 117.1 et seq.

Act 115, 1899, p. 164; Imd. Eff. Jun. 1.

AN ACT to create a state board of library commissioners, to promote the establishment and efficiency of free public libraries, and to provide an appropriation therefor.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: CL 1915, 1150;—Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

This section provided for the appointment of 4 persons who, with the state librarian, should constitute a board of library commissioners.

Sec. 2.

HISTORY: CL 1915, 1151;—CL 1929, 8053;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

This section provided for the annual report of the library commission.

397.453 Free libraries; annual report to state board of library commissioners.

Sec. 3. It shall be the duty of all free libraries organized under the laws of the state, whether general or special, to make an annual report to the board of library commissioners, which report shall conform as near as may be reasonable and convenient, as to time and form such rules as the board may prescribe.

HISTORY: CL 1915, 1152;—CL 1929, 8054;—CL 1948, 397.453.

Secs. 4-5.

HISTORY: Rep. 1907, p. 44, Act 41, Imd. Eff. April 11.

Sec. 4 provided that board members were to receive expenses only and for an audit of accounts of board.

Sec. 5 provided for an annual tax clause of \$800.

Act 92, 1952, p. 102; Eff. Sep. 18.

AN ACT to provide for cooperation and coordination in the maintenance and operation of libraries open for use by the public generally; to authorize certain contracts or arrangements for extension of library services; and to authorize the legislative body of political subdivisions to contract and pay therefor. Am. 1953, p. 173, Act 152, Imd. Eff. Jun. 2.

The People of the State of Michigan enact:

397.471 Public libraries; maintenance and operation, contracts; cooperation to avoid duplication.

Sec. 1. The officers, agency or other authority charged by law with the maintenance and operation of any library for general public use may enter into and perform contracts or arrangements with the officers, agency or other authority likewise charged in respect of any other such library for cooperation and coordination in the maintenance and operation of the libraries to avoid unnecessary duplication and at the same time promote the widest public use of books, manuscripts and other materials and facilities and bring about the supplementing of the 1 library by the other, which may include the accumulating of books, manuscripts and other materials and facilities, to whichever library belonging, of the same general nature or pertaining to the same general subject in such library as will best facilitate access thereto and promote the best use thereof by the members of the public desiring so to do.

The officers, agencies or other authorities, jointly or severally, may enter into contracts or arrangements to make available to political subdivisions of the state, including school districts, otherwise authorized by law to maintain libraries, such library services and facilities as will promote the widest public use of books and avoid unnecessary duplication and expense.

HISTORY: New 1952, p. 102, Act 92, Eff. Sep. 18;—Am. 1953, p. 174, Act 152, Imd. Eff. Jun. 2;—Am. 1982, p. 48, Act 59, Eff. Mar. 28, 1983.

397.472 Public libraries; contracts and arrangements; rights and privileges of residents; expenditures; political subdivisions.

Sec. 2. Such contracts and arrangements may be made between and among any number of such libraries. Any library supported in whole or in part by taxes or other public funds or competent in law to be so supported shall be eligible to be included in any such contract or arrangement by whatever authority such library may be maintained and operated. Residents of the territory subject to taxation for support of any library entering into any such contracts or arrangements shall have such rights and privileges in the use of the respective libraries entering into like contracts and arrangements as shall be provided therein. If the expenditures generally of such library shall by the law under which maintained and operated be subject to being budgeted and approved, any expenditure by such library required for carrying out any such contract or arrangement shall be likewise so subject.

The provisions hereof shall be broadly and liberally construed and applied and any provision in any contract or arrangement reasonably tending to effectuate in any part the intents and purposes hereof shall be deemed within the authority hereby granted. Any political subdivision of the state, including school districts, now or hereafter authorized by law to establish or maintain libraries or library services, may enter into contracts or arrangements for library services and facilities provided in section 1 and

provide for the payments of obligations arising from such contracts or arrangements by resolution of the legislative body of the political subdivision or school district or in any other manner provided by law.

HISTORY: New 1952, p. 103, Act 92, Eff. Sep. 15;—Am. 1953, p. 174, Act 152, Imd. Eff. Jan. 2;—Am. 1962, p. 45, Act 54, Eff. Mar. 25, 1963.

Act 127, 1959, p. 132; Eff. Mar. 19, 1960.

AN ACT to transfer jurisdiction and control of the state library for the blind to the state board for libraries.

The People of the State of Michigan enact:

397.491 State library for blind; transfer to state board for libraries.

Sec. 1. The state library for the blind, located at the employment institution for the blind at Saginaw, is hereby placed under the jurisdiction of the state board for libraries.

HISTORY: New 1959, p. 132, Act 127, Eff. Mar. 19, 1960.

397.492 State library for blind; administration, rules and regulation.

Sec. 2. The state board for libraries shall have full power to administer this library, determine standards of operation, and make rules and regulations that will best serve both Braille and talking book readers.

HISTORY: New 1959, p. 132, Act 127, Eff. Mar. 19, 1960.

397.493 State library for blind; appropriation.

Sec. 3. The state board for libraries shall administer the appropriation for said library.

HISTORY: New 1959, p. 132, Act 127, Eff. Mar. 19, 1960.

397.494 State library for blind; personnel, qualifications.

Sec. 4. The state board for libraries shall have full power to determine the qualifications of the personnel in said library and fill all vacancies, subject to the state civil service regulations.

HISTORY: New 1959, p. 132, Act 127, Eff. Mar. 19, 1960.

397.495 State library for blind; transfer of powers and duties to state board for libraries.

Sec. 5. Any and all powers and duties vested by any law of this state in the state library for the blind are hereby transferred and vested in the state board for libraries.

HISTORY: New 1959, p. 132, Act 127, Eff. Mar. 19, 1960.

Act 286, 1965, p. 542; Eff. Mar. 31, 1966.

AN ACT to authorize the establishment of library systems; to provide state aid for the support of libraries and library systems; to prescribe the powers and duties of library boards; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

397.501 State aid to public libraries act of 1965; short title.

Sec. 1. This act shall be known and may be cited as the "state aid to public libraries act of 1965".

HISTORY: New 1965, p. 542, Act 286, Eff. Mar. 31, 1966.

397.502 State aid to public libraries act; definitions.

Sec. 2. As used in this act:

(a) "Public library" means a library, the whole interests of which belong to the general public, lawfully established for free public purposes by 1 or more counties, cities, townships, villages, school districts or other local governments or any combination thereof, or by any general or local act, but shall not include a special library such as a professional, technical or school library.

(b) "Library system" means 1 or more public libraries maintained by 1 or more local governments, serving a population of at least 100,000 or serving a population of at least 50,000, if the area served has a population of 35 or less per square mile, which has an approved plan. A library system may consist of any of the following:

(1) A library maintained by a single local government.

(2) A consolidated library system in which 2 or more local governments merge their libraries to form a single library system.

(3) A cooperative or federated library system in which 2 or more libraries or local governments enter into a written agreement to implement a plan of service for the libraries or local governments so contracting.

(c) "Area served" means the geographic area in which the library system proposes to provide public library service under its approved plan.

(d) "Approved plan" means a plan of library service approved by the state board for a library system. The approved plan of service shall be set forth in a statement describing the specific purposes for which a system is formed, the means and the agencies by which such services are to be accomplished, and an estimate of the funds necessary for their accomplishment and the public library board or system board or local government to receive those funds.

(e) "State board" means the state board for libraries.

(f) "System board" means a governing board of a library system.

(g) "Local board" means a board of trustees or directors or other board having as its primary purpose the supervision of a local public library, or a board contracting for library service, or if there is no such board, then the legislative body of a local government which maintains a public library.

(h) "Local support" means funds from tax sources, penal fines, gifts, endowments and any other funds received from local sources, but does not include state or federal aid.

(i) "Unaffiliated library" means a local public library which is not a member of a library system.

HISTORY: New 1965, p. 542, Act 286, Eff. Mar. 31, 1966.

397.503 Public libraries; eligibility to participate in systems.

Sec. 3. A public library or local government shall be eligible to become a library system or to remain a member of a library system if in the fiscal year prior to July 1 of the year of distribution the library received local support or the local government provided local support equal to not less than 3/10 mill on the state equalized valuation of its governmental unit or units.

HISTORY: New 1965, p. 542, Act 286, Eff. Mar. 31, 1966;—Am. 1969, p. 360, Act 180, Imd. Eff. Aug. 5.

397.504 Local boards; submission of plan to state board, approval, designation.

Sec. 4. A local board operating a library in existence on July 1, 1965, serving an area meeting the population requirements of subdivision (b) of section 2, may submit a plan of library service to the state board. On approval by the state board of the plan the local library shall be designated a library system and the local board shall be desig-

nated as the governing board of the system and shall retain its existing organization, officers and powers as a local board.

HISTORY: New 1965, p. 542, Act 286, Eff. Mar. 31, 1966.

397.505 Public library groups; submission of plan to state board; approval, designation.

Sec. 5. A group of public libraries operating as a library system in existence on July 1, 1965, serving an area meeting the population requirements of subdivision (b) of section 2, may submit a plan of library service to the state board. The plan of library service shall designate the library which will become the headquarters library of the system. On approval by the state board of the plan, the federated public libraries shall be designated a library system and shall elect a system board as provided in section 8, or the participating libraries may designate the board of one of the libraries as the system board.

HISTORY: New 1965, p. 543, Act 286, Eff. Mar. 31, 1966.

397.506 Two or more local boards; submission of plan to state board, approval.

Sec. 6. Two or more local boards which maintain eligible libraries and desire to form a library system may request the state board to authorize the local boards to submit a plan of library service and to designate the library which will become the headquarters library of the system. On approval by the state board of the plan of library service the library system shall be declared an established library system and the member library boards shall meet and elect a system board as provided in section 8, or the participating libraries may designate the board of one of the libraries as the system board.

HISTORY: New 1965, p. 543, Act 286, Eff. Mar. 31, 1966.

397.507 Provisional library system; approval; establishment.

Sec. 7. Notwithstanding any other provision of this act, 1 or more public libraries serving either directly or through contract or other cooperative arrangement an area of less than 100,000 population but not less than 50,000, if the area has an average population per square mile over 35, or less than 50,000 population but not less than 25,000 if the proposed service area has an average population of 35 or less per square mile, may seek approval from the state board to be a provisional library system. A provisional library system shall follow the procedures provided in sections 4, 5, 6 or 8 and is eligible for benefits equal to those provided for an approved library system under this act.

HISTORY: New 1965, p. 543, Act 286, Eff. Mar. 31, 1966.

397.508 Library system board; election, notice; meeting.

Sec. 8. If the plan provides that a system board be elected, the state board shall give notice of a meeting to each local board member by mail at his last known address at least 10 days prior to the meeting. The meeting shall be called to order by a person designated by the state board and shall elect a chairman. A system board of 8 members representative of the area shall be elected according to the method proposed in the plan of service.

HISTORY: New 1965, p. 543, Act 286, Eff. Mar. 31, 1966.

397.509 Library system board; duties, powers.

Sec. 9. (1) The system board shall manage and control the library system and shall have the following powers, all of which relate to the functioning of the system and the management and control of its funds and property. None of the powers granted to the system board shall be deemed to deprive any local board of any of its powers or property.

(2) The system board shall:

(a) Be a body corporate and a juristic entity for social security purposes and legal identity purposes.

(b) Establish, maintain and operate cooperative services for the public libraries in the area served.

(c) Appoint a director to administer the system, fix his compensation, and delegate such powers to the director as it deems to be in the best interest of the system, including the power to hire necessary employees.

(d) Purchase books, periodicals, library materials, equipment and supplies for the system.

(e) Purchase sites, erect buildings and lease suitable quarters, and have supervision and control of property of the system.

(f) Enter into contracts to receive service from or give service to libraries in the state, whether public, school, academic or special, as well as county library boards established under Act No. 59 of the Public Acts of 1964, being sections 397.31 to 397.40 of the Compiled Laws of 1948, and political subdivisions of the state.

(g) Have exclusive control of the expenditure of all moneys collected to the credit of the library fund of the system.

(h) Receive and accept gifts and donations of property, real and personal, for the purposes of the system and for the purposes for which they are donated.

(i) Make such bylaws and rules not inconsistent with this act as may be necessary for its own government and that of the library system, and do any and all things necessary to carry out the purposes of this act.

HISTORY: New 1965, p. 543, Act 286, Eff. Mar. 31, 1966;—Am. 1969, p. 360, Act 180, Imd. Eff. Aug. 5.

397.510 Library system; fiscal year; funds, deposit.

Sec. 10. The fiscal year of a library system shall be July 1 to June 30, except when the library system must conform to a fiscal year fixed by another state law or local charter. The funds of a library system shall be deposited in a bank or banks designated by the system board.

HISTORY: New 1965, p. 543, Act 286, Eff. Mar. 31, 1966.

397.511 Library system; use of facilities.

Sec. 11. All residents of an area served by a library system may use the facilities and resources of all member libraries, subject to regulations in the system plan.

HISTORY: New 1965, p. 544, Act 286, Eff. Mar. 31, 1966.

397.512 Local boards; resolution to participate in library system, adoption, approval; boards and officers; amended plan of service.

Sec. 12. (1) A local board of a public library not participating in a library system may adopt a resolution requesting that the library become a participating library in a library system. Duplicate copies of the resolution certified by the clerk of the local board shall be filed with the system board. If the system board approves the resolution, the approval shall be indorsed thereon and a copy shall be filed with the state board prior to November 15 of the year of distribution. Upon approval by the state board, the additional library shall become a participating library in the library system and shall have the same rights, duties and privileges as other libraries participating therein.

(2) If the existing library system consists of a library maintained by a single local government, the provisions of section 8 shall apply immediately and the new system board when elected shall be the successor to the board of the existing system, or the participating library or libraries may designate the board of the existing system as the new system board.

(3) If the existing library system consists of 2 or more public libraries maintained by 2 or more local governments, the board and officers of the existing system shall act for the enlarged library system except that the local board of the new participating library is entitled to participate in subsequent joint meetings of local boards and the election of trustees thereat as provided in section 8.

(4) Within 1 month after an additional library has been added to the system, the system board of the new or enlarged system shall submit to the state board for approval an amended plan of service for the system.

HISTORY: New 1965, p. 544, Act 286, Eff. Mar. 31, 1966.

397.513 Local boards; withdrawal from library system.

Sec. 13. A local board of a public library participating in a library system may adopt a resolution withdrawing from membership in the system by notice filed 6 months prior to July 1. Duplicate copies of the resolution certified by the local board shall be filed with the system board and the state board. On termination of such 6 months' notice, the public library may withdraw from the system and the local board shall submit evidence to the state board that all obligations to the library system have been satisfactorily fulfilled.

HISTORY: New 1965, p. 544, Act 286, Eff. Mar. 31, 1966.

397.514 Library systems; continuing state aid, basis, schedule.

Sec. 14. A library system shall be granted continuing state aid in an amount per capita of its served population, based upon the average density of population per square mile of the area served, in accordance with the following schedule:

Square Mile Population Density	Grants Per Capita
Over 35	30 cents
26-35	40 cents
16-25	50 cents
Under 16	60 cents

HISTORY: New 1965, p. 544, Act 286, Eff. Mar. 31, 1966.

397.515 Library systems; annual contributions, amount, payment, use.

Sec. 15. A library system shall require its member libraries or member local governments to contribute annually to the support of the system, not less than the amount per capita received from system aid under sections 14 and 19, but not less than 10 cents per capita if the system aid is in excess of 10 cents per capita. These funds shall be paid to, and may be used for any library purpose determined by, the system board. The system board if authorized by a majority of the local boards may require that the member libraries or member local governments reach a higher level of local support than 3/10 mill on the state equalized valuation of each participating unit of government.

HISTORY: New 1965, p. 544, Act 286, Eff. Mar. 31, 1966.

397.516 Public libraries; state aid, amount; head librarian, eligibility, salary, certification.

Sec. 16. (1) Any public library shall receive during any fiscal year a grant of 5 cents per capita from state aid, if in the year prior to the year of distribution the library received local support amounting to 3/10 mill and met minimum standards. Any county or regional library board appointing to the office of head librarian a person with either a bachelor of arts or a bachelor of science degree from a college or university approved by an accrediting association of more than statewide standing, including or supplemented by 1 full year of training in a library school accredited by the American

library association and with at least 4 years' experience in an administrative capacity in an approved library shall be reimbursed for that portion of the salary not exceeding \$400.00 for any one month or \$4,800.00 in any one year, if the county or regional library received during its last completed fiscal year prior to the year in which distribution is to be made, from the county or counties not less than \$3,600.00 exclusive of moneys received from federal or state grants in aid to the library.

(2) On or before the fifth day of September, December, March and June of the year of distribution, the county or regional library board or its authorized agent shall certify to the state board for libraries the actual amount of the salary paid the head librarian during the 3-month period immediately preceding such months.

HISTORY: New 1965, p. 545, Act 286, Eff. Mar. 31, 1966.

397.517 State aid; certification requirements for personnel.

Sec. 17. A library system or a public library in order to receive state aid shall conform to certification requirements for personnel established by the state board; but certification requirements at any time shall not disqualify a person for the position he held on July 1, 1942, in any public library in this state.

HISTORY: New 1965, p. 545, Act 286, Eff. Mar. 31, 1966.

397.518 State aid; certification of amounts received, application.

Sec. 18. On or before November 15 of the year of distribution a library system and a public library desiring to participate in state aid shall certify to the state board the amount of money received from each source during the last completed fiscal year prior to July 1 of the year of distribution, and shall apply for state aid.

HISTORY: New 1965, p. 545, Act 286, Eff. Mar. 31, 1966.

397.519 State aid, insufficient appropriation, allocation of funds.

Sec. 19. If the fund appropriated for state aid is insufficient to pay the state aid to library systems provided by this act, the state board shall allocate the funds available to library systems prorated by a percentage equal to the quotient obtained by dividing the funds appropriated by the amount needed to carry out the above provisions, and an amended plan shall be submitted to the state board.

HISTORY: New 1965, p. 545, Act 286, Eff. Mar. 31, 1966.

397.520 State aid; statement of amounts to be distributed; disbursement vouchers; distribution.

Sec. 20. The state board shall prepare a statement of the amounts to be distributed in accordance with the provisions of this act. Vouchers for the disbursement of the appropriations for state aid shall be signed by the state board or its authorized agent, and delivered to the department of administration, which shall draw warrants on the state treasurer in favor of the proper fiscal agent of the system board or local board qualifying under this act. State aid shall be distributed by June 30 of the year of distribution.

HISTORY: New 1965, p. 545, Act 286, Eff. Mar. 31, 1966.

397.521 State aid; deposit in library fund; expenditures.

Sec. 21. A library system or public library receiving state aid shall deposit such moneys in a separate library fund. Expenditures from the fund are subject to review by the state board or its authorized representative.

HISTORY: New 1965, p. 545, Act 286, Eff. Mar. 31, 1966.

397.522 State aid; authorized uses.

Sec. 22. State aid paid to a library system or public library may be used for any expenditure, including the cost of intersystem or intrasystem contracts, but grants may not be used for the purchase of sites or buildings, the erection of buildings or additions to buildings, the remodeling of buildings, or principal or interest charges on any indebtedness.

HISTORY: New 1965, p. 546, Act 286, Eff. Mar. 31, 1966.

397.523 State board for libraries; powers and duties as to library systems.

Sec. 23. The state board shall determine the eligibility of a public library proposing to become a member of a new library system or an additional member of an existing system. The state board shall approve or reject a plan of library service submitted to it by a library system, which shall contain a certification that library services of the library system, including participating libraries, are available at reasonable times on an equal basis within the area served to both public and nonpublic school libraries and to all school children in attendance at public and nonpublic schools, and in case of a rejection shall furnish the applicant with the reasons for the rejection. The state board may review the actual operation of an approved plan of library service at any time and may revoke its approval of a plan by written notice to the secretary of the system board not less than 6 months prior to July 1 of any year.

HISTORY: New 1965, p. 546, Act 286, Eff. Mar. 31, 1966.

397.524 State board for libraries; needs to be considered.

Sec. 24. In carrying out its powers and duties under this act, the state board shall consider the following needs:

- (a) Expansion of library facilities in areas not adequately served.
- (b) Services to library systems of an adequate number of professional librarians having, in addition to general familiarity with literature, special training with respect to book selection and organization for library use.
- (c) A book stock sufficient in size and varied in kind and subject matter, and subject to regular fresh additions.
- (d) Adequate books, materials and facilities for research and information as well as for recreational reading available to all residents of Michigan.
- (e) Outlets convenient in time and place for the circulation of books.
- (f) The integration of existing libraries and new libraries into systems serving a sufficiently large population to support adequate library service at a reasonable cost.
- (g) Economic and efficient utilization of public funds.
- (h) Full utilization of local pride, responsibility, initiative and support of library service and the use of state aid in their stimulation but not as their substitute.

HISTORY: New 1965, p. 546, Act 286, Eff. Mar. 31, 1966.

397.525 State board for libraries; rules and regulations, administration of act.

Sec. 25. The state board may adopt such rules and regulations for the administration of the provisions of this act as it deems necessary in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 546, Act 286, Eff. Mar. 31, 1966.

397.526 Repeals.

Sec. 26. Act No. 315 of the Public Acts of 1937, as amended, being sections 397.102 to 397.113 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1965, p. 546, Act 286, Eff. Mar. 31, 1966.

397.527 Effective date.

Sec. 27. This act shall become effective on July 1, 1965.

HISTORY: New 1965, p. 546, Act 286, Eff. Mar. 31, 1966.

CHAPTER 399. HISTORICAL COMMISSION

HISTORICAL COMMISSION		SOO LOCKS CENTENNIAL CELEBRATION COMMISSION	
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Act 271, 1913, p. 525; Imd. Eff. May 8.

AN ACT to create the Michigan historical commission; to provide for the appointment of members of such commission; to fix their terms of office, prescribe their powers and duties, make an appropriation to carry out the provisions of this act; to provide for the listing and destruction of useless documents, books and papers; and to repeal all acts and parts of acts inconsistent herewith. Am. 1943, p. 234, Act 172, Eff. Jul. 30.

The People of the State of Michigan enact:

399.1 Michigan historical commission; creation, members, appointment, expenses.

Sec. 1. There is hereby created a commission to be known as the Michigan historical commission. Said commission shall consist of 6 members, with the addition of the governor, ex-officio; said 6 members shall be appointed by the governor by and with the advice and consent of the senate. No member of said commission shall receive any

compensation for his services, except actual and necessary expenses while attending the meetings or carrying out the purposes of said commission.

HISTORY: CL 1915, 10737;—Am. 1917, p. 379, Act 192, Imd. Eff. May 8;—CL 1929, 8114;—CL 1948, 399.1;—Am. 1951, p. 376, Act 250, Imd. Eff. Jun. 15.

CITED IN OTHER SECTIONS: Sections 399.1 to 399.9 are cited in § 16.130.

399.2 Historical commission; terms of members.

Sec. 2. The governor shall appoint the members of said commission for the following terms: One for 1 year, 1 for 2 years, 1 for 3 years, 1 for 4 years, 1 for 5 years, and 1 for 6 years, and thereafter 1 member annually for a term of 6 years until their successors shall have been appointed and qualified.

HISTORY: CL 1915, 10728;—CL 1929, 8115;—CL 1948, 399.2.

399.3 Historical commission; meetings, organization, acceptance of gifts.

Sec. 3. As soon as practicable after this act shall take effect, the said commission shall meet in the state capitol in Lansing, and shall organize by electing 1 of its members as president, and 1 as vice president, and shall appoint a secretary, and shall arrange a time and place of holding regular meetings of the commission, and for such special meetings as may be necessary. It shall take, as soon as practicable, necessary steps to receive and accept in the name of the state of Michigan, such of the property of the Michigan pioneer and historical society as the latter may convey to the state of Michigan, and shall take possession of the rooms in the capitol building now occupied by the said society, and may accept all gifts and bequests for the furtherance of its authorized purposes.

HISTORY: CL 1915, 10729;—CL 1929, 8116;—CL 1948, 399.3.

399.4 Historical commission; duties.

Sec. 4. It shall be the duty of said commission to collect, arrange and preserve historical material, including books, pamphlets, maps, charts, manuscripts, papers, copies of domestic and foreign records and archives, paintings, statuary, and other objects and material illustrative of and relating to the history of Michigan and the old north-west territory; to procure and preserve narratives of the early pioneers, their exploits, perils, privations and achievement; to collect material of every description relative to the history, language, literature, progress or decay of our Indian tribes; to collect, prepare and display in the museum of said commission objects indicative of the life, customs, dress and resources of the early residents of Michigan, and to publish source materials, and historical studies relative to and illustrative of the history of the state, including such historical materials and studies as may be furnished for that purpose by educational institutions and by the Michigan pioneer and historical society. The commission shall cooperate with and assist the Michigan pioneer and historical society and local historical societies in the state, and help to organize new local historical societies of similar nature and purpose.

HISTORY: CL 1915, 10730;—Am. 1917, p. 379, Act 192, Imd. Eff. May 8;—CL 1929, 8117;—CL 1948, 399.4.

ABORIGINAL RECORDS: And antiquities, see Act 173 of 1929, being Compilers' § 299.51 et seq.

399.5 Historical records; collection, preservation, copies as evidence, property of state, exceptions, inspection, disposal schedule.

Sec. 5. The commission shall have power, and it is hereby made the duty of all public officials to assist in the performance of this power, to collect from the public offices in the state, including state, county, city, village, school and township offices, such records, files, documents, books and papers as are not in current use, and are of value, in the opinion of the commission; and it is hereby made the legal custodian of such records, files, documents, books and papers when collected and transferred to its possession. The commission shall provide for their preservation, classification, arranging and indexing, so that they may be made available for the use of the public. In counties where there is a public institution having a fireproof building and suitable arrange-

ments for carefully keeping such publications, records, files, documents, books and papers, so that in the opinion of the commission they can be safely stored, the same or any part thereof may be left in the possession of such institution. A list thereof shall be furnished the commission and shall be kept of record in its office. A copy of the finding of the commission that such depository is a safe and a proper one in its opinion shall be made a part of the official records of the commission. Copies of all such papers, documents, files and records, when made and certified to by the secretary or archivist of the commission, shall be admitted in evidence in all courts, with the same effect as if certified to by the original custodian thereof.

Any record that is required to be kept by a public officer in the discharge of the duties imposed on him by law, or that is a writing required to be filed in a public office, or is a written memorial of a transaction of a public officer made in the discharge of his duty, shall be the property of the people of the state, and may not be disposed of, mutilated or destroyed except as provided by law. The provisions of this section shall not apply to bonds, bills, notes, interest coupons or other evidences of indebtedness issued by the state, county, multi-county, school, municipal agency, department, board, commission and institution of government. The directing authority of each state, county, multi-county, school, municipal agency, department, board, commission and institution of government shall present to the commission a schedule governing disposal of, or a list or description of the papers, documents and other records which it shall certify are useless and which have ceased to be of value to the governmental agency and to its duties to the public, whereupon the commission shall inspect the papers, documents and other records and shall requisition for transfer from the directing authority to the commission, such papers, documents and other records as the commission shall deem to be of value.

As soon as possible after the inspection by the commission and the transfer of records deemed to have value has been completed, the directing authority of the agency, department, board, commission and institution shall submit the schedule governing the disposal of, or the remainder of the list of such papers, documents and other records to the state administrative board, who shall approve or disapprove the disposal schedule or list and order the destruction of the valueless records accordingly.

HISTORY: CL 1915, 10731;—Am. 1923, p. 209, Act 144, Eff. Aug. 30;—CL 1929, 8118;—Am. 1943, p. 234, Act 172, Eff. July 30;—CL 1948, 399.5;—Am. 1952, p. 183, Act 154, Eff. Sep. 18;—Am. 1955, p. 95, Act 59, Eff. Oct. 14;—Am. 1959, p. 66, Act 66, Eff. Mar. 19, 1960.

U.S. LAND OFFICE: Historical commission proper state agency to receive and keep records and papers of, see Compilers' §§ 399.51 and 399.61.

CITED IN OTHER SECTIONS: The above section is cited in §§ 600.2137, 601.1101, and 750.491.

399.6 Historical commission; publication of material, expense.

Sec. 6. It shall be the duty of said commission to prepare for publication the material referred to in section 4 of this act. The volumes of said publication shall be issued in editions of not more than 2,500 copies, and contain not exceeding 750 pages each. They shall be printed and bound in substantial uniformity with the volumes issued by other historical societies and the several state departments. Said printing, together with such bulletins, including a historical quarterly journal such as is issued by other historical societies, and such reprints of books, maps, and articles as may be determined upon by the commission, shall be paid out of the appropriation hereby made.

HISTORY: CL 1915, 10732;—Am. 1917, p. 379, Act 192, Imd. Eff. May 8;—CL 1929, 8119;—CL 1948, 399.6.

STATE PUBLICATIONS: Style and size, see Compilers' § 24.22.

399.7 Secretary of commission; custodian of publications, distribution, exchange and sale.

Sec. 7. The secretary of the commission shall be the custodian of the publications of the commission, and of the museum, and shall distribute and/or exchange such publications with domestic and foreign states, governments and institutions under such rules and regulations as shall be established by the commission. He shall furnish 1 copy

of each volume published to each school library and educational institution, public library and grange library in the state of Michigan when authoritatively and officially requested so to do by the officers thereof. He shall furnish to each member of the legislature during his term of office 1 copy of each volume, bulletin and journal published during such term. He may furnish to each member of the state historical society 1 copy of each volume, bulletin and journal published during the term of his membership in the society, in recognition of aid received from the society in behalf of the historical work of the commission. The remainder of the said copies of said volumes and publications shall be sold by said secretary at a price of not less than 1 dollar for each volume, and at such price for each bulletin and journal as may be fixed by the commission. The money arising from such sales and from certified copies of documents shall be placed in the state treasury to the credit of the general fund.

HISTORY: CL 1915, 10733;—Am. 1917, p. 380, Act 192, Imd. Eff. May 8;—CL 1929, 8120;—Am. 1931, p. 425, Act 245, Eff. Sept. 18;—CL 1948, 399.7.

399.8 Secretary of commission; authority; employees; salaries and expenses.

Sec. 8. The secretary of said commission shall act under the direction of the commission. The commission shall have power to appoint such other employees as shall be deemed necessary. The commission may delegate to the secretary such authority as is necessary to carry out the provisions of this act. The secretary and other employees shall receive such salaries as shall be appropriated by the legislature and also such traveling expenses as shall be necessary.

HISTORY: Am. 1915, p. 375, Act 222, Imd. Eff. May 13;—CL 1915, 10734;—Am. 1917, p. 380, Act 192, Imd. Eff. May 8;—CL 1929, 8121;—Am. 1933, p. 13, Act 14, Imd. Eff. Feb. 17;—CL 1948, 399.8;—Am. 1951, p. 377, Act 250, Imd. Eff. Jun. 15.

399.8a Historical commission; rules and regulations.

Sec. 8a. The commission shall make rules and regulations necessary to carry out the provisions of this act pursuant to Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948.

HISTORY: Add. 1951, p. 377, Act 250, Imd. Eff. Jun. 15.

399.9 Historical commission; annual report, contents.

Sec. 9. The said commission shall make annual reports on the first day of January of each year to the governor of the state, setting forth the character and extent of the work done under its supervision during the preceding year, and the amounts of money expended by it for the various purposes authorized by this act.

HISTORY: CL 1915, 10735;—CL 1929, 8122;—CL 1948, 399.9.

Sec. 10. (This was an appropriation and tax clause section.)

HISTORY: Am. 1915, p. 375, Act 222, Imd. Eff. May 13;—CL 1915, 10736;—Am. 1917, p. 380, Act 192, Imd. Eff. May 8;—CL 1929, 8123;—Rep. 1833, p. 13, Act 14, Imd. Eff. Feb. 17.

Sec. 11. (This was a repeal section.)

HISTORY: CL 1915, 10737;—CL 1929, 8124;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 54, 1927, p. 65; Imd. Eff. Apr. 18.

AN ACT to designate the Michigan historical commission as the proper state agency to receive and safely keep the records of the United States land office, formerly kept in the state of Michigan, and to allow the authorities of the United States free access to the same.

The People of the State of Michigan enact:

399.51 United States land office records; transfer to Michigan historical commission, access of authorities.

Sec. 1. The Michigan historical commission be and it is hereby designated as the agency of the state of Michigan to receive and safely keep the transcripts, documents and records of the land office or land offices formerly maintained by the United States in the state of Michigan; and that any and all authorities of the United States be and they are hereby allowed to have free access to the same at any time without cost or expense to them, as provided by the act of congress, approved May 28, 1926, entitled "An act to provide for the transfer of certain records of the general land office to states and for other purposes."

HISTORY: CL 1929, 8125;—CL 1948, 399.51.

NOTE: The act, above referred to, is 43 U.S.C.A. §§ 25 and 25a.

Act 55, 1927, p. 66; Imd. Eff. Apr. 18.

AN ACT to designate the Michigan historical commission as the proper state agency to receive and safely keep the field notes, maps, plats, records and all other papers appertaining to land titles in the public survey office of the United States in said state.

The People of the State of Michigan enact:

399.61 United States public survey office records pertaining to land titles; transfer to Michigan historical commission, access of authorities.

Sec. 1. The Michigan historical commission be and it is hereby designated as the agency of the state of Michigan to receive and safely keep the field notes, maps, plats, records, and all other papers appertaining to land titles in the public survey office of the United States, relating to the state of Michigan, that may not be needed by the United States; and that any and all authorities of the United States be and they are hereby allowed to have free access to the same at any time, as provided by the act of congress, approved May 28, 1926, entitled "An act to provide for the transfer of certain records of the general land office to states and for other purposes."

HISTORY: CL 1929, 8126;—CL 1948, 399.61.

NOTE: The act, above referred to, is 43 U.S.C.A. §§ 25 and 25a.

399.101, 399.102 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections created Soo locks centennial celebration commission and prescribed its powers and duties.

Act 10, 1955, p. 10; Eff. Oct. 14.

AN ACT to provide for the registration of historic sites.

The People of the State of Michigan enact:

399.151 Historic sites; application for listing.

Sec. 1. Any agency of the state of Michigan, or of any political subdivision thereof owning or in possession of any site of historic interest, or any person owning or in possession of such site, and any person having the consent of such owner or person in possession, may apply to the Michigan historical commission to have such site listed as a state historic site.

HISTORY: New 1955, p. 10, Act 10, Eff. Oct. 14.

399.152 Historic sites; listing; display of marker.

Sec. 2. If, in the judgment of the commission, such site is of sufficient general historical interest, it shall list the site in a register kept for that purpose and shall authorize to be displayed at the site a suitable numbered marker, approved by the commission as to text and construction, indicating that the site is a registered state historic site. The marker shall not bear the name of any commissioner or state official.

Protar property, Beaver Island, restoration, appropriation.

The sum of not to exceed \$12,000.00 is appropriated from the general fund for the fiscal year ending June 30, 1965, to the commission to restore the Protar property on Beaver Island as follows: weather proofing, other restoration of the interior and exterior of the building, installing exhibit cases inside the structure, providing adequate water supply by drilling a new well, providing toilet facilities, graveling access road, providing adequate parking area and picnic tables, roofing the barn, and fencing property.

HISTORY: New 1955, p. 10, Act 10, Eff. Oct. 14;—Am. 1964, p. 363, Act 249, Imd. Eff. May 28.

Act 212, 1957, p. 269; Eff. Sep. 27.

AN ACT to authorize townships to appropriate money for historical activities and projects.

*The People of the State of Michigan enact:***399.161 Historical activities and projects; township appropriations.**

Sec. 1. The township board of any township in this state may raise and appropriate money for the purpose of fostering any activity or project which in the opinion of the board tends to advance the historical interests of the township.

HISTORY: New 1957, p. 269, Act 212, Eff. Sep. 27.

Act 213, 1957, p. 269; Eff. Sep. 27.

AN ACT to authorize cities and villages to create municipal historical commissions and prescribe their functions; to issue revenue bonds for commission purposes; and to appropriate money for historical activities and projects. Am. 1968, p. 63, Act 33, Imd. Eff. May 21.

*The People of the State of Michigan enact:***399.171 Historical activities and projects; city and village appropriations.**

Sec. 1. The governing body of any city or village in this state may raise and appropriate money for the purpose of fostering any activity or project which in the opinion of the governing body of the village or city tends to advance the historical interests of the village or city.

HISTORY: New 1957, p. 269, Act 213, Eff. Sep. 27.

399.172 Municipal historical commissions; creation, revenue bonds.

Sec. 2. The governing body of a city or village may create by ordinance a historical commission, provide for its appointment and prescribe its functions. A city or village creating a historical commission may issue revenue bonds in accordance with Act No.

94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, for the purpose of providing funds for carrying out the functions of the historical commission.

HISTORY: Add. 1968, p. 63, Act 33, Imd. Eff. May 21.

Act 169, 1970, p. 517; Imd. Eff. Aug. 3.

AN ACT to provide for establishment of historic districts; to provide for the acquisition of land and structures for historic purposes; to provide for preservation of historic sites and structures; to provide for the creation of historic district commissions; to provide for the maintenance of publicly owned historic sites and structures by local units.

The People of the State of Michigan enact:

399.201 Historic districts; definitions.

Sec. 1. As used in this act:

- (a) "Local unit" means a county, city, village or township.
- (b) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, created by a local unit for the purposes of this act.
- (c) "Historical preservation" means the protection, rehabilitation, restoration, or reconstruction of districts, archaeological and other sites, buildings, structures and objects.

HISTORY: New 1970, p. 517, Act 169, Imd. Eff. Aug. 3.

399.202 Historical preservation; public purpose, local ordinance.

Sec. 2. Historical preservation is declared to be a public purpose and the legislative body of a local unit may by ordinance regulate the construction, alteration, repair, moving and demolition of historic structures within the limits of the local unit. The purpose of the ordinance is to: (a) safeguard the heritage of the local unit by preserving a district in a local government which reflects elements of its cultural, social, economic, political or architectural history; (b) stabilize and improve property values in such district; (c) foster civic beauty; (d) strengthen the local economy; and (e) promote the use of historic districts for the education, pleasure and welfare of the citizens of the local unit and of the state.

HISTORY: New 1970, p. 517, Act 169, Imd. Eff. Aug. 3.

399.203 Historic districts; establishment by local ordinance; study committee, report.

Sec. 3. A local unit may establish by ordinance historic districts. Before such establishment, an historic district study committee, appointed by the legislative body, and containing representation from any existing historical preservation society, shall conduct studies and research and make a report on the historical significance of the buildings, structures, features, sites, objects and surroundings in the local unit. The report shall contain recommendations concerning the area to be included in the proposed historic district. Copies of the report shall be transmitted for review and recommendations to the local planning commission, to the Michigan historical commission, and to the state historical advisory council. Sixty days after the transmittal, the committee shall hold a public hearing thereon after due notice, which shall include a written notice to the owners of all properties to be included in such districts. The committee shall submit a final report with its recommendations and those of the local planning commission and a draft of a proposed ordinance to the legislative body of the local unit.

HISTORY: New 1970, p. 517, Act 169, Imd. Eff. Aug. 3.

399.204 Historic district commission; creation; members, appointment, terms, vacancies; applicability of section.

Sec. 4. The legislative body of a local unit may create a commission to be called the historic district commission. The membership of such a commission in a local unit of 25,000 or more population shall consist of 7 members who reside in the local unit, and in a local unit of under 25,000 shall consist of not less than 3 nor more than 7 members residing in the local unit. Members shall be appointed by the township supervisor, village president, mayor or chairman of the board of commissioners, unless another method of appointment is provided in the ordinance creating the commission. Members shall be appointed for 3-year terms except the initial appointments of some of the members shall be for less than 3 years to the end that the initial appointments shall be staggered and so that subsequent appointments shall not recur at the same time. Members shall be eligible for reappointment. In the event of a vacancy on the commission interim appointments may be made by the appointing authority to complete the unexpired term of such position. The appointing authority of a local unit shall appoint at least 2 members from a list of citizens submitted by a duly organized and existing preservation society or societies, and 1 architect, duly registered in this state, if the person resides in the local unit and is available for appointment. The provisions of this section shall not be applicable to historical district commissions established by charter.

HISTORY: New 1970, p. 517, Act 169, Imd. Eff. Aug. 3.

399.205 Historic structures; changes; approval; public hearings.

Sec. 205. (1) Before construction, alteration, repair, moving or demolition affecting the exterior appearance of an historic structure is made within such a district and which by present or future ordinance requires the taking out of a permit within such a district, the person, individual, firm or corporation proposing to make such construction or changes shall file an application for permission. The application shall be referred together with plans pertaining thereto to the historic district commission and the commission shall review such plans and applications and no permit shall be granted until the commission has acted thereon as hereinafter provided. If no present ordinances exist which require the taking out of a permit then applications shall be made directly to the legislative body or duly appointed authority which shall refer the application to the commission for review.

(2) In reviewing plans, the commission shall give consideration to: (a) the historical or architectural value and significance of the structure and its relationship to the historical value of the surrounding area; (b) the relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area; (c) the general compatibility of exterior design, arrangement, texture, and materials proposed to be used; (d) any other factor, including aesthetic, which it deems to be pertinent.

(3) The commission shall pass only on exterior features of a structure and shall not consider interior arrangements unless specifically authorized to do so by the local legislative body. Nor shall it disapprove applications except in regard to the considerations as set forth in the previous paragraph.

(4) In case of an application for repair or alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure which the commission deems so valuable to the local unit, state or nation, that the loss thereof will adversely affect the public purpose of the local unit, state or nation, the commission shall endeavor to work out with the owner an economically feasible plan for preservation of the structure.

(5) An application for repair or alteration affecting the exterior appearance of an historic structure, or for its moving or demolition, shall be approved by the commis-

sion if any of the following conditions prevail, and if in the opinion of the commission the proposed changes will materially improve or correct these conditions: (a) the structure constitutes a hazard to the safety of the public or the occupants; (b) the structure is a deterrent to a major improvement program which will be of substantial benefit to the community; (c) retention of the structure would cause undue financial hardship to the owner; or (d) retention of the structure would not be in the interest of the majority of the community.

(6) All meetings of the commission shall be open to the public and any person or representative of his choice shall be entitled to appear and be heard on any matter before the commission before it reaches its decision. The commission shall keep a record, which shall be open to public view of its resolutions, proceedings, and actions.

HISTORY: New 1970, p. 518, Act 169, Imd. Eff. Aug. 3.

399.206 Grants and gifts.

Sec. 6. The local legislative body may accept grants from the state or federal governments for historical restoration purposes. It may accept public or private gifts for historical purposes. It may make the historic commission its duly appointed agent to accept and administer grants and gifts for historical preservation purposes.

HISTORY: New 1970, p. 518, Act 169, Imd. Eff. Aug. 3.

399.207 Historic structures; acquisition by local legislative body.

Sec. 7. If all efforts by the historic district commission to preserve an historic structure fail, or if it is determined that public ownership is most suitable, the local legislative body, if deemed to be in the public interest, may acquire such property using public funds, gifts for historical purposes, grants from the state or federal governments for acquisition of historic properties, or proceeds from revenue bonds issued for historical preservation purposes. Such acquisitions shall be based on the recommendation of the historic district commission. The historic district commission has responsibility for the maintenance of publicly owned historic structures using its own funds, if not specifically earmarked for other purposes, or those public funds committed for this use by the local legislative body.

HISTORY: New 1970, p. 519, Act 169, Imd. Eff. Aug. 3.

399.208 County historical commission; county jurisdiction, coordination.

Sec. 8. The jurisdiction of a county shall be the same as that provided in Act No. 183 of the Public Acts of 1943, as amended, being sections 125.201 through 125.232 of the Compiled Laws of 1948, or as otherwise provided by contract entered into between the county and a city, village or township. If a county historical commission is in existence, coordination between the county commission and municipality commissions shall be maintained. The overall historical preservation plans of cities, villages and townships shall be submitted to the county commission for review, and county plans submitted to cities, villages and townships, having historic district commissions. Day-to-day activities of local commissions concerning alteration and restoration decisions need not be submitted to the county but only those plans which have other than strictly local significance.

HISTORY: New 1970, p. 519, Act 169, Imd. Eff. Aug. 3.

399.209 Historic district commission; approval or rejection of plans.

Sec. 9. The commission shall file with the inspector of buildings or other duly delegated authority its certificate of approval or rejection of plans submitted to it for review. No work shall begin until the certificate is filed, but in the case of rejection the certificate is binding on the inspector of buildings or other duly delegated authority, and no permit shall be issued in such case. The failure of the commission to act within 60 days after the date of application filed with it, unless an extension is agreed upon

mutually by the applicant and the commission, shall be deemed to constitute approval.

HISTORY: New 1970, p. 519, Act 169, Imd. Eff. Aug. 3.

399.210 Construction of act.

Sec. 10. Nothing in this act shall be construed to prevent ordinary maintenance or repair of any structure within the historic district; nor to prevent construction, alteration, repair, moving or demolition of any structure under a permit issued by the inspector of buildings prior to the passage of the ordinance.

HISTORY: New 1970, p. 519, Act 169, Imd. Eff. Aug. 3.

399.211 Historic district commission; decisions, appeal.

Sec. 11. Any persons jointly or severally aggrieved by a decision of the historic district commission have the same rights of appeal concerning the decision as is granted to an applicant aggrieved by a decision of a zoning board of review.

HISTORY: New 1970, p. 519, Act 169, Imd. Eff. Aug. 3.

399.212 Effect of act as to existing legislation and historical commissions.

Sec. 12. This act does not affect any previously enacted legislation pertaining to historical preservation and does not affect historical commissions appointed by local governing bodies to foster historic preservation. An existing local historical commission organized under Act No. 213 of the Public Acts of 1957, as amended, being sections 399.171 and 399.172 of the Compiled Laws of 1948, may be designated as a historic district commission, if its membership and structure conform, or are revised to conform, to the provisions of section 4.

HISTORY: New 1970, p. 519, Act 169, Imd. Eff. Aug. 3.

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